

178 FERC ¶ 61,180  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;  
James P. Danly, Allison Clements,  
Mark C. Christie, and Willie L. Phillips.

California Independent System Operator Corporation

Docket No. ER21-1790-003

ORDER ADDRESSING ARGUMENTS RAISED ON REHEARING, DENYING  
CLARIFICATION, AND DISMISSING REHEARING REQUEST

(Issued March 15, 2022)

1. On July 26, 2021, the Arizona Corporation Commission (ACC) and the Arizona Utilities<sup>1</sup> submitted requests for rehearing and the California Independent System Operator Corporation (CAISO) submitted a request for clarification or, in the alternative, rehearing of the Commission's June 25, 2021 order accepting revisions to CAISO's Open Access Transmission Tariff (Tariff) modifying CAISO's load, export, and wheeling through transaction priorities, subject to further compliance.<sup>2</sup>
2. Pursuant to *Allegheny Defense Project v. FERC*,<sup>3</sup> the rehearing requests filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 313(a) of the FPA,<sup>4</sup> we are modifying the discussion in the June 2021 Order and

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<sup>1</sup> The Arizona Utilities are Arizona Public Service Company (APS), Salt River Project Agricultural Improvement and Power District (Salt River), Tucson Electric Power Company, UNS Electric, Inc., and Arizona Electric Power Cooperative, Inc.

<sup>2</sup> *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,245 (2021) (June 2021 Order).

<sup>3</sup> 964 F.3d 1 (D.C. Cir. 2020) (en banc).

<sup>4</sup> 16 U.S.C. § 825l(a) ("Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.").

continue to reach the same result in this proceeding, as discussed below.<sup>5</sup>

## I. Background

3. The June 2021 Order accepted two categories of Tariff revisions that CAISO stated it proposed to balance the reliability of serving load internal to the CAISO system (native load), while still facilitating exports and providing open access to the CAISO system for wheeling through transactions.<sup>6</sup> Specifically, the June 2021 Order accepted one set of proposed revisions to address the scheduling priority for exports, and a second set of revisions (Interim Tariff Revisions) to address the effects wheeling through transactions can have on CAISO's ability to serve native load by establishing, on an interim basis through May 31, 2022, two different priorities of wheeling through self-schedule transactions. The requests for rehearing and clarification relate to the Interim Tariff Revisions. The Commission also accepted Tariff revisions that remove the Interim Tariff Revisions effective June 1, 2022.<sup>7</sup>

### A. Open Access

4. In Order Nos. 888<sup>8</sup> and 890,<sup>9</sup> the Commission established a *pro forma* open access transmission tariff (OATT) that all public utility transmission providers are required to

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<sup>5</sup> *Allegheny Def. Project v. FERC*, 964 F.3d 3d 1, 16-17 (D.C. Cir. 2020). The Commission is not changing the outcome of the June 2021 Order. *See Smith Lake Improvement & Stakeholders Ass'n v. FERC*, 809 F.3d 55, 56-57 (D.C. Cir. 2015).

<sup>6</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 1, 10-11, ordering para. (A).

<sup>7</sup> *Id.* P 1.

<sup>8</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>9</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

implement. However, a public utility can depart from the *pro forma* OATT if it shows that its departure is “consistent with or superior to the *pro forma* OATT.”<sup>10</sup>

5. Most utilities, including regional transmission organizations (RTOs) and independent system operators (ISO), have adopted tariff revisions that reserve capacity in available transfer capability calculations for native load pursuant to the open access principles of Order Nos. 888 and 890 and the *pro forma* OATT.<sup>11</sup> Unlike other RTOs/ISOs, however, the CAISO Tariff contains no traditional mechanisms to set aside transmission capacity to serve native load.<sup>12</sup> Specifically, CAISO does not include native load requirements in the transmission commitments component used to calculate available transfer capability. For example, the capacity benefit margin<sup>13</sup> value of the calculation is set to zero because CAISO does not use a capacity benefit margin. Moreover, CAISO chose not to offer different types of transmission service (e.g., network, firm point-to-point, and non-firm point-to-point) but instead offers only one category of new transmission service called “new firm service” that is not associated with existing rights, such as existing transmission contracts and transmission ownership rights.<sup>14</sup> The Commission found CAISO’s alternative framework for accommodating transmission service requests and market bids to be just and reasonable and compliant with Order No. 890.<sup>15</sup>

#### **B. Penalty Pricing Parameters**

6. Instead of utilizing mechanisms such as transmission capacity reservation for protecting native load when the transmission system is constrained, CAISO relies upon

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<sup>10</sup> Order No. 890, 118 FERC ¶ 61,119 at P 109.

<sup>11</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 2-4.

<sup>12</sup> *Id.* P 5.

<sup>13</sup> Capacity benefit margin is a term used to describe import capacity at interties of neighboring systems that is set aside to access generation reserves during contingencies. *Midwest Indep. Transmission Sys. Operator, Inc.*, 98 FERC ¶ 61,075, at 61,215 (2002); CAISO, Tariff, app. L (9.0.0) § L.1.6 (defining capacity benefit margin as the “amount of transmission transfer capability reserved for Load Serving Entities (LSEs) to ensure access to Generation from interconnected systems to meet generation reliability requirements”).

<sup>14</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 5.

<sup>15</sup> *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,180 (2008), *order on further compliance*, 126 FERC ¶ 61,316 (2009).

parameter values, also referred to as penalty prices, in its market software to determine the priority order in which self-schedules<sup>16</sup> will be curtailed. Prior to the Interim Tariff Revisions in this proceeding, the penalty prices were not included in the Tariff but rather were set forth in CAISO's business practice manuals. Further, the Tariff did not specify the scheduling priorities associated with wheeling through transactions.<sup>17</sup>

### C. Interim Tariff Revisions: Priority Wheeling Through Transactions

7. As relevant here, CAISO proposed the Interim Tariff Revisions, effective through May 31, 2022, which establish two categories of priorities for wheeling through self-schedule transactions – a priority wheeling through and a non-priority wheeling through. CAISO explained that, prior to the Interim Tariff Revisions, penalty prices effectively afforded wheeling through transactions a higher scheduling priority in the market than both (1) high-priority non-recallable exports and (2) internal CAISO load.<sup>18</sup> This resulted in any wheeling through transaction, no matter how firm, receiving priority service not only on the interties but also on the internal CAISO transmission system. CAISO stated that, left unchecked, the current framework could jeopardize its ability to serve native load reliably during emergency conditions.<sup>19</sup> Accordingly, CAISO proposed the Interim Tariff Revisions to adjust its prioritization such that wheeling through transactions that meet three specific requirements for priority wheeling through status receive curtailment priority on par with resource adequacy imports that serve CAISO native load.<sup>20</sup> All other wheeling through transactions that do not satisfy the three criteria are considered “non-priority” under the Interim Tariff Revisions and have a lower priority than priority wheeling through transactions and CAISO load.<sup>21</sup>

8. Specifically, CAISO proposed that to attain the new priority wheeling through status, a wheeling through self-schedule must: (1) have a firm power supply contract to

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<sup>16</sup> A self-schedule is a market bid that a scheduling coordinator submits to CAISO that indicates a MW quantity but does not specify a price, which indicates that the scheduling coordinator is a price-taker.

<sup>17</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 6.

<sup>18</sup> *Id.* P 48.

<sup>19</sup> *Id.* P 49 & n.86 (citing CAISO Transmittal at 56-57).

<sup>20</sup> *Id.* P 140.

<sup>21</sup> *Id.* PP 11, 53.

serve an external load serving entity's load throughout the entire calendar month;<sup>22</sup> (2) procure monthly firm transmission service from the source to a CAISO scheduling point;<sup>23</sup> and (3) provide confirmation that the external load serving entity meets the firm power supply contract and monthly firm transmission requirements sufficiently in advance of the month (i.e., 45 days) in which the priority wheeling will start.<sup>24</sup> According to CAISO, the three criteria are a proxy to show that the external load serving entity will be using the CAISO grid on a monthly basis in a manner that is comparable to internal CAISO load serving entities.<sup>25</sup>

9. CAISO explained that establishing priorities among wheeling through self-schedules and CAISO native load self-schedules "was contentious, and stakeholders were deeply divided."<sup>26</sup> Accordingly, although asserting that the Interim Tariff Revisions were a just and reasonable approach to balancing reasonable native load protections against the recognition that external balancing authority areas may rely on wheeling through transactions to serve their own native load, CAISO proposed to sunset them effective June 1, 2022 in light of these stakeholder concerns and the fact that the Interim Tariff Revisions resulted from an expedited stakeholder process.<sup>27</sup> CAISO asserted that, "for the next year, the interim approach allows the CAISO both to fulfill its obligations to provide reliable service to native load and to accommodate external [load serving entities] that have entered into supply arrangements with the expectation they could rely on wheeling through the CAISO."<sup>28</sup> CAISO argued the Interim Tariff Revisions also provide "needed time for the CAISO to work closely with stakeholders to develop a more durable solution."<sup>29</sup>

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<sup>22</sup> *Id.* P 50.

<sup>23</sup> *Id.* P 51.

<sup>24</sup> *Id.* P 52.

<sup>25</sup> CAISO Transmittal at 7.

<sup>26</sup> *Id.* at 9.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

**D. June 2021 Order**

10. The June 2021 Order accepted CAISO's proposal as a just and reasonable and not unduly discriminatory or preferential prioritization of the use of CAISO's transmission system that embodies a permissible native load priority.<sup>30</sup> The Commission found that CAISO's proposed prioritization will result in a just and reasonable interim solution that will reconcile the needs of both CAISO load and external load.<sup>31</sup> The Commission agreed with CAISO that the proposed requirements for a priority wheeling through transaction are appropriate proxies for determining whether external load serving entities are relying on the CAISO transmission system in a manner comparable to how resource adequacy imports rely on the CAISO transmission system to serve internal CAISO load.<sup>32</sup> While the Commission agreed with commenters' recommendation that "CAISO develop a long-term solution that will clearly delineate rights across CAISO's transmission system," it found that CAISO's proposal allows for its transmission capacity to be allocated in a balanced and fair manner for the interim period while CAISO develops a more comprehensive solution.<sup>33</sup> The Commission also accepted CAISO's Tariff sheets that remove the new Interim Tariff Revisions from the Tariff effective June 1, 2022.<sup>34</sup>

11. In the June 2021 Order, the Commission also directed CAISO to submit a compliance filing within 30 days of the date of the order that "incorporates the penalty pricing parameters associated with the revised scheduling priorities into the relevant sections of the CAISO Tariff."<sup>35</sup>

**E. Subsequent Procedural History**

12. On July 26, 2021, as supplemented on August 4, 2021, CAISO submitted proposed Tariff revisions to comply with the Commission's directive in the June 2021 Order (Compliance Filing). In addition to including Tariff sheets incorporating the penalty pricing parameters that reflect the revised scheduling priorities in the Tariff, CAISO also proposed Tariff revisions implementing a procedure that would allow CAISO to change these penalty pricing values on a temporary basis, if and when

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<sup>30</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 140-141.

<sup>31</sup> *Id.* P 141.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* P 142.

<sup>34</sup> *Id.* P 1.

<sup>35</sup> *Id.* P 167.

necessary, to address market infeasibility or operational/reliability issues on the CAISO controlled grid (Parameter Change Procedure).<sup>36</sup> Under the proposed Parameter Change Procedure, CAISO would be required to submit an FPA section 205 filing to amend the Tariff within 30 days of any change of a parameter value.<sup>37</sup>

## II. Discussion

### A. ACC and Arizona Utilities Rehearing Requests

#### 1. Open Access Principles

##### a. Rehearing Requests

13. Arizona Utilities contend that the June 2021 Order's acceptance of CAISO's scheduling priorities proposal is inconsistent with Order Nos. 888 and 890 open access policies and that the Commission failed to reconcile the Interim Tariff Revisions with its open access policies and its prior orders permitting CAISO to offer a transmission service that deviates from the *pro forma* OATT.<sup>38</sup> Arizona Utilities assert that under Order No. 888's Principle No. 3, an ISO is "responsible for ensuring that all users have nondiscriminatory access to the transmission system and all services under ISO control."<sup>39</sup> Arizona Utilities state that CAISO formerly satisfied Principle No. 3 through a congestion management approach to transmission service that did not distinguish among users of the transmission system, which the Commission approved.<sup>40</sup> Specifically, Arizona Utilities note that the Commission previously found that the traditional Order No. 888 mechanisms that promote open access – i.e., long-term physical transmission rights and rollover rights – were not needed for the CAISO system because each such mechanism addresses "the tension that existed for the use of available transmission capacity between native load,

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<sup>36</sup> CAISO Rehearing Request at 2; *see also* CAISO Transmittal for Compliance Filing – Market Enhancements for Summer 2021, Load, Export and Wheeling Through Priorities, Docket No. ER21-1790-002, at 6-7 (filed July 26, 2021) (Compliance Filing Transmittal).

