



All commenters, even the two that also jointly submitted a limited protest, support Commission acceptance of the September 22 Filing.<sup>5</sup> For the reasons explained in the September 22 Filing and this Answer, the Commission should accept the CAISO's tariff revisions without condition or modification.

## **I. Overview**

The September 22 Filing includes, among other elements, the proposal that CAISO scheduling coordinators who take service on a Subscriber Participating TO's transmission facilities initially placed under CAISO operational control that have not paid for the facilities as Subscribers (*i.e.*, Non-Subscribers) will pay to the CAISO the Transmission Access Charge (TAC) and/or Wheeling Access Charge (WAC), based on application of the existing CAISO tariff. The TAC or WAC rate will not be increased to include a Transmission Revenue Requirement (TRR) for the Subscriber Participating TO transmission facilities initially placed under CAISO operational control. Instead, the CAISO will deduct from the TAC and WAC revenues it collects from Non-Subscribers and provide to the Subscriber Participating TO an amount calculated pursuant to a rate formula

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<sup>5</sup> See BVES at 1 (stating that BVES "supports the tariff amendment"); Golden State Clean Energy at 4 (stating that the Subscriber Participating TO model "provid[es] an integrated transmission and generation solution that can meaningfully address the state's needs more efficiently and effectively than generator-by-generator interconnection studies"); NextEra Resources at 3 ("For the reasons set forth herein, the Commission should accept the CAISO's proposed revisions without further procedure or delay."); SunZia Transmission at 2 ("SunZia Transmission supports the Commission's approval of the CAISO's requested tariff amendments effective December 21, 2023 and further requests that the Commission issue its order accepting the tariff amendments as soon as possible to facilitate planning by entities such as SunZia Transmission that are considering participation in the SPTO program."); SWP at 4-5 ("SWP urges the Commission to accept CAISO's SPTO model tariff amendment because it will provide an overall benefit to ratepayers by enabling needed construction that is funded by subscribers thus avoiding further increases to California's already-high transmission rates."); TransWest at 1 ("TransWest urges the Commission to accept the SPTO Amendment, without condition or modification."); SCE-PG&E at 16 ("SCE strongly supports the S-PTO Model and urges Commission approval in all respects, except for the Non-Subscriber Usage Rate.").

to compensate the Subscriber Participating TO for the Non-Subscribers' use of the transmission facilities. The rate formula will consist of (i) the absolute value of Non-Subscriber use in each direction of the line multiplied by (ii) a Commission-approved Non-Subscriber Usage Rate for which the Subscriber Participating TO must receive prior Commission approval and which can be no greater than the then-existing TAC rate; the product of these two rate formula components will yield the Non-Subscriber Usage Rate Amount.<sup>6</sup>

If the WAC revenue is insufficient to fully pay the Non-Subscriber Usage Payment Amounts for both imports and exports on the Subscriber Participating TO transmission facilities, then the remainder will be paid by using TAC revenue received by the CAISO prior to allocating the TAC revenue to the other Participating TOs.<sup>7</sup> This is consistent with how the revenue was received – the imports that came into the CAISO balancing area used the Subscriber Participating TO transmission facilities to serve California's load. Thus the TAC revenue is higher than would otherwise be expected due to this additional revenue. If the total TAC and WAC revenue contributed by transactions on the Subscriber Participating TO's facilities exceeds the total calculated Non-Subscriber Usage Payment Amounts, then the excess revenue will be added back to the Regional Access Charge for allocation to the other Participating TOs besides the Subscriber Participating TO.<sup>8</sup>

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<sup>6</sup> Transmittal letter for September 22 Filing at 28-34, and tariff revisions cited therein.

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

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

SCE-PG&E argue that the Commission should accept the September 22 Filing in its entirety except for the portion that relates to the Non-Subscriber Usage Rate. However, their arguments include factual inaccuracies and fail to undermine the CAISO's demonstration that the Non-Subscriber Usage Rate is just and reasonable.