<sup>37</sup> *Id.* at 3 & n.3; *See also* Compliance Filing Transmittal at 7.

<sup>38</sup> Arizona Utilities Rehearing Request at 16.

<sup>39</sup> *Id.* at 16 & n.32 (quoting *Pac. Gas & Elec. Co.*, 81 FERC ¶ 61,122, at 61,455 (1997) (*PG&E*)).

<sup>40</sup> *Id.* at 17.

existing third-party contracts, and new third-party contracts, and new third-party transmission customers,” and “[t]hat tension does not exist here [*i.e.*, in CAISO].”<sup>41</sup>

14. Arizona Utilities argue the June 2021 Order “reintroduces” tension between native load and third-party transmission customers that may not have previously existed in CAISO.<sup>42</sup> Arizona Utilities contend that it is erroneous and inconsistent with the Commission’s open access policies to allow CAISO to abandon its prior commitment to apply a model that treated all transmission service uses the same by now subordinating wheeling through customers to native load. They state that wheeling through customers have not been granted any of the Order No. 888 mechanisms to protect them,<sup>43</sup> and will continue not to have them, and the June 2021 Order erroneously fails to address these issues.<sup>44</sup> Arizona Utilities object that wheeling through customers’ lack of historical access to the Order No. 888 protections have inappropriately become a reason to deny these customers open access protections now.<sup>45</sup>

15. Additionally, Arizona Utilities argue the native load protections accepted in the June 2021 Order exceed, and are neither comparable nor analogous to, any protections offered to native load under the *pro forma* OATT,<sup>46</sup> such as the capacity benefit margin.<sup>47</sup> Arizona Utilities emphasize that the rules concerning the calculation of capacity benefit margin are very specific and designed to ensure that the use of capacity benefit margin “meet[s] verifiable generation reliability criteria in times of emergency generation

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<sup>41</sup> *Id.* at 18 & n.39 (citing *PG&E*, 81 FERC ¶ 61,122 at 61,472) (emphasis in Rehearing Request).

<sup>42</sup> *Id.* at 18.

<sup>43</sup> Arizona Utilities state that, for example, under the Order Nos. 888 and 890 *pro forma* tariffs, a point-to-point customer may obtain firm, long-term transmission rights, with rollover rights and assurances that its service will be curtailed on a *pro rata* basis with native load, and the transmission provider is obligated to plan its system to meet the needs of its firm transmission customers. By contrast, CAISO does not offer long-term reservations of capacity, so external load serving entities cannot procure transmission rights to the CAISO system beyond a day-ahead window and there are no reservation rights. *Id.* at 17 (citations omitted).

<sup>44</sup> *Id.* at 18.

<sup>45</sup> *Id.* at 18-19 & n.41 (citing June 2021 Order, 175 FERC ¶ 61,025 at P 158).

<sup>46</sup> *Id.* at 7, 31-35.

<sup>47</sup> *Id.* at 31.



deficiencies.”<sup>48</sup> They contend CAISO’s Interim Tariff Revisions have nothing in common with capacity benefit margin because, among other things, CAISO is not setting aside transmission capacity to serve native load.<sup>49</sup> Further, Arizona Utilities object that, because no firm transmission service can be procured in advance by external load serving entities, there is no basis for withholding a capacity benefit margin in advance. They add that Order No. 890 requires that the costs of transmission capacity set aside for capacity benefit margins are to be borne by those who are permitted to utilize such capacity, i.e., internal CAISO load serving entities, but under CAISO’s Interim Tariff Revisions, no portion of CAISO’s capacity is entirely the financial responsibility of the internal CAISO load serving entities.<sup>50</sup>

16. Arizona Utilities state under the *pro forma* OATT, the Commission requires network, native load, and firm point-to-point service to be curtailed on a *pro rata* basis, except in the limited circumstance where such curtailment would require the shedding of bundled retail load.<sup>51</sup> Arizona Utilities state that in considering a similar issue in *Northern States*, the Commission held that even where the wholesale customer may be cut to protect retail load, the curtailment may only occur after the transmission provider has “exhausted all of its network native load generation redispatch options, and the firm point-to point transmission customer whose firm service is being curtailed still has options with which to avoid having to shed load.”<sup>52</sup> Arizona Utilities object that: (1) CAISO did not propose to curtail native load *pro rata* with wheeling through transactions, but rather to cut “low priority” wheeling through transactions prior to curtailment of native load; and (2) there is no showing or evidence that CAISO will have “exhausted all of its network or native load generation redispatch options” prior to curtailment, or that the external load serving entity whose service is being curtailed still has options with which to avoid having to shed load.<sup>53</sup>

17. Arizona Utilities also argue that CAISO’s Interim Tariff Revisions implement what it “inaccurately characterizes as ‘native load’ protections for reasons that are rooted in preserving power supply economics for its members, not strictly for reliability

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<sup>48</sup> *Id.* at 32 (quoting Order No. 890-A, 121 FERC ¶ 61,297 at P 25).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 33.

<sup>51</sup> *Id.* at 33 & n.81 (citing Order No. 890, 118 FERC ¶ 61,119 at P 680; *Northern States Power Co.*, 89 FERC ¶ 61,178 (1999) (*Northern States*)).

<sup>52</sup> *Id.* at 33-34 & n.82 (quoting *Northern States*, 89 FERC at 61,553).

<sup>53</sup> *Id.* at 34 & n.83 (quoting *Northern States*, 89 FERC at 61,553).

purposes.”<sup>54</sup> Arizona Utilities state that CAISO’s new scheduling priorities provide much more flexibility to CAISO native load than traditional Order No. 888 protections in that they are triggered not only when there are emergency deficiencies, but also may reflect economic considerations.<sup>55</sup>

18. Arizona Utilities contend that a public utility may depart from the *pro forma* OATT only if it demonstrates that such departures are consistent with or superior to the *pro forma* OATT.<sup>56</sup> Arizona Utilities state that the scheduling priorities paradigm accepted in the June 2021 Order departs substantially from the *pro forma* OATT and argue that the Commission erred by failing to apply the consistent with or superior to standard to CAISO’s proposal.<sup>57</sup> ACC similarly asserts that CAISO has not explained how its proposed native load protections are consistent with or superior to the *pro forma* OATT’s native load protections.<sup>58</sup>

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<sup>54</sup> *Id.* at 34-35. Arizona Utilities explain that in some cases resource adequacy capacity may fail to clear in the day-ahead market simply due to the economics of the associated bids with respect to other units under CAISO’s security constrained dispatch. Arizona Utilities state that, for example, CAISO resource adequacy bids might not clear in the day-ahead market “if such bids were less economic, were simply not bid in the Day-Ahead market, or California [load serving entities] under-scheduled load such that the [resource adequacy] bids did not appear to be needed when the market cleared.”). *Id.* at 35 & n.84 (quoting Arizona Utilities Protest, Cole aff. at 6). Arizona Utilities add that CAISO’s day-ahead market runs may select resource adequacy imports that are based on non-firm arrangements with external power suppliers and CAISO would cut lower-priority wheeling through transactions prior to disturbing the day-ahead outcome for such resource adequacy imports, even if the low-priority wheeling through transactions use external firm transmission but are less than “monthly firm” during peak hours. *Id.* at 35.

<sup>55</sup> *Id.* at 34-35 & n.84 (citing Arizona Utilities Protest, Cole aff. at 6).

<sup>56</sup> *Id.* at 22.

<sup>57</sup> *Id.* at 16-19, 21-24.

<sup>58</sup> ACC Rehearing Request at 3.

19. Specifically, Arizona Utilities object that, instead of finding the Interim Tariff Revisions consistent with or superior to the *pro forma* OATT, the June 2021 Order stated that the scheduling priorities are “*not inconsistent* with Order Nos. 888 and 890.”<sup>59</sup> Arizona Utilities assert that this is a more permissive or at least less stringent standard than the consistent with or superior to the *pro forma* OATT standard that all other public utilities must meet and the Commission did not justify its departure from precedent.<sup>60</sup>

20. ACC asserts that the Interim Tariff Revisions are unduly discriminatory and run counter to open access transmission requirements.<sup>61</sup> ACC states that, in addition to the FPA, several major Commission orders (Order Nos. 888, 889,<sup>62</sup> 890 and 807<sup>63</sup>) recognize the fundamental notion and importance of nondiscriminatory access to transmission facilities.<sup>64</sup> ACC states that Order No. 888 requires all transmission service providers to furnish all shippers with nondiscriminatory service comparable to that provided by transmission owners themselves.<sup>65</sup> ACC adds that Order No. 890 similarly found that “the purpose of the *pro forma* OATT is to provide nondiscriminatory transmission access.”<sup>66</sup>

**b. Commission Determination**

21. We continue to find that the scheduling priorities implemented in the Interim Tariff Revisions result in a just and reasonable interim solution that is consistent with

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<sup>59</sup> Arizona Utilities Rehearing Request at 30 & n.71 (citing June 2021 Order, 175 FERC ¶ 61,245 at PP 142, 143, &144) (emphasis added).

<sup>60</sup> *Id.* at 31.

<sup>61</sup> ACC Rehearing Request at 6.

<sup>62</sup> *Open Access Same-Time Information System and Standards of Conduct*, Order No. 889, FERC Stats. & Regs. ¶ 31,035 (1996) (cross-referenced at 75 FERC ¶ 61,078), *order on reh'g*, Order No. 889-A, FERC Stats. & Regs. ¶ 31,049 (1997) (cross-referenced at 78 FERC ¶ 61,221), *order on reh'g*, Order No. 889-B, 81 FERC ¶ 61,253 (1997), *order on reh'g*, Order No. 889-C, 82 FERC ¶ 61,046 (1998).

<sup>63</sup> *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, 150 FERC ¶ 61,211 (2015).

<sup>64</sup> ACC Rehearing Request at 6.

<sup>65</sup> *Id.* at 6 & n.8 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,634).

<sup>66</sup> *Id.* at 6 & n.9 (citing Order No. 890, 118 FERC ¶ 61,119 at P 1584).

open access policies, including the native load priority principles first articulated in Order No. 888 and reconfirmed in Order No. 890. As we noted in the June 2021 Order, these Interim Tariff Revisions were designed to enable CAISO to maintain reliability in the summer of 2021 and strike a reasonable balance between “the transmission provider’s need to meet its native load obligations and the need of other entities to obtain service to meet their own obligations.”<sup>67</sup> Prior to these Interim Tariff Revisions, wheeling through transactions could receive scheduling priority *higher* than CAISO’s native load obligations.<sup>68</sup> CAISO’s Interim Tariff Revisions adjust scheduling priorities to protect native load by giving resource adequacy imports a scheduling priority equivalent to priority wheeling through transactions and higher than non-priority wheeling through transactions.

22. However, while we continue to uphold the Commission’s acceptance of CAISO’s Interim Tariff Revisions, as CAISO recognized<sup>69</sup> and the record reflects, stakeholders are deeply divided over CAISO’s interim approach. On rehearing, parties reiterate serious concerns with CAISO’s approach to implementing a native load priority. The FPA does not require the Commission to determine that a proposal is the best solution, only a reasonable one.<sup>70</sup> Therefore, we sustain the result in the June 2021 Order as a just and reasonable interim solution for allocating transmission capacity fairly among users when the system is constrained. Nevertheless, in light of the Interim Tariff Revisions’ potential impacts on neighboring balancing authority areas and parties’ ongoing concerns, we expect CAISO to work with stakeholders to design and file a just and reasonable and not unduly discretionary or preferential long-term solution as expeditiously as possible.<sup>71</sup>

23. Contrary to Arizona Utilities’ contention, we find the Interim Tariff Revisions continue to satisfy Principle No. 3 of Order No. 888, providing, on an interim basis, non-

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<sup>67</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 141 & n.226 (quoting Order No. 890, 118 FERC ¶ 61,119 at P 107).