SCE-PG&E make the erroneous claim that the Non-Subscriber Usage Rate will result in an increase in the TAC rate, but in fact the tariff revisions in the September 22 Filing will prevent any TAC rate increase with regard to a Subscriber Participating TO's initial transmission facilities because the Subscriber Participating TO's Transmission Revenue Requirement is never included in the Access Charge. Moreover, SCE-PG&E are incorrect that the introduction of Subscriber Participating TOs to the CAISO controlled grid will result in the number of scheduling points being reduced; the introduction of Subscriber Participating TOs will actually increase the number of scheduling points. Any concerns that the payments to Subscriber Participating TOs for Non-Subscriber uses of their facilities will exceed the revenue collected under the TAC and WAC are purely theoretical and would not occur in practice for the reasons explained in this Answer. SCE-PG&E also say nothing in response to the CAISO's explanation that the Commission's open access and cost causation principles require the establishment of rates, terms, and conditions for non-subscriber uses of subscriber-funded transmission projects and therefore support the Non-Subscriber Usage Rate. The Commission should accept the CAISO's proposal, and accordingly should reject SCE-PG&E's unsupported alternative

proposal to provide congestion revenue rights (CRRs) to Subscriber Participating TOs.

Furthermore, the Commission should reject all comments regarding any future proceedings in which a Subscriber Participating TO may file for Commission acceptance of a specific Non-Subscriber Usage Rate. Those comments are beyond the scope of the instant proceeding, because the proposed tariff revisions leave it to the Subscriber Participating TO separately to propose a Non-Subscriber Usage Rate to the Commission in accordance with its TO Tariff.

Lastly, the Commission should reject the alternative proposal of Golden State Clean Energy to extend the Subscriber Participating TO model to transmission projects located entirely within the CAISO's balancing area. The September 22 Filing makes it clear that the proposed Subscriber Participating TO tariff revisions are designed to apply only to transmission projects constructed in whole or in part outside of the current CAISO balancing area. The CAISO already has processes and procedures for new transmission and generation interconnection within its balancing area. Since the CAISO has demonstrated the justness and reasonableness of those tariff revisions, there is no basis for the Commission to consider alternatives or modifications.

For these reasons, and the reasons explained in the September 22 Filing, the Commission should accept the September 22 Filing as submitted.

## **II. Motion for Leave to File Answer to Limited Protest**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,<sup>9</sup> the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the limited protest filed in the proceeding. Good cause for the waiver exists because this Answer will aid the Commission in understanding the issues in the proceeding, inform the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.<sup>10</sup>

## **III. Answer**

### **A. The CAISO's Proposal to Provide for Non-Subscriber Usage Rates as Part of the Subscriber Participating TO Tariff Revisions Is Just and Reasonable**

The September 22 Filing fully described the tariff revisions related to the Non-Subscriber Usage Rate. The Commission should accept those tariff revisions as just and reasonable, notwithstanding SCE-PG&E's arguments against them, and should disregard SCE-PG&E's alternative proposal.

#### **1. SCE-PG&E's Arguments Against the Tariff Revisions Regarding the Non-Subscriber Usage Rate Are Meritless**

SCE-PG&E argue that the Commission should accept the September 22 Filing other than the portion that relates to the Non-Subscriber Usage Rate.<sup>11</sup> They express concern that despite the CAISO's repeated assurances that the

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<sup>9</sup> 18 C.F.R. §§ 385.212, 385.213.

<sup>10</sup> See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Servs., Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

<sup>11</sup> SCE-PG&E at 2, 16.

Non-Subscriber Usage Rate will not cause the TAC to go up, “the practical effect of the Non-Subscriber Usage Rate aspect of the Proposal is to inappropriately increase the TAC when non-subscribers use excess capacity on the S-PTO’s facility to export energy outside the CAISO’s border.”<sup>12</sup> SCE-PG&E are mistaken. As to any transmission facilities that ever have Subscribers (*i.e.*, a Subscriber Participating TO’s initial facilities), it is not possible for the tariff revisions in the September 22 Filing to increase the TAC rate.

Under provisions of the existing tariff that the CAISO does not propose to change in the September 22 Filing, the Regional Access Charge, which is the portion of the TAC for recovering the Regional Transmission Revenue Requirements of each Participating TO, is “equal to the sum of the Regional Transmission Revenue Requirements of all Participating TOs and Approved Project Sponsors, divided by the sum of the Gross Loads of all Participating TOs.”<sup>13</sup> Using this calculation method, the CAISO posts and periodically updates the TAC on its website.<sup>14</sup> However, under the September 22 Filing, the original costs of the Subscriber Participating TO transmission facilities *will not be*

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

<sup>13</sup> Tariff appendix A, existing definitions of Access Charge, Transmission Access Charge, and Regional Access Charge; tariff appendix F, schedule 3, existing section 5.4. *See also* transmittal letter for September 22 Filing at 8 (providing overview of provisions in the tariff related to the TAC, TRR, and WAC). As with the September 22 Filing (see footnote 5 of its transmittal letter), for the sake of clarity this Answer distinguishes between existing tariff provisions (*i.e.*, provisions in the current CAISO tariff), new tariff provisions (*i.e.*, tariff provisions the CAISO proposes to add in the September 22 Filing), and revised tariff provisions (*i.e.*, existing tariff provisions the CAISO proposes to revise in the September 22 Filing).

<sup>14</sup> See <http://www.caiso.com/market/Pages/Settlements/Default.aspx>, under the tab for “Transmission access charge rates” and then the sub-tab for “High voltage access charge rates.” As shown on the cited website page, the resulting TAC rate expressed in dollars per megawatt-hour (\$/MWh).

*included in the TAC or the WAC.* The September 22 Filing and the tariff revisions proposed therein specify that a Subscriber Participating TO is not allowed to submit for Commission approval a TRR for the original cost of the transmission facilities turned over to CAISO operational control.<sup>15</sup> Therefore, the TAC cannot and will not increase due to a TRR of the Subscriber Participating TO for such transmission facilities. In addition, neither the TAC nor the WAC will increase from collection of the Non-Subscriber Usage Payment Amount because the CAISO will apply the existing TAC or WAC rates and deduct from those amounts the revenue associated with the Non-Subscriber Usage Payment Amount due to the Subscriber Participating TO. Moreover, the TAC rate for gross load is the same \$/MWh value as the WAC rate paid by exports,<sup>16</sup> which means the WAC rate cannot increase for that reason either.

SCE-PG&E present two illustrative figures in an effort to contest the statement in the September 22 Filing that “the existing Participating TOs will continue to recover a Wheeling Access Charge for all exports from their facilities, including where the Subscriber Participating TO interconnects with the CAISO balancing area.”<sup>17</sup> SCE-PG&E contend those figures show that adding a new

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<sup>15</sup> Transmittal letter for September 22 Filing at 34 (“A Subscriber Participating TO may not seek Commission approval of a Transmission Revenue Requirement for the original costs or any subsequent incurred costs for transmission assets and Entitlements and Subscriber Encumbrances used to provide Subscriber Rights or receive revenue for such transmission assets and Entitlements from the Regional Access Charge, even after all Subscriber Encumbrances on the transmission assets and Entitlements terminate.”); new tariff section 4.3A.7.3(a) (same).

<sup>16</sup> See <http://www.caiso.com/market/Pages/Settlements/Default.aspx>, under the tab for “Transmission access charge rates” and then the sub-tab for “Wheeling access rates.” Like the TAC rate, the WAC rate is expressed in \$/MWh.

<sup>17</sup> SCE-PG&E at 7-10 & n.18 (quoting transmittal letter for September 22 Filing at 35).



Subscriber Participating TO transmission facility may cause the elimination of a current scheduling point, with the result that there will be no wheeling revenue to the Participating TO from that location going forward.<sup>18</sup>

The premise of this SCE-PG&E argument – that current scheduling points will be eliminated – is factually incorrect. The existing tariff defines a Scheduling Point as a “Location in the Base Market Model at which Scheduling Coordinators may submit Intertie Bids in the CAISO Markets” – *i.e.*, an intertie point with another balancing area.<sup>19</sup> Unless the owner of an existing transmission facility already connected to a substation that makes up an existing scheduling point can meet the proposed definition of a Subscriber Participating TO, including that its transmission facility constitutes a transmission asset or Entitlement that was “constructed, and for which the associated transmission capacity is subject to long-term contractual obligations, to deliver energy, capacity, and associated attributes to satisfy state, municipal, county, or federal policy requirements or directives,”<sup>20</sup> the existing scheduling point A in SCE-PG&E’s illustrative figure 1 could never become new scheduling point B in SCE-PG&E’s illustrative figure 2.

Far from eliminating scheduling points, the introduction of Subscriber Participating TOs to the CAISO controlled grid will add scheduling points to the CAISO balancing area and thereby bring in more revenue than existed prior to the interconnection of the Subscriber Participating TO transmission facilities.<sup>21</sup>

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

<sup>19</sup> Tariff appendix A, existing definition of Scheduling Point. The CAISO does not propose to revise this definition in the September 22 Filing.