<sup>68</sup> *Id.* P 48 (CAISO stated that pre-Tariff revisions, wheeling through transactions had higher priority than both high-priority non-recallable exports and transactions serving internal CAISO load).

<sup>69</sup> CAISO Transmittal at 9.

<sup>70</sup> *See, e.g., Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007) (“FERC is not required to choose the best solution, only a reasonable one.”).

<sup>71</sup> We note that, in an order issued concurrently in Docket No. ER22-906-000, the Commission accepts CAISO’s proposal to extend the Interim Tariff Revisions for an additional two years. *See Cal. Indep. Sys. Operator Corp.*, 178 FERC ¶ 61,182 (2022).

discriminatory access to all customers, as explained further below.<sup>72</sup> The CAISO transmission system will remain available to all market participants who seek to use it, and any scheduling coordinator, whether acting on behalf of supply, load, exports, or wheeling through transactions, can submit a bid or self-schedule for service. CAISO's Interim Tariff Revisions establish the scheduling priorities CAISO will apply in the day-ahead and real-time market optimization processes "during extremely tight conditions if the market does not solve and it needs to adjust self-schedules"<sup>73</sup> until it is able to design a "more durable solution."<sup>74</sup>

24. We continue to find CAISO's Interim Tariff Revisions, while different in form, are comparable in effect to the native load priority permitted by the Commission for transmission providers and other ISOs/RTOs, and consistent with the open access principles articulated in Order Nos. 888 and 890.<sup>75</sup> CAISO's Interim Tariff Revisions reflect the unique nature of its services and markets, in which there are no advance transmission reservations, only a single class of transmission service, and a volumetric access rate. CAISO explained how traditional Order No. 888 native load protections are not compatible with its existing paradigm where "it is not possible to reserve transmission capacity at all."<sup>76</sup> We thus continue to find CAISO's Interim Tariff Revisions, which utilize scheduling priorities rather than transmission capacity reservations to meet native load obligations, are consistent with the Commission's open access principles.

25. We also continue to find that the Interim Tariff Revisions provide a means whereby external load serving entities can show that their reliance on the CAISO transmission system for their wheeling through transactions is comparable to internal load serving entities' reliance on the CAISO transmission system for importing resource adequacy resources to serve native load. By making this showing, external load serving entities can receive curtailment priority equivalent to that of CAISO native load. Priority wheeling through status therefore provides external load serving entities with a means of

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<sup>72</sup> See discussion *infra* P 32.

<sup>73</sup> CAISO Transmittal at 9. We note that scheduling priorities for other self-schedules besides wheeling through transactions already existed in the Tariff prior to CAISO's Interim Tariff Revisions here.

<sup>74</sup> *Id.*

<sup>75</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 140-141, PP 143-144.

<sup>76</sup> *Id.* P 144.

obtaining transmission service that is comparable to that of internal load serving entities importing resource adequacy resources to serve native load.<sup>77</sup>

26. Arizona Utilities' assertions that (1) CAISO improperly abandoned its commitment to treat all transmission uses the same and it should not be allowed to implement native load protections; and (2) CAISO's native load protections impermissibly differ from and exceed Order No. 888 protections, are not supported by precedent or the record currently before us.

27. We disagree that Commission precedent requires CAISO's wheeling through customers to have traditional native load protections in order to be consistent with Order No. 888 open access principles. In *PG&E*, where the Commission accepted CAISO's congestion management system without native load priority or transmission reservation rights, it did not state that CAISO would be precluded from ever seeking to implement native load protections.<sup>78</sup> Nor have Arizona Utilities shown that the Commission contemplated such an outcome with respect to CAISO's market design or the market designs of other RTOs/ISOs. Additionally, the Commission did not state that entities that failed to seek native load protection on compliance with Order No. 888 were prohibited from subsequently instituting them,<sup>79</sup> or that native load protections have to be identical to those discussed in Order Nos. 888 and 890. Indeed, the Commission's precedent does not preclude adoption of different methods to ensure native load protection, provided they are consistent with or superior to the *pro forma* OATT.<sup>80</sup> As the United States Court

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<sup>77</sup> *Id.* P 141.

<sup>78</sup> *PG&E*, 81 FERC ¶ 61,122.

<sup>79</sup> *See* June 2021 Order, 175 FERC ¶ 61,245 at P 145 & n.230 (stating that “nothing in Order Nos. 888 and 890 limits a transmission provider's ability to adopt protections for native load obligations to their initial Order Nos. 888 and 890 compliance filings”) (citing *Xcel Energy Operating Cos.*, 123 FERC ¶ 61,053, at P 12 & n.7 (2008); *Duke Energy Carolinas, LLC*, 122 FERC ¶ 61,077, at P 11 n.6 (2008)).

<sup>80</sup> *See, e.g.*, Order No. 890, 118 FERC ¶ 61,119 at PP 158, 160 (explaining that “nothing in [Order No. 890] is intended to upset the market designs used by existing ISOs and RTOs” and that the “CAISO – like any other ISO or RTO – has the opportunity to demonstrate that a variation from the tariff revisions adopted in [Order No. 890] satisfies the consistent with or superior to standard”). The Commission's application of this standard can take into account the unique tariff structure or market design of an ISO or RTO. *See, e.g., N.Y. Indep. Sys. Operator Corp., Inc.*, 123 FERC ¶ 61,134, at P 13 (2008) (“[W]e recognize that NYISO's proposed deviations from the *pro forma* OATT reflect the actual market design used by NYISO, and find these deviations to be consistent with or superior to the *pro forma* OATT, except as otherwise addressed below.”).

of Appeals for the District of Columbia Circuit (D.C. Circuit) has explained, the “Commission also recognized that [Order No. 888] was likely not the end of the road in an industry marked by transition. Order No. 888 allows future filings in which utilities may deviate from the terms of the *pro forma* tariff, so long as such deviations are ‘consistent with, or superior to’ the terms in the *pro forma* tariff.”<sup>81</sup>

28. We agree that in *PG&E* the Commission noted a lack of “tension” among various types of users of limited transmission capacity in accepting CAISO’s transmission paradigm.<sup>82</sup> However, the Commission also emphasized that, whereas Order No. 888 addressed the reservation of physical transmission rights, questions regarding CAISO’s transmission paradigm raise significantly different issues from the issues considered in Order No. 888.<sup>83</sup> As the June 2021 Order stated, CAISO’s transmission paradigm, which is a financial-based paradigm, does not permit or utilize in any way the physical reservation of transmission capacity,<sup>84</sup> and the Interim Tariff Revisions accepted in the June 2021 Order do not introduce any physical reservation of transmission capacity. Thus, we find that *PG&E* is inapposite because in that case, as here, the Commission addressed different issues than the questions related to physical transmission reservations that were considered in Order No. 888 and subsequently revisited in Order No. 890. And, as the Commission recognized in *PG&E*, the traditional Order No. 888 capacity reservation tools to ensure open access and native load priority are sufficiently different from CAISO’s transmission service paradigm that they need not be grafted onto that paradigm.<sup>85</sup>

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<sup>81</sup> *Sacramento Mun. Util. Dist. v. FERC*, 428 F.3d 294, 296 (D.C. Cir. 2004) (citing Order No. 888, Stats. & Regs. ¶ 31,036 at 31,770). *See also* Order No. 888, Stats. & Regs. ¶ 31,036 at 31,747 (stating that transmission providers are free to propose and support different reservation priorities for firm service in subsequent section 205 filings).

<sup>82</sup> *PG&E*, 81 FERC at 61,472.

<sup>83</sup> *Id.* at 61,472 (“We find that [CAISO’s] congestion pricing proposal is significantly different from the circumstances we considered in Order No. 888. In Order No. 888 we were addressing the firm reservation of physical transmission rights whereas [CAISO’s] congestion management proposal is applicable to the efficient rationing of constrained transmission capacity on an hourly basis.”).

<sup>84</sup> *See, e.g.*, June 2021 Order, 175 FERC ¶ 61,245 at P 144.

<sup>85</sup> *PG&E*, 81 FERC at 61,472 (declining to require CAISO to implement a right of first refusal, which is a concept related to the traditional Order No. 888 physical rights paradigm, because CAISO’s transmission service paradigm is not based on and does not use physical transmission rights).

29. Moreover, we disagree with Arizona Utilities that the Interim Tariff Revisions introduce an inappropriate new tension among users of the CAISO transmission system. Instead, we continue to find that the Interim Tariff Revisions appropriately adjust scheduling priorities to provide a process for wheeling through transactions to receive equal curtailment priority to transactions serving CAISO load, as discussed in greater detail below. Similarly, we disagree with Arizona Utilities' contention that wheeling through customers' historical lack of access to traditional Order No. 888 protections (i.e., long-term firm transmission rights, rollover rights) has become a reason to deny them such protections now. In the June 2021 Order, the Commission indicated that CAISO has a different paradigm than other RTOs/ISOs and the proposal here is consistent with the native load protection principles in Order Nos. 888 and 890.<sup>86</sup> This does not mean, however, that external load serving entities lack open access protection, as the Interim Tariff Revisions provide a mechanism for external entities to obtain similar protection to native load under constrained system conditions.

30. For similar reasons, we reject Arizona Utilities' claim that the native load protections accepted in the June 2021 Order exceed, and are neither comparable nor analogous to, any protections offered to native load under the *pro forma* OATT.<sup>87</sup> Arizona Utilities' arguments rest on a direct comparison of CAISO's Interim Tariff Revisions with the way the traditional Order No. 888 mechanisms withhold physical capacity to balance the protection of native load with ensuring open access. However, Arizona Utilities acknowledge that CAISO's method of protecting native load is not based on a physical set aside of capacity and so direct comparisons with traditional native load protections are inapt.<sup>88</sup> We are not persuaded that the Commission should deny CAISO the opportunity to implement a mechanism to prioritize the use of constrained transmission capacity to serve native load, a right guaranteed by and consistent with Order Nos. 888 and 890, because CAISO currently operates under a transmission service paradigm that is incompatible with the physical set aside of a capacity benefit margin.<sup>89</sup>

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<sup>86</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 144.

<sup>87</sup> See Arizona Utilities Rehearing Request at 7, 31-35.

<sup>88</sup> *Id.* at 33.

<sup>89</sup> See, e.g., *Sierra Pacific Power Co.*, 143 FERC ¶ 61,144, at P 112 (2013) (declaring that merging companies could invoke native load priority for service over their combined systems, and "recognizing the underlying right of the transmission provider to use its network resources to service its native load needs, including through economic dispatch of those network resources"); see also Order No. 890, 118 FERC ¶ 61,119 at P 96 (finding native load priority consistent with FPA section 217, 16 U.S.C. § 824q, which allows load serving entities "to use their own and contracted-for transmission capacity to deliver energy as required to meet their service obligations, without being



We also continue to find that the Interim Tariff Revisions are a permissible analogue to the native load protections permitted under Order Nos. 888 and 890, which did not expressly confine native load protections to those embodied in the *pro forma* OATT. Moreover, CAISO's native load protections are not "limitless" because they are activated when the system is constrained and because external load serving entities' priority wheeling through transactions may achieve the same curtailment priority as native load.

31. We also disagree with Arizona Utilities' assertion that CAISO's revised scheduling priorities are not analogous to native load protections because the *pro forma* OATT requires network, native load, and firm point-to-point service to be curtailed on a *pro rata* basis and the Interim Tariff Revisions do not require CAISO to exhaust redispatch options before curtailing non-priority wheeling through transactions.<sup>90</sup> Under the Interim Tariff Revisions, priority wheeling through transactions and imports to serve native load will be curtailed on a *pro rata* basis,<sup>91</sup> but non-priority wheeling through transactions will be curtailed first.<sup>92</sup> However, comparisons to the curtailment priorities in the *pro forma* OATT and *Northern States* are inapt because they pertain to the traditional physical rights and a capacity reservation paradigm, not to CAISO's use of scheduling priorities to manage congestion. Further, wheeling through transactions do not have firm point-to-point service across the CAISO system, but rather only to the CAISO border. So, to the extent Arizona Utilities' objection is that, under the Interim Tariff Revisions, non-priority wheeling through transactions with firm transmission service *to the CAISO border* will not be curtailed *pro rata* with native load transactions (because native load will have a curtailment priority higher than non-priority wheeling through transactions), this argument lacks merit. Under the *pro forma* OATT, firm point-to-point transmission refers to firm transmission across the system at issue, not firm transmission to the border of the system, and no entity has firm transmission across the CAISO system. Therefore, neither the *pro forma* OATT nor *Northern States* prohibits curtailing non-priority wheeling through transactions before native load or priority wheeling through transactions.

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subject to charges of unlawful discrimination"); *id.* P 107 (finding "native load priority established in Order No. 888 continues to strike the appropriate balance . . ." and that "these protections for native load are appropriate"); Order No. 890-A, 121 FERC ¶ 61,297 (affirming that "the native load protections affirmed in Order No. 890 satisfy the requirements of FPA section 217").

<sup>90</sup> Arizona Utilities Rehearing Request at 33-34.

<sup>91</sup> CAISO Tariff, § 34.12.3 (0.0.0).

<sup>92</sup> CAISO Transmittal at 7, 49, 65-66; *see also* CAISO Tariff, § 31.4 (5.0.0), § 34.12 (1.0.0).

32. As noted above, Commission precedent does not preclude adoption of different methods to ensure native load protection, provided they are consistent with or superior to the *pro forma* OATT.<sup>93</sup> We agree with CAISO that, by not reserving transmission capacity but rather assigning native load a priority higher than lower-priority wheeling through schedules in circumstances when the system is constrained, CAISO's native load protections are, from the perspective of external load serving entities, at least consistent with the frameworks of other transmission providers who reserve capacity for native load prior to identifying the amount of transmission available to use for other transactions.<sup>94</sup> In other words, because CAISO has not set aside a specified amount of physical transmission capacity to serve native load, there is no predetermined limit on the amount of capacity that can be utilized for wheeling through transactions. As a result, external load serving entities have the ability to secure access to the CAISO system on par with that of native load, so long as they satisfy the requirements for priority wheeling through service. Additionally, the transmission system can accommodate non-priority wheeling through transactions, except when the system is constrained. By providing non-discriminatory open access to all customers, CAISO's method of implementing native load priority satisfies Principle No. 3 of Order No. 888, and is "consistent with or superior to" the *pro forma* OATT.

33. We also reject Arizona Utilities' objections that the revised scheduling priorities provide "much more flexibility to CAISO native load than is provided under other types of protections," because they are not strictly triggered by generation emergencies but may instead reflect economic considerations.<sup>95</sup> We disagree that the Interim Tariff Revisions reflect "economic considerations." The Interim Tariff Revisions concern access to transmission service on the CAISO transmission system, and prioritize transmission

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<sup>93</sup> See, e.g., Order No. 890, 118 FERC ¶ 61,119 at PP 158, 160 (explaining that "nothing in [Order No. 890] is intended to upset the market designs used by existing ISOs and RTOs" and that the "CAISO – like any other ISO or RTO – has the opportunity to demonstrate that a variation from the tariff revisions adopted in [Order No. 890] satisfies the consistent with or superior to standard"). The Commission's application of this standard can take into account the unique tariff structure or market design of an ISO or RTO. See, e.g., *N.Y. Indep. Sys. Operator Corp., Inc.*, 123 FERC ¶ 61,134 at P 13 ("[W]e recognize that NYISO's proposed deviations from the pro forma OATT reflect the actual market design used by NYISO, and find these deviations to be consistent with or superior to the pro forma OATT, except as otherwise addressed below.").

<sup>94</sup> See CAISO Transmittal at 59-60; DMM Comments at 7.

<sup>95</sup> See Arizona Utilities Rehearing Request at 34-35.

service for native load over non-priority wheeling through transactions when the system is constrained and CAISO is at risk of not being able to serve its internal load.<sup>96</sup>

34. Arizona Utilities object that resource adequacy imports that fail to clear the day-ahead market or that have non-firm transmission arrangements can have priority over non-priority wheeling through transactions that cleared the day-ahead market.<sup>97</sup> We are not persuaded that this possibility warrants rejection of the Interim Tariff Revisions. Under the paradigm approved in Orders Nos. 888 and 890, transmission providers could reserve firm transmission capacity to serve native load and only the remaining transmission capacity would be made available for entities to purchase as firm.<sup>98</sup> By comparison, CAISO's historic policy on scheduling priorities was generous to wheeling through customers because it allowed wheeling customers a super priority on the acquisition of transmission through the CAISO system via day-ahead scheduling, without regard to protection for native load. CAISO's Interim Tariff Revisions rebalance these priorities to more closely resemble the priorities contemplated by Orders Nos. 888 and 890. Moreover, as noted above, by not setting aside capacity for use by native load customers and instead providing a mechanism for wheeling through transactions to obtain priority comparable to native load, CAISO's revised scheduling priorities are arguably more generous to external load serving entities than traditional Order Nos. 888 and 890 means of protecting native load.

35. Thus, while day-ahead schedules may be interrupted as a result of CAISO's Interim Tariff Revisions, we find that this is consistent with the paradigm established in Orders Nos. 888 and 890. The priority CAISO previously granted to day-ahead schedules for wheeling through transactions was the result of CAISO's market design and not a requirement of Commission policy.

36. We disagree with ACC's contention that CAISO has not explained how its proposed native load protections are "consistent with or superior to" the *pro forma* OATT native load protections.<sup>99</sup> The June 2021 Order determined that CAISO's proposal "embodies a native load priority because the requirements for wheeling through transactions to receive the same priority as native load are somewhat more stringent than those imposed on

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<sup>96</sup> See CAISO Transmittal at 7.

<sup>97</sup> See Arizona Utilities Rehearing Request at 34-35 & n.84; see also Arizona Utilities Protest, Cole aff. at 5-8.

<sup>98</sup> Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,694.

<sup>99</sup> ACC Rehearing Request at 3-4; see also Arizona Utilities Rehearing Request at 29-30.

resource adequacy resources.”<sup>100</sup> The June 2021 Order nevertheless found that “CAISO’s proposal is consistent with the balance described in Order No. 890 between ‘the transmission provider’s need to meet its native load obligations and the need of other entities to obtain service from the transmission provider in order to meet their own obligations.’”<sup>101</sup> The Commission explained how this balance is achieved, i.e., when there are more self-schedules than available transmission, the Interim Tariff Revisions enable CAISO to prioritize wheeling through transactions that meet the three criteria (i.e., the firm transmission, power contracting, and 45-day notification requirements) over non-priority wheeling through transactions so that they receive curtailment priority on par with native load.<sup>102</sup> The Commission also found the criteria for obtaining priority wheeling through status to be appropriate proxies for determining whether external load serving entities are relying on the CAISO transmission system in a manner comparable to how resource adequacy imports rely on the CAISO transmission system to serve internal load.<sup>103</sup> Thus, the Commission explained, as we reiterate here, that CAISO’s Interim Tariff Revisions implement a native load priority that differs from the method described in Order No. 888 but that is compatible with both the existing CAISO transmission service paradigm and Orders No. 888 and 890.<sup>104</sup>

## 2. Undue Discrimination

### a. Rehearing Request

37. Arizona Utilities assert that the Commission wrongly approved CAISO’s scheduling priorities proposal on the grounds that CAISO native load and external load serving entities are not similarly situated, and that the scheduling priorities are therefore

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<sup>100</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 140; *see also id.* P 143.

<sup>101</sup> *Id.* P 141 (quoting Order No. 890, 118 FERC ¶ 61,119 at P 107).

<sup>102</sup> *Id.* P 140.

<sup>103</sup> *Id.* P 141.

<sup>104</sup> *Id.* PP 140-147. While the June 2021 Order described the requirements for obtaining priority wheeling through status as “not inconsistent” with Order Nos. 888 and 890, *see id.* P 143, the Commission did not apply a lesser standard, as Arizona Utilities contend. Rather, the Commission acknowledged the differences between CAISO’s transmission paradigm and the traditional Order Nos. 888 and 890 mechanisms for protecting native load while also finding that CAISO’s proposal achieves the open access goals of Order Nos. 888 and 890. *See id.* P 144.

not unduly discriminatory.<sup>105</sup> Arizona Utilities argue that in lieu of the “similarly situated” test, the Commission should have used a comparability test.<sup>106</sup> Arizona Utilities assert that, in Order No. 888, the Commission jettisoned the similarly situated test for analyzing discrimination between third-party transmission customers and transmission owners with respect to open access.<sup>107</sup> Arizona Utilities assert that the similarly situated test would always justify discrimination by CAISO against the Arizona Utilities in this context because external load serving entities are not similarly situated to internal CAISO load serving entities.<sup>108</sup>

38. Arizona Utilities contend that CAISO’s requirements for priority wheeling through transactions stand the comparability standard on its head by positing that external load serving entities are not comparable to native load and also by implementing more stringent requirements for entities serving load external to CAISO to receive comparable service.<sup>109</sup> Thus, Arizona Utilities argue that the June 2021 Order is inconsistent with Order Nos. 888, 890, the Transmission Pricing Policy Statement<sup>110</sup> and other

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<sup>105</sup> Arizona Utilities Rehearing Request at 23 & n.55 (citing June 2021 Order, 175 FERC ¶ 61,245 at P 149 (“We find that, due to this differential reliance on the transmission system, internal and external load serving entities are not similarly situated and, therefore, it is not unduly discriminatory or preferential for CAISO to require external load serving entities to meet certain eligibility criteria in order to obtain a scheduling priority equal to native load in CAISO, even if those criteria are not identical to the criteria applicable to resource adequacy imports, which serve that load.”)).

<sup>106</sup> *Id.* at 20-21.

<sup>107</sup> *Id.* at 21.

<sup>108</sup> *Id.* at 21-23.

<sup>109</sup> *Id.* at 27. Arizona Utilities assert that even if they choose non-priority wheeling through status, they still have to pay more than CAISO internal load to receive a lower level of transmission service. *Id.* at 29.

<sup>110</sup> *Id.* at 27 & n.66 (citing *Inquiry Concerning the Commission’s Pricing Policy for Transmission Services Provided by Public Utilities under the Federal Power Act*, Policy Statement, FERC Stats. & Regs. ¶ 31, 005 (1994) (cross-referenced at 69 FERC ¶ 61,086) (stating that, in lieu of the similarly situated standard, the Commission uses the “comparability” standard for “judging whether access to transmission services is unduly discriminatory, or anticompetitive”)).

precedent,<sup>111</sup> and the Commission provides no explanation that justifies the departure from precedent.

39. Arizona Utilities challenge the underlying premise that the CAISO priority wheeling through requirements are “a sort of litmus test” whereby external load serving entities can demonstrate a reliance upon the CAISO transmission system that is comparable to CAISO native load.<sup>112</sup> They contend that native load will *always* be more reliant upon its own transmission system than external third-party users.<sup>113</sup> Nevertheless, Arizona Utilities assert that non-CAISO load serving entities also rely on the CAISO transmission system to serve their loads. They argue the Commission erred in finding that CAISO’s Interim Tariff Revisions will “allocate scarce transmission capacity to those who have demonstrated the greatest reliance on that capacity for serving load.”<sup>114</sup> Arizona Utilities contend that the record is devoid of evidence that CAISO load has greater reliance on the transmission capacity than load in Arizona or elsewhere.

40. Arizona Utilities state that the Commission erroneously relies upon the reasoning of its prior order on CAISO’s Market Redesign and Technology Upgrade (MRTU) proposal, where the Commission permitted CAISO to impose different eligibility requirements on external load serving entities for congestion revenue rights<sup>115</sup> and extended that reasoning to CAISO’s scheduling proposal.<sup>116</sup> Arizona Utilities assert that the MRTU Rehearing Order<sup>117</sup> is not applicable under the facts presented here because the MRTU Rehearing Order did not address a provision, like those at issue here, that

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<sup>111</sup> *Id.* at 27 & n.67 (citing *American Elec. Power Serv. Corp.*, 67 FERC ¶ 61,168 (1994)).

<sup>112</sup> *Id.* at 16.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at 46 & n.125 (citation omitted).

<sup>115</sup> A congestion revenue right is a financial instrument that entitles the holder to payments or charges based on congestion on pre-defined transmission constraints. CAISO Tariff, app. A (Definitions) (0.0.0).

<sup>116</sup> Arizona Utilities Rehearing Request at 24 & n.56 (citing June 2021 Order, 175 FERC ¶ 61,245 at PP 148-149).

<sup>117</sup> *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) (MRTU Order), *order on reh’g*, 119 FERC ¶ 61,076 (2007) (MRTU Rehearing Order).

would deny transmission service or impose differences in the transmission service received by native load and external load serving entities.<sup>118</sup>

41. Arizona Utilities argue that the MRTU Rehearing Order is also distinguishable because the additional requirements imposed on external load serving entities to obtain congestion revenue rights were acceptable in part because the dispute involved financial transmission rights and not reliability.<sup>119</sup> Arizona Utilities state that, in contrast, the June 2021 Order accepts these Interim Tariff Revisions *because of* the reliability implications.<sup>120</sup>

42. Arizona Utilities assert that the facts do not support the Commission's determination that the Interim Tariff Revisions provide external load serving entities with transmission service that is comparable to internal load serving entities. They argue that requiring external load serving entities to enter into firm transmission and firm power supply arrangements with third parties to obtain transmission priority comparable to native load is not at all similar to what CAISO native load must do to get the same level of transmission priority as priority wheeling through transactions.<sup>121</sup> They state that CAISO native load does not have to enter into monthly power supply contracts to support resource adequacy imports; rather, under the resource adequacy program, CAISO load serving entities must demonstrate that they have procured 90% of their system resource adequacy obligations for the five summer months (May – September) of the following year. Additionally, Arizona Utilities state that internal load serving entities are not required to pay for firm transmission on external systems for their resource adequacy imports.<sup>122</sup> Further, Arizona Utilities contend that CAISO native load may submit resource adequacy import schedules and non-resource adequacy economic import schedules at any time, including day-ahead and real-time, without using a firm power source or firm transmission service to import the power, and still receive CAISO transmission service with a priority equal to external load serving entities that meet both of the new requirements.<sup>123</sup> ACC similarly argues that it is unduly

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<sup>118</sup> Arizona Utilities Rehearing Request at 24.

<sup>119</sup> *Id.* at 26.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* at 11; *see also id.* at 28 (“requiring external load serving entities to enter into firm transmission and firm power supply arrangements with third parties is not at all similar to what CAISO native load must do to procure power from third parties”).

<sup>122</sup> *Id.* at 11.

<sup>123</sup> *Id.* at 12.

discriminatory to establish “disproportionate” scheduling requirements between external and internal load serving entities.<sup>124</sup>

43. Further, Arizona Utilities object that all non-priority wheeling through transactions receive a lower priority than resource adequacy import transactions. They contend that CAISO’s Interim Tariff Revisions unduly discriminate against external load serving entities by imposing a lower priority on customers who do not meet the criteria to qualify as a priority wheeling through transaction. Arizona Utilities assert that this cannot rationally be considered service “on a comparable basis to native load” for external load serving entities, as Order No. 890 mandates.<sup>125</sup>

**b. Commission Determination**

44. Contrary to Arizona Utilities’ argument, the Commission used the appropriate comparability standard to evaluate whether the Interim Tariff Revisions are unduly discriminatory or preferential,<sup>126</sup> and determined in the June 2021 Order that the Interim Tariff Revisions are not.<sup>127</sup> Although the June 2021 Order discussed the “similarly situated” test as part of its undue discrimination analysis,<sup>128</sup> the Commission also found that “CAISO’s proposal provides for a transparent process whereby external load serving entities can make use of CAISO’s transmission system *on par with* CAISO load serving entities.”<sup>129</sup> In other words, the Commission determined that the Interim Tariff Revisions enabled external load serving entities that meet the requirements for priority wheeling through status to obtain transmission service that is comparable to the priority given to CAISO native load. Therefore, we disagree with Arizona Utilities’ contention that the

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<sup>124</sup> ACC Rehearing Request at 2.

<sup>125</sup> Arizona Utilities Rehearing Request at 28-29.

<sup>126</sup> See Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,211 (stating that “undue discrimination in the provision of transmission services in today’s industry does not turn on whether utilities and their native load customers are similarly situated to third parties, but instead turns on whether the utility is providing comparable service, that is, service that it is reasonably capable of providing to other users of the interstate transmission system”).

<sup>127</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 143-144, 148-149.

<sup>128</sup> *Id.* P 148 (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 349).

<sup>129</sup> *Id.* P 141 (emphasis added). The Commission also discussed how “CAISO’s Proposal Is Consistent with Open Access Principles.” *Id.* PP 143-147.



June 2021 Order failed to utilize the comparability standard to evaluate the Interim Tariff Revisions.<sup>130</sup>

45. Moreover, to the extent the June 2021 Order framed parts of its discussion in terms of whether external entities are similarly situated to CAISO load serving entities, the Commission appropriately relied on the MRTU orders as “expressly reject[ing] claims that different requirements for external load serving entities violated Order No. 888 open access policies.”<sup>131</sup> As in the MRTU orders, here external load serving entities are not being denied transmission service, but instead must meet specific requirements that differ from those applied to CAISO load serving entities in order to demonstrate that they rely on the CAISO transmission system in a manner comparable to CAISO native load.<sup>132</sup> Also, we disagree with Arizona Utilities’ argument that the Interim Tariff Revisions should be distinguished from precedent regarding congestion revenue right allocations, given that the former were proposed to enhance reliability.<sup>133</sup> We conclude that the Commission properly referenced the congestion revenue right allocation precedent for a common principle in both cases: it is reasonable to require external load serving entities to demonstrate ongoing reliance and intent to use the CAISO transmission system in a manner that is similar to internal load serving entities in order to receive comparable terms and conditions of service, i.e., a financial right or equal curtailment priority. Thus, we find the June 2021 Order appropriately relied on the MRTU precedent in support of the Commission’s conclusion.

46. Additionally, we find that Arizona Utilities’ arguments challenging whether third-party users can ever be similarly situated to CAISO native load overlooks the fact that CAISO’s Interim Tariff Revisions recognize that external load serving entities may be as dependent on the CAISO transmission system as internal load serving entities. Indeed, the three criteria are designed to allow external load serving entities to make that demonstration and receive comparable service.

47. As discussed below, we continue to find that each of the three criteria for priority wheeling through transactions is just and reasonable and not unduly discriminatory or

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<sup>130</sup> See *id.* PP 143-144.

<sup>131</sup> *Id.* P 148 (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 373); see also MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 377 (finding “the MRTU Tariff’s annual fixed payment obligation and legitimate need requirements do not violate Order No. 888”).

<sup>132</sup> MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 377.

<sup>133</sup> Arizona Utilities Rehearing Request at 26.

preferential<sup>134</sup> because they are reasonably crafted to ensure that external load serving entities are as reliant on the CAISO transmission system as native load, and will continue to pay the costs of the CAISO transmission system and therefore merit the same priority access to the CAISO transmission system. We disagree that the criteria are "disproportionate" or unduly discriminatory because internal CAISO load serving entities do not have to satisfy either the same monthly power supply contracting requirement or the firm transmission requirement (i.e., a showing of monthly firm transmission to the CAISO border during particular hours) to get the same level of transmission priority.

48. As to the first criterion – a priority wheeling through transaction must be supported by a firm power supply contract to serve the load of an external load serving entity for the entire calendar month – we agree with CAISO that this requirement adequately demonstrates that the external load serving entity needs to use the CAISO transmission system to serve its customer for the entire month, rather than occasionally. We find this criterion is analogous to the existing requirement under the CPUC's resource adequacy program that scheduling coordinators for CAISO load serving entities must procure a specified amount of resource adequacy capacity to meet their monthly resource adequacy obligations.<sup>135</sup> Arizona Utilities' contention that CAISO load serving entities need only show that they have procured 90% of the capacity needed to serve customers for five peak summer months (an annual resource adequacy requirement)<sup>136</sup> ignores the fact that CAISO load serving entities must also submit monthly resource adequacy plans demonstrating procurement of 100% of their resource adequacy obligation, 45 days in advance of the month. This 45-day advance monthly showing requirement aligns with the deadline for external load serving entities to submit their monthly supply contracts and firm transmission agreements. Therefore, we continue to find that the first criterion, the firm monthly power supply contract, and the third

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<sup>134</sup> See June 2021 Order, 175 FERC ¶ 61,245 at P 141.

<sup>135</sup> See CAISO Tariff, § 40.2.2 (7.0.0), § 40.2.2.4(b) ("the monthly Resource Adequacy Plan must identify all reserves, including the Local Capacity Area resources, the Load Serving Entity will rely upon to satisfy the applicable month's peak hour demand of the Load Serving Entity as determined by the Demand Forecasts developed in accordance with Section 40.2.2.3 and the applicable Reserve Margin").

<sup>136</sup> See CAISO, Resource Adequacy Homepage, <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/resource-adequacy-homepage> (chart comparing annual and monthly resource adequacy requirements).

criterion, 45 days advance notice, are sufficiently similar<sup>137</sup> to the demonstrations required of CAISO resource adequacy that they serve their purpose of indicating that an external load serving entity is as dependent on the CAISO transmission system as an internal load serving entity, and therefore should receive comparable access to the transmission system.

49. We also disagree that the second criterion, which requires monthly firm transmission from the source of power supply to the CAISO border, is unduly discriminatory. As CAISO explained, CAISO load serving entities, due to their location within the CAISO footprint, depend entirely on the CAISO transmission system and pay the embedded cost of the system through a transmission access charge.<sup>138</sup> We agree with CAISO that external load serving entities' procurement of monthly firm transmission service to the CAISO border for the peak period is a reasonable indication of their commitment to rely on using the CAISO system (and pay CAISO wheeling access charges) to deliver power to their own loads, similar to CAISO native load's transmission system use.<sup>139</sup> The monthly firm transmission requirement coupled with the monthly supply contract to serve external load demonstrates dependence on and commitment to use and pay the costs of the CAISO transmission system throughout the month.<sup>140</sup> Contrary to Arizona Utilities' contention, we do not find it unreasonable or unduly discriminatory that, under these Interim Tariff Revisions, internal CAISO load serving entities are not required to have firm transmission to the CAISO border. Unlike external load serving entities, CAISO load serving entities must use the CAISO system to deliver their energy, which obviates the need for any similar showing.

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<sup>137</sup> Indeed, Arizona Utilities also appear to acknowledge that the first criterion for external entities is "similar through [the] monthly resource adequacy plan" to the requirements for internal entities. Arizona Utilities Rehearing Request at 28, tbl. "Transaction Requirements in Order to Receive the Same Scheduling Priority."

<sup>138</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 51.

<sup>139</sup> See CAISO Transmittal at 60; see also MRTU Rehearing Order, 119 FERC ¶ 61,076 (CAISO's congestion revenue rights proposal "takes into account the differences between external loads and internal loads with respect to their need to rely on the CAISO-controlled grid" as well as "the level of certainty that [load serving entities] serving load outside the CAISO Control Area will continue to pay CAISO access charges and congestion charges").

<sup>140</sup> See CAISO Transmittal at 60.

### 3. Financial and Policy Implications

#### a. Rehearing Request

50. Arizona Utilities argue the Commission failed to adequately consider contrary record evidence and incorrectly dismissed the external impacts and policy implications that ensue from the Interim Tariff Revisions.<sup>141</sup> Arizona Utilities contend the Interim Tariff Revisions make delivered power more expensive for external load serving entities and, therefore, provide a competitive advantage to CAISO native load in violation of the FPA.<sup>142</sup> Specifically, they assert the Interim Tariff Revisions artificially raise external load serving entities' costs of procuring power from the Pacific Northwest, whereas internal CAISO load serving entities do not face the same costs in procuring power from the Pacific Northwest.<sup>143</sup> They argue that internal CAISO load serving entities also have a competitive advantage because they are not required to enter into firm power supply contracts to serve load through the calendar month or procure monthly firm transmission on the external third-party systems<sup>144</sup> and scheduling coordinators may schedule CAISO resource adequacy imports at any time, including day-ahead and real-time, rather than the 45-day notice required for priority wheeling through transactions. Moreover, Arizona Utilities assert that they provided evidence that the Interim Tariff Revisions effectively provide California native load a right of first refusal on Pacific Northwest resources by allowing them higher priority transmission access.<sup>145</sup>

51. Arizona Utilities state they provided two supporting affidavits that specifically discussed the adverse financial implications resulting from the Interim Tariff Revisions. Specifically, they state that their expert witness Mr. Brian Cole explained that the Interim Tariff Revisions will (1) block load serving entities in the Desert Southwest from utilizing external markets such as the Pacific Northwest or even CAISO to fill their resource needs; (2) render "firm" transmission to the CAISO border meaningless when used by non-CAISO load serving entities and strand their firm resources at the border to CAISO; (3) prevent market participants from being able to rely on bilateral transactions

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<sup>141</sup> Arizona Utilities Rehearing Request at 37-49.

<sup>142</sup> *Id.* at 11, 39-40.

<sup>143</sup> *Id.* at 11.

<sup>144</sup> *Id.* at 12 & n.19 (citing Arizona Utilities Protest at 49-50) (stating that the costs to CAISO load for delivered power become cheaper than delivered power to the Arizona Utilities because firm transmission is only required for the Arizona Utilities' load).

<sup>145</sup> *Id.* at 11 & n.17 (citing Arizona Utilities Protest, Cole aff. at 7).

with a CAISO leg; and (4) force non-CAISO load serving entities to rely on resources outside of California that are more expensive due to short supply and high demand.<sup>146</sup>

52. Further, Arizona Utilities state that the affidavit of their expert witness, Mr. Bobby Olsen, detailed the material steps that Salt River has taken and the significant costs Salt River has incurred to ensure that its customers can avoid issues associated with resource adequacy across the West, as well as the overall price distortions throughout the West for the summer of 2021, including a 300% increase in forward market prices at Palo Verde since summer 2020.<sup>147</sup>

53. Arizona Utilities assert that no party refuted this evidence or attempted to show that the scheduling priorities would have lesser cost impacts on entities serving load external to CAISO. Arizona Utilities state that the June 2021 Order erroneously characterized these costs as “potential.”<sup>148</sup>

54. Arizona Utilities assert the costs imposed on external load serving entities as a result of CAISO’s revised scheduling priorities clearly are unjust and unreasonable and violate cost causation because (1) they are arbitrary and discriminatory in that they have no relationship to the contracting needs of external load serving entities, supply and demand, or the actual economics of the Pacific Northwest market or the external load serving entities’ arrangements with their third-party suppliers of power and transmission; and (2) they have no relationship, direct or indirect, to the costs of transmission service on the CAISO transmission system.<sup>149</sup>

55. Arizona Utilities assert that the June 2021 Order does not try to reconcile the increased costs with Commission precedent on cost causation, and contend that the benefits from the Interim Tariff Revisions flow entirely to the CAISO load serving entities, while the increased costs flow entirely to non-CAISO load serving entities, which is not just and reasonable.<sup>150</sup>

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<sup>146</sup> *Id.* at 13 & n.23 (citing Arizona Utilities Protest, Cole aff. at 11-13); *see also id.* at 40 & n.107 (citing Cole aff. at 12-13).

<sup>147</sup> *Id.* at 14 & n.25-28 (citing Arizona Utilities Protest, Olsen aff. at 23-24 & n.11); *see also id.* at 40 & n.108 (citing Olsen aff. at 23 & n.11).

<sup>148</sup> *Id.* at 14-15 & n.29 (citing June 2021 Order, 175 FERC ¶ 61,245 at P 153).

<sup>149</sup> *Id.* at 15.

<sup>150</sup> *Id.* at 38.

56. Arizona Utilities argue the record contradicts the June 2021 Order's conclusion that the Interim Tariff Revisions will not be disruptive in the middle of the summer peak and will not inject uncertainty into the Western market.<sup>151</sup> Arizona Utilities state that, as the Commission acknowledged, numerous parties highlighted and provided concrete evidence of the financial and reliability-related disruption and uncertainty that CAISO's proposal has caused and will perpetuate.<sup>152</sup> Arizona Utilities reiterate how the Interim Tariff Revisions forced them to undertake significant changes in how they arrange for resources to serve their load,<sup>153</sup> including avoiding contracts with generation sourced from or wheeled through CAISO,<sup>154</sup> working to secure forward firm deliverable energy that is not materially sourced from CAISO or wheeled through CAISO,<sup>155</sup> and specifying and requiring energy delivery that does not utilize or wheel through CAISO's transmission system.<sup>156</sup>

57. Similarly, ACC argues that the June 2021 Order fails to consider the property rights of the affected entities that had already executed contracts for energy to be transferred through the CAISO system prior to proposal of the Interim Tariff Revisions.<sup>157</sup> ACC contends that the priority wheeling through provisions unfairly prioritize transmission service for internal CAISO load over exports of power and wheeling through transactions, jeopardizing external entities' ability to serve their load with purchases they have already made. ACC asserts that the new criteria could disrupt existing business arrangements that were premised on the expectation that CAISO would continue its existing priority scheme, and objects that the proposal did not include any mitigation provisions such as a grandfathering clause or other safeguards.<sup>158</sup>

58. Finally, Arizona Utilities state that the June 2021 Order allows CAISO to use its control over its own transmission system to impact accessibility to the Pacific Northwest

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<sup>151</sup> *Id.* at 38.

<sup>152</sup> *Id.* at 38-39.

<sup>153</sup> *Id.* at 39 & n.102 (citing Arizona Utilities Protest at 27).

<sup>154</sup> *Id.* at 39 & n.103 (citing Arizona Utilities Protest at 28).

<sup>155</sup> *Id.* at 39 & n.104 (citing Arizona Utilities Protest at 28).

<sup>156</sup> *Id.* at 39.

<sup>157</sup> ACC Rehearing Request at 2, 7.

<sup>158</sup> *Id.* at 8.

markets.<sup>159</sup> They state that the June 2021 Order fails to address the evidence the Arizona Utilities presented about how CAISO scheduling priorities undermine congestion management on third-party systems as a result of CAISO's day-ahead market processes not recognizing transmission priority external to its balancing authority.<sup>160</sup> Arizona Utilities assert that no transmission provider should be able to implement transmission priorities on its own system with the objective of modifying flows on third-party systems.<sup>161</sup>

**b. Commission Determination**

59. We disagree with the contention that the Commission failed to adequately consider the financial and policy implications of accepting CAISO's Interim Tariff Revisions. The Commission has considered the transmission open access implications raised by this proceeding and explained how the Interim Tariff Revisions provide comparable access to external and internal CAISO load serving entities.<sup>162</sup> We continue to agree with CAISO that market participants did not have a reasonable expectation that CAISO would not seek to change its existing approach to scheduling priorities. As explained above and in the June 2021 Order, CAISO offers no mechanism for reserving firm transmission capacity and, therefore, all market participants have been subject to curtailment through CAISO scheduling priorities.<sup>163</sup> Moreover, market participants should not reasonably have expected all wheeling through transactions to retain higher priority than native load, by virtue of CAISO's old practice of conferring a higher scheduling priority on wheeling through transactions than on service to native load. Further, as stated in the June 2021 Order, firm transmission to the CAISO border does not guarantee firm transmission through the CAISO system.<sup>164</sup>

60. Additionally, while the Interim Tariff Revisions may have caused short-term disruption of external CAISO load serving entities' supply plans and bidding strategy, these are interim Tariff provisions. Challengers have failed to show how they will have a permanent deleterious effect on long-term resource planning, particularly as we expect

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<sup>159</sup> Arizona Utilities Rehearing Request at 19.

<sup>160</sup> *Id.* at 19.

<sup>161</sup> *Id.* at 19 & n.42 (citing Arizona Utilities Protest, Olsen aff. at 18-20).

<sup>162</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 140-147; *see also supra* text at PP 21-36.

<sup>163</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 158.

<sup>164</sup> *Id.* P 146.

CAISO to propose a long-term framework to replace these Interim Tariff Revisions as expeditiously as possible. The Interim Tariff Revisions implement reasonable native load protections and redress the fact that prior to these Interim Tariff Revisions, wheeling through transactions could consistently achieve higher scheduling priority than native load, as discussed above. Moreover, now that the filed rate has changed, and the Commission has accepted CAISO's uncontested two-year extension of the Interim Tariff Revisions in an order issued concurrently with this order,<sup>165</sup> entities can adjust their prospective contracting and bidding strategies accordingly. While the Interim Tariff Revisions have potential impacts on other balancing authority areas, we are not persuaded that these revisions will cause reliability issues for external load serving entities in other balancing authority areas. To the extent that CAISO's Interim Tariff Revisions may result in external load serving entities incurring higher costs to procure resources, challengers have not shown how those higher costs will result in reliability concerns. As to competitive advantage, to the extent the Interim Tariff Revisions may confer any perceived competitive advantage to internal load serving entities, Arizona Utilities do not explain how this exceeds the protections CAISO is permitted to afford native load, applicable here only when the system is constrained, under Order Nos. 888 and 890.

61. We have considered challengers' evidence indicating that the Interim Tariff Revisions impose costs and may continue to cost external load serving entities more to procure resources than it would for CAISO internal load serving entities.<sup>166</sup> Nevertheless, we do not find that this additional expense renders CAISO's proposal unreasonable or unduly discriminatory. We note that under the previous Tariff provisions, wheeling-through transactions used by external load serving entities had a priority over imports used by internal load serving entities even though the external load serving entities did not pay more for that higher priority.

62. We also do not find that cost causation principles preclude acceptance of the Interim Tariff Revisions. As CAISO pointed out, native load has a standing obligation to pay for its transmission, including during non-peak periods, and it is reasonable to require that external load serving entities demonstrate a similar firm commitment to using and paying for the CAISO transmission system if they seek access during tight system conditions when transmission service is limited.<sup>167</sup> Thus, we continue to find that challengers' evidence of increased or potential increased costs or harm to external load

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<sup>165</sup> See *Cal. Indep. Sys. Operator Corp.*, 178 FERC ¶ 61,182.

<sup>166</sup> See Arizona Utilities Rehearing Request at 13-16 and citations therein.

<sup>167</sup> See MRTU Order, 116 FERC ¶ 61,274 at PP 766-769; MRTU Rehearing Order, 119 FERC ¶ 61,076 at PP 368-377.



serving entities' bilateral contracting ability does not render CAISO's Interim Tariff Revisions unjust and unreasonable.<sup>168</sup>

63. We do not agree with the Arizona Utilities' contention that these costs are arbitrary and unduly discriminatory.<sup>169</sup> First, CAISO does not dictate the costs of arrangements for supply or transmission with third-party suppliers; the costs of securing power supply and transmission to the CAISO border reflect those affected entities' considerations of the relative risks and benefits of utilizing the CAISO transmission system. The fact that CAISO's proposal impacts those costs does not render it unjust, unreasonable, or unduly discriminatory or preferential. And second, while we agree that these costs are not directly related to the costs of transmission, they nevertheless indicate commitment to use the CAISO transmission system similarly to native load on a monthly basis, which is the purpose of the requirements for priority wheeling through transactions. Also, to the extent the benefits from the Interim Tariff Revisions flow more to internal CAISO load serving entities compared to the status quo, we find this reasonable because they would flow from CAISO's implementation of permissible native load protection.

64. Further, we conclude the Interim Tariff Revisions do not confer an unfair competitive advantage to internal CAISO load serving entities, but instead continue to find that they are reasonably tailored to ensure that, in order to obtain comparable scheduling priority, an external load serving entity's reliance on the CAISO transmission system is comparable to an internal CAISO load serving entity's reliance on the CAISO transmission system. We do not agree that CAISO's Interim Tariff Revisions will block external load serving entities in the Desert Southwest from utilizing other markets such as the Pacific Northwest or even CAISO to fill their resource needs. External load serving entities may still access such markets, even if they choose not to because prices are higher.

65. We also do not agree that the Interim Tariff Revisions will render "firm" transmission meaningless when used by non-CAISO load serving entities or that the changes will strand energy procured by external load serving entities at the border to CAISO. As the June 2021 Order explained, firm transmission to the boundary of the CAISO system does not grant firm transmission rights across the CAISO system, given that no such rights exist.<sup>170</sup> We also disagree with Arizona Utilities' contention that the Interim Tariff Revisions prevent market participants from being able to rely on bilateral transactions with a CAISO leg. External load serving entities can meet the three criteria for priority wheeling through service in order to reduce the risk that, in the event of a

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<sup>168</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 153.

<sup>169</sup> Arizona Utilities Rehearing Request at 15.

<sup>170</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 146.

contingency, their schedules may be cut. We are unpersuaded that the Interim Tariff Revisions “force” external load serving entities to rely on resources outside of California that are more expensive due to short supply and high demand.<sup>171</sup> External load serving entities still have a choice whether to meet the requirements for priority wheeling through status. We also disagree with Arizona Utilities’ assertion that the Interim Tariff Revisions effectively provide California native load a right of first refusal on Pacific Northwest resources by allowing them higher priority transmission access.<sup>172</sup> Rather, external load serving entities may choose to meet the three requirements for priority wheeling through status, which gives them equivalent status as native load. We also emphasize that, because the Interim Tariff Revisions only apply during constrained conditions, under most circumstances even non-priority wheeling through transactions should be able to utilize the CAISO transmission system, consistent with prior operations.

66. Arizona Utilities assert that no transmission provider should be able to implement transmission priorities on its own system “with the objective of modifying flows on third-party systems.”<sup>173</sup> But CAISO’s proposal explains that the objective is to allocate the use of its own system during constrained conditions.<sup>174</sup>

67. We find ACC’s arguments regarding upsetting existing business arrangements and the lack of mitigation provisions<sup>175</sup> to be unpersuasive for several reasons. First, as discussed below,<sup>176</sup> market participants received at least the statutorily-required 60-days’ notice of CAISO proposed Interim Tariff Revisions. More importantly, CAISO reasonably did not propose to grandfather existing agreements and rules because the purpose of its filing was to have a means in place for summer 2021 to deal with constraints; grandfathering agreements and creating exceptions could have undermined the purpose of the Interim Tariff Revisions. Finally, the Interim Tariff Revisions do not void or vitiate the agreements parties have already entered into; neither Arizona Utilities nor ACC have explained why the forward supply contracts that were allegedly disrupted could not satisfy the requirements for priority wheeling through transactions.

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<sup>171</sup> Arizona Utilities Rehearing Request at 13 & n.23 (citing Arizona Utilities Protest, Cole aff. at 11-13).

<sup>172</sup> *Id.* at 11 & n.17 (citing Arizona Utilities Protest, Cole aff. at 7).

<sup>173</sup> *Id.* at 19.

<sup>174</sup> See CAISO Transmittal at 3, 7-8.

<sup>175</sup> ACC Rehearing Request at 8.

<sup>176</sup> See *infra* PP 78-81.

68. While we find that the asserted financial and reliability impacts of the Interim Tariff Revisions do not render them unjust, unreasonable, and unduly discriminatory or preferential, parties on all sides of the dispute acknowledge that a different, long-term solution to accessing the CAISO transmission system is warranted. CAISO and its stakeholders developing a long-term solution is a high priority for the Commission, and we encourage all parties to work expeditiously through CAISO's ongoing stakeholder process in pursuit of that long-term reform.

#### 4. Other

##### a. Rehearing Requests

69. ACC argues CAISO did not meet its FPA section 205 burden to show that its proposal is just and reasonable.<sup>177</sup> ACC contends the June 2021 Order is not supported by the record, including the Final Root Cause Analysis,<sup>178</sup> which identified three major causal factors contributing to the August 2020 outages, none of which include issues with CAISO's wheeling through transactions.<sup>179</sup> Arizona Utilities also object that wheeling through transactions were not identified as a contributing cause of CAISO's blackout in the Final Root Cause Analysis.<sup>180</sup> ACC asserts that the Commission does not explain how or why altering the existing system for wheeling, which has worked without noted issue to date, should be changed based on CAISO's hypothetical reasons for supporting its proposed Interim Tariff Revisions. ACC contends that to the extent CAISO load serving entities need capacity on an intertie for imports to serve CAISO load, pre-existing market mechanisms allow these entities to obtain needed capacity by self-scheduling in the day-ahead market.<sup>181</sup> ACC states that the Commission dismissed alternatives to CAISO's proposed revisions with limited discussion and consideration.<sup>182</sup>

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<sup>177</sup> ACC Rehearing Request at 4.

<sup>178</sup> See CAISO, *Final Root Cause Analysis: Mid-August 2020 Extreme Heat Wave* (Jan. 13, 2021) (Final Root Cause Analysis),: <http://www.caiso.com/about/Pages/News/SummerReadiness.aspx>.

<sup>179</sup> ACC Rehearing Request at 2, 4.

<sup>180</sup> Arizona Utilities Rehearing Request at 42 & n.115 (citation omitted).

<sup>181</sup> ACC Rehearing Request at 3 & n.3 (citing Arizona Utilities Protest at 2).

<sup>182</sup> *Id.* at 3.

70. ACC and Arizona Utilities assert that the Commission erred by failing to consider the impact of the timing of the CAISO proposal upon external load serving entities.<sup>183</sup> Arizona Utilities assert that the June 2021 Order erred in disregarding the long-term decision-making that is involved in resource planning and the increased costs and harm to external load serving entities resulting from the Interim Tariff Revisions, which went into effect in the middle of the peak season.<sup>184</sup>

71. ACC similarly contends the Commission unreasonably dismissed protestors' concerns about the expedited nature of CAISO's amendments by assuming that through their participation in stakeholder proceedings, affected entities were aware of the proposed changes well before CAISO filed the Interim Tariff Revisions.<sup>185</sup> ACC argues the record does not support accepting the Interim Tariff Revisions on an expedited basis without allowing the CAISO stakeholder process to conclude.<sup>186</sup> ACC argues the Commission did not sufficiently consider protestors' concerns and thus failed to balance properly the interests of CAISO and the affected entities and to afford those entities sufficient due process.<sup>187</sup>

72. Arizona Utilities argue the June 2021 Order's finding that CAISO's Interim Tariff Revisions will not be disruptive hinges on what they claim is the Commission's erroneous finding that market participants had notice of the changes as of January 2021 and that CAISO elected not to request a waiver of the 60-day prior notice requirement.<sup>188</sup> Arizona Utilities state that the Commission incorrectly determined protestors' timing concerns were not persuasive and that, since external load serving entities were aware that CAISO was considering changes to implement scheduling priorities, external load serving entities had "no reasonable expectation" of continuing to use the existing tariff provisions.<sup>189</sup>

73. Arizona Utilities contend that, from a factual perspective, the record evidence reflects that market participants *have not* been on notice since January 2021 that they

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<sup>183</sup> *Id.* at 1-3, Arizona Utilities Rehearing Request at 40.

<sup>184</sup> Arizona Utilities Rehearing Request at 41.

<sup>185</sup> ACC Rehearing Request at 1-2.

<sup>186</sup> *Id.* at 5.

<sup>187</sup> *Id.* at 1-2.

<sup>188</sup> Arizona Utilities Rehearing Request at 41.

<sup>189</sup> *Id.* at 41 & n.112 (citing June 2021 Order, 175 FERC ¶ 61,275 at P 153).

might not be able to rely on the status quo to obtain priority wheeling through status. They assert that, although the stakeholder processes may have started then, market participants had no reason to believe that wheeling through transactions may be deprioritized because these transactions were not identified as a key finding in the CAISO's Department of Market Monitoring's (DMM) independent review of system conditions and performance of CAISO's day-ahead and real-time markets that was issued on November 24, 2020.<sup>190</sup>

74. Arizona Utilities argue that, from a legal perspective, the filed rate doctrine allows external load serving entities and other CAISO customers to rely upon the rates, terms, and conditions of CAISO's filed tariffs and rate schedules, until an appropriate filing under section 205 or 206 of the FPA is made to modify those terms, and that change only becomes effective upon the date set by the Commission.<sup>191</sup> They state that it is untenable for the Commission to suggest – as it did in the June 2021 Order – that customers are not entitled to rely upon a utility's filed rate if that utility signals that it intends to make a filing in the future. Arizona Utilities argue that, in prior cases where proposed Tariff revisions would disrupt settled expectations mid-course and harm market participants who relied on the existing Tariff in calculating prices and entering into contracts, the Commission has rejected the revisions under a “balancing of equities” test.<sup>192</sup> Arizona Utilities assert their situation is similar to a recent decision in which the Commission rejected Tariff revisions, filed after the start of the capacity market period, that changed aspects of how de-list bids for capacity resources would be calculated during that period.<sup>193</sup> Arizona Utilities argue that CAISO's Interim Tariff Revisions similarly change the rules of the game well after-the-fact, forcing external load serving entities to attempt to re-negotiate their prior arrangements or enter into entirely new ones.

75. Arizona Utilities contend that, contrary to the Commission's discussion in the June 2021 Order, CAISO's communications to stakeholders about its intentions do not mitigate the harm of the timing of the filing. They point out that, as the D.C. Circuit recently held, “legally required notice” must be filed with the Commission.<sup>194</sup> They state

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<sup>190</sup> *Id.* at 42 & n.114 (citation omitted).

<sup>191</sup> *Id.* at 43.

<sup>192</sup> *Id.* at 44 & n.119 (citations omitted).

<sup>193</sup> *Id.* at 44 & n.20 (citing *ISO-New England Inc.*, 170 FERC ¶ 61,187 (2020) (rejecting revisions to ISO-NE tariff capacity auction provisions after market participants made their commercial decisions in reliance on existing tariff language)).

<sup>194</sup> *Id.* at 44 & n.121 & n.122 (quoting *Old Dominion v. FERC*, 892 F.3d 1232 (D.C. Cir. 2018)).

that this precedent contradicts the Commission's reasoning that CAISO's one-way communications from an RTO or an ISO to a customer constitutes sufficient notice.<sup>195</sup>

76. Arizona Utilities argue the DMM Report and Final Root Cause Analysis, which were not previously filed with the Commission, do not constitute adequate notice.<sup>196</sup> They add that CAISO's Interim Tariff Revisions also do not fall into the "notice exception," which has been applied in the following scenarios: (1) the filing of Tariffs that provide a formula for calculating rates (rather than a specific rate number) and (2) judicial invalidation of Commission decisions that have resulted in retroactive rates.<sup>197</sup> Arizona Utilities argue CAISO did not provide the legally required notice of its Interim Tariff Revisions until it filed them with the Commission on April 28, 2021. Arizona Utilities claim that such notice is wholly inadequate, given the significant impact on resource planning and on the market as a whole.

**b. Commission Determination**

77. We disagree with ACC that CAISO failed to meet its FPA section 205 burden to show the Interim Tariff Revisions are just and reasonable.<sup>198</sup> CAISO proposed the Interim Tariff Revisions as a temporary solution to address potentially challenging, near-term reliability concerns, which had become more apparent subsequent to the heat-related events of August 2020. While previously the amount of wheeling through transactions had been relatively low, CAISO forecasted that such transactions would increase in the future.<sup>199</sup> No party contested CAISO's forecast. Rather, challengers continue to assert that the Interim Tariff Revisions are not reasonable because the Root Cause Analysis identified other causal factors contributing to the August 2020 outages. The fact that there are additional reliability-related concerns does not undermine the reasonableness of CAISO identifying this particular concern, i.e., the effect an increase in wheeling through transactions would have on internal CAISO load serving entities serving CAISO native load, and seeking to correct it. CAISO is not limited to the Root Cause Analysis; under FPA section 205, CAISO's burden is to demonstrate that the proposed revisions are just

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<sup>195</sup> *Id.* at 44.

<sup>196</sup> *Id.* at 45.

<sup>197</sup> *Id.*

<sup>198</sup> 16 U.S.C. § 824d(e); *see also Nw. Corp. v. FERC*, 884 F.3d 1176, 1182 (D.C. Cir. 2018) (stating that proponent of rate change under FPA section 205 bears the burden of proof); *Panda Stonewall LLC*, Opinion No. 574, 174 FERC ¶ 61,266, at P 30 (2021).

<sup>199</sup> *See* CAISO Transmittal at 7; CAISO Answer at 53, 57-58.

and reasonable and not unduly discriminatory or preferential.<sup>200</sup> Furthermore, the fact that there may be more than one reasonable solution to a problem, or more than one just and reasonable set of rates, terms and conditions, does not mean that the one CAISO proposed here is unreasonable.<sup>201</sup> When evaluating a proposal under FPA section 205, the Commission need not consider whether the proposal is the optimal solution, but rather only a reasonable one.<sup>202</sup>

78. We disagree with ACC's contention that the timing of CAISO's filing resulted in a failure to consider protestors' arguments or appropriately balance respective interests, including external load serving entities' settled expectations.<sup>203</sup> In reaching its conclusion in the June 2021 Order, the Commission did consider protestors' arguments and, upon balancing the respective interests, found that CAISO's proposed Interim Tariff Revisions were adequately supported, and that their effects did not render them unjust and unreasonable.<sup>204</sup> Indeed, CAISO's proposal does not elevate native load above all external load serving entities, but rather enables external load serving entities to obtain access on par with native load. And, as discussed throughout this order, we continue to find that the Interim Tariff Revisions strike a permissible balance between preserving

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<sup>200</sup> See, e.g., *Ala. Power Co. v. FERC*, 993 F.2d 1557, 1571 (D.C. Cir. 1992) (stating that "the party filing a rate adjustment with the Commission under [section] 205 bears the burden of proving the adjustment is lawful").

<sup>201</sup> See, e.g., *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d at 703 ("FERC is not required to choose the best solution, only a reasonable one."); *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (finding that, when determining whether a proposed rate was "just and reasonable" as required by the FPA, the Commission properly did not consider "whether a proposed rate schedule is more or less reasonable than the alternative rate designs").

<sup>202</sup> *Id.*; see also *New Eng. Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd* *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (proposed rate design need not be perfect, it merely needs to be just and reasonable); *Louisville Gas & Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (the just and reasonable standard under the FPA is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard, but rather a range of different approaches often may be just and reasonable).

<sup>203</sup> See *ISO New Eng. & New Eng. Power Pool*, 145 FERC ¶ 61,095, at P 30 (2013) (finding that the "important benefits" associated with the proposed changes to ISO New England's forward capacity market distinguished them from situations where "the Commission was reticent to disrupt settled expectations, *i.e.*, where the proposed tariff revisions were 'unnecessary' and 'without any demonstrated benefit'").

<sup>204</sup> June 2021 Order, 175 FERC ¶ 61,245 at PP 141-142, 158, 160.

reliability for native load and ensuring open access until CAISO and its stakeholders design a long-term solution.

79. We find that CAISO reasonably explained why it needed to establish native load protections in time for summer 2021. CAISO explained that its Interim Tariff Revisions are necessary to avoid wheeling through self-schedules “crowding out” both resource adequacy imports using the interties and resource adequacy capacity from northern California generation that must flow north-to-south on Path 26 to serve load elsewhere in California.<sup>205</sup> CAISO also explained how increased wheeling through transactions potentially can prevent it from serving its native load even from internal resource adequacy resources built to serve CAISO load and paid for by load serving entities within the CAISO balancing area authority.<sup>206</sup> No party refuted these statements.

80. We continue to disagree with Arizona Utilities’ argument, relying on *Old Dominion*,<sup>207</sup> that they lacked sufficient notice of the Interim Tariff Revisions. Unlike in *Old Dominion*, here CAISO filed the Interim Tariff Revisions with the Commission 61 days in advance of the effective date and parties had the requisite 60-days’ statutory notice.<sup>208</sup>

81. We also disagree with the assertion that, even if CAISO satisfied the statutory notice requirement, the Commission failed to adequately consider parties’ settled expectations in the June 2021 Order. We continue to find that the DMM Report and Root Cause Analysis alerted Arizona Utilities and other external load serving entities to the possibility that they should consider different arrangements for the summer of 2021.<sup>209</sup> Although the FPA does not entitle parties to more than 60-days’ notice of a proposed

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<sup>205</sup> CAISO Transmittal at 21, 49, 56-58; CAISO Answer at 7, 58.

<sup>206</sup> CAISO Transmittal at 21, 49, 56-58; CAISO Answer at 7, 58.

<sup>207</sup> 892 F.3d 1232.

<sup>208</sup> 16 U.S.C. § 824d(d). *See also* 18 C.F.R. § 35.3 (2021) (setting forth notice requirements in the Commission’s regulations).

<sup>209</sup> The Preliminary Root Cause Analysis that issued on October 6, 2020, six months prior to CAISO’s filing, broadly announced that CAISO, as part of its Summer 2021 readiness efforts would “review and clarify through changes to its tariff and business practice manuals the existing rules for scheduling priorities and protection of internal and external schedules.” CAISO, *Preliminary Root Cause Analysis: Mid-August 2020 Heat Storm*, at 66 (Oct. 6, 2020) (Preliminary Root Cause Analysis),: <http://www.caiso.com/about/Pages/News/SummerReadiness.aspx>.



Tariff change, from a business perspective, it is reasonable to expect market participants would contemplate that settled practices could be changed, and plan accordingly.

82. The *ISO-NE*<sup>210</sup> proceeding cited by Arizona Utilities does not mandate a different result. In that proceeding, the pertinent tariff revisions changed the rule for delist bids after the tariff deadline for submitting those bids.<sup>211</sup> In contrast, this proceeding does not involve a tariff change after a related deadline passed, and thus does not implicate the same settled expectations as in *ISO-NE*.

### **B. CAISO Clarification or Rehearing Request**

83. CAISO seeks clarification, or, in the alternative, rehearing of the June 2021 Order to confirm that it was appropriate for CAISO to include the Parameter Change Procedure in the Compliance Filing.<sup>212</sup> CAISO explains that the penalty pricing parameters had been included in the business practice manual, which also gave CAISO the authority to change these values on an expedited basis if necessary to address any emergency involving market infeasibility, operational or reliability issues on the grid.<sup>213</sup> CAISO states that the existing Tariff does not include a similar procedure authorizing CAISO to make such expedited changes to these penalty pricing values and argues nothing in the June 2021 Order suggested that the Commission intended to deprive CAISO of this emergency authority.<sup>214</sup>

84. CAISO states that the Commission traditionally has accepted a compliance filing that includes changes not expressly required by the underlying order if those changes are “closely and plainly related to the compliance requirement that the Commission placed on” the public utility, and the changes “share a common factual nexus with the compliance filing and do not undo or contravene the compliance requirements.”<sup>215</sup>

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<sup>210</sup> 170 FERC ¶ 61,187 at P 17.

<sup>211</sup> *Id.*

<sup>212</sup> CAISO Rehearing Request at 2.

<sup>213</sup> *Id.*

<sup>214</sup> *Id.* at 3.

<sup>215</sup> *Id.* at 9 & n.20 (citing *ISO-NE Power Pool Participants Comm.*, 155 FERC ¶ 61,319, at P 32 (2016); *Midwest Indep. Trans. Sys. Operator, Inc.*, 112 FERC ¶ 61,169 at P 15 (2005)).

CAISO asserts the Parameter Change Procedure meets that standard.<sup>216</sup> Therefore, CAISO contends that it is consistent with the June 2021 Order to permit CAISO to continue to be able to change the penalty pricing parameter values expeditiously when necessary to address operational or reliability concerns on the CAISO-controlled grid.<sup>217</sup> Alternatively, if the Commission finds that including the Parameter Change Procedure in the Tariff would not comply with the June 2021 Order, CAISO seeks rehearing, asserting the Commission erred by not allowing CAISO to include in its Tariff a procedure for changing temporarily, without a Tariff amendment, the penalty pricing parameter values.<sup>218</sup>

### 1. Commission Determination

85. We deny CAISO's requested clarification and dismiss as premature CAISO's alternative rehearing request. In the June 2021 Order, the Commission directed CAISO to submit Tariff revisions that incorporate "the penalty pricing parameters associated with the revised scheduling priorities into the relevant sections of the CAISO Tariff."<sup>219</sup> This was the only change the Commission directed. CAISO, however, proposes to add a Parameter Change Procedure neither raised and addressed in the June 2021 Order nor expressly included in the compliance directive. Whether or not under these circumstances the Parameter Change Procedure meets the standard for inclusion in the Compliance Filing<sup>220</sup> is a question concerning the scope of compliance, which is more appropriately

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<sup>216</sup> *Id.* at 9. CAISO adds that the Commission has accepted tariff provisions for other RTOs/ISOs that allow them to make temporary changes to penalty factors where necessary to address operational or reliability needs, avoid operator intervention outside of normal scheduling processes, address congestion issues, or ensure feasible market solutions. *Id.* at 10-12 (citations omitted). CAISO argues that because such tariff provisions permit temporary penalty factor changes, they are comparable to the Parameter Change Procedure.

<sup>217</sup> *Id.* at 2.

<sup>218</sup> *Id.* at 7; *see also id.* at 3, 12.

<sup>219</sup> June 2021 Order, 175 FERC ¶ 61,245 at P 167.

<sup>220</sup> *See, e.g., ISO-NE Power Pool Participants Comm*, 155 FERC ¶ 61,319, at P 32 (2016) (stating that the Commission will accept a compliance filing that includes changes not expressly required by the underlying order if those changes are "closely and plainly related to the compliance requirement that the Commission placed on" the public utility, and the changes "share a common factual nexus with the compliance filing and do not undo or contravene the compliance requirements"); *Midwest Indep. Trans. Sys. Operator, Inc.*, 112 FERC ¶ 61,169, at P 15 (2005) (same); *but see PJM Interconnection LLC*,

addressed in the order on compliance issuing contemporaneously with this order.<sup>221</sup> In essence, CAISO's requested clarification is not a true clarification request because the Commission did not address this issue in the June 2021 Order, so there is nothing in that order to clarify.

86. Additionally, CAISO's rehearing request is premature here as CAISO effectively seeks rehearing of its clarification request before the Commission has even addressed it. In the compliance order issued today,<sup>222</sup> the Commission finds that the Parameter Change Procedure is beyond the scope of the compliance filing the Commission directed in the June 2021 Order. Arguments concerning whether the Parameter Change Procedure is within the scope of compliance are more appropriately addressed in that proceeding.

The Commission orders:

(A) In response to the requests for rehearing filed by the ACC and the Arizona Utilities, the June 2021 Order is hereby modified and the result sustained, as discussed in the body of this order.

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119 FERC ¶ 61,179, at P 12 (2007) (noting that the Commission has long established that compliance filings must be limited to the specific directives ordered by the Commission).

<sup>221</sup> See *Stowers Oil and Gas Co.*, 27 FERC ¶ 61,001, at 61,001 (1984) (stating the Commission is generally "master of its calendar and procedures"); *Mobil Oil Explor. & Prod. SE Inc. v. United Distrib. Cos.*, 498 U.S. 211, 230 (1991) (stating that "[a]n agency enjoys broad discretion in determining how best to handle related, yet discrete, issues in terms of procedures . . . [such as] where a different proceeding would generate more appropriate information") (citations omitted). See also, e.g., *MATL, LLP*, 170 FERC ¶ 61,039, at P 65 (2020) (rejecting in compliance order the portion of compliance filing that is outside the scope of compliance with the underlying rulemaking directive); *PJM Interconnection LLC*, 119 FERC ¶ 61,179 at P 12 (stating in compliance order that "[t]he purpose of a compliance filing is to make the directed changes and the Commission's focus in reviewing them is whether they comply with the Commission's previously stated directives").

<sup>222</sup> We note that the compliance order issued contemporaneously with this order in Docket No. ER21-1790-005 rejects the Parameter Change Procedure without prejudice. *Cal. Indep. Sys. Operator Inc.*, 178 FERC ¶ 61,181 (2022).

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(B) CAISO's request for clarification is denied and its alternative request for rehearing is dismissed, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.

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