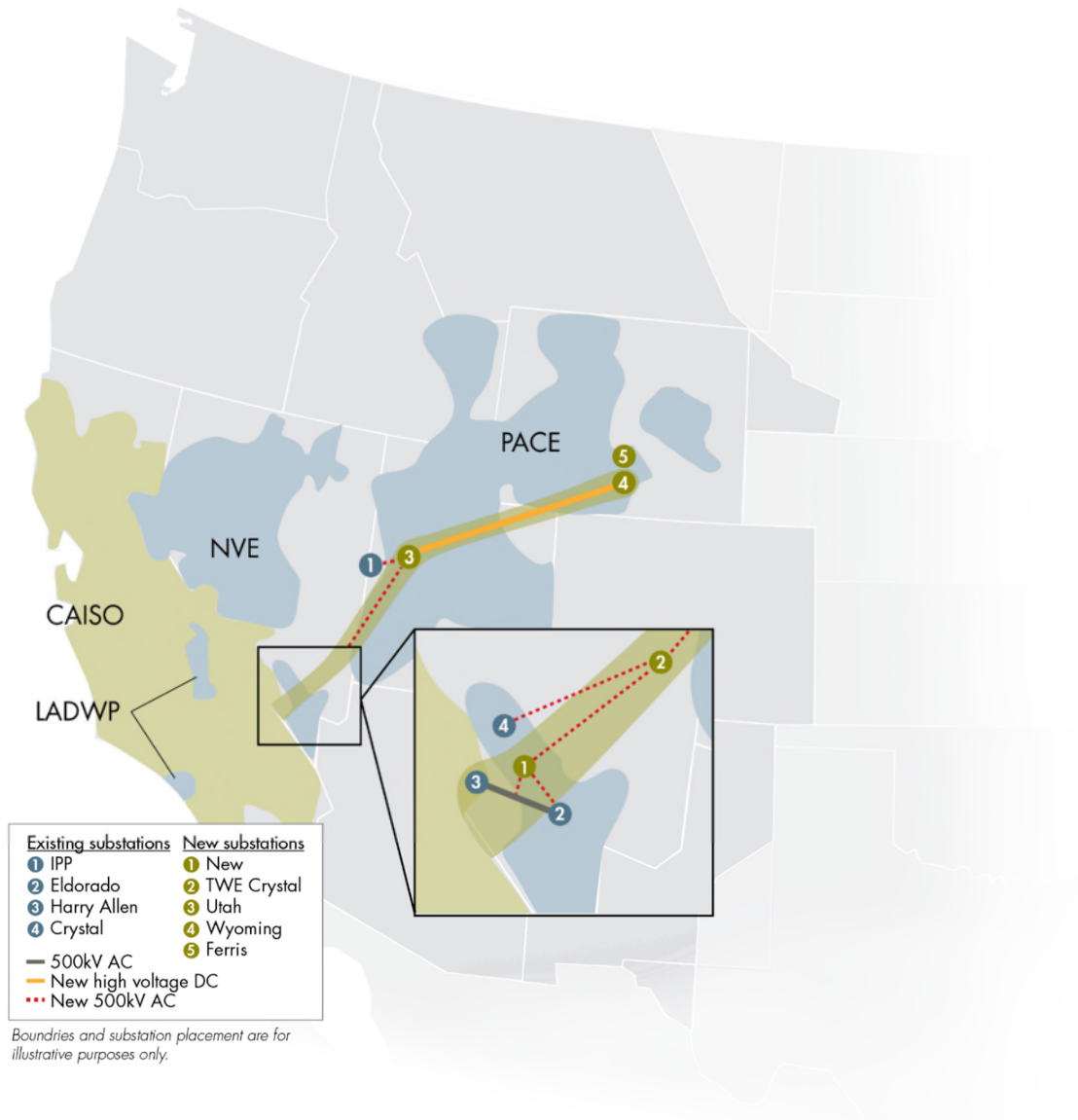
<sup>20</sup> See tariff appendix A, new definition of Subscriber Participating TO.

<sup>21</sup> Transmittal letter for September 22 Filing at 32, 35.

For example, SCE-PG&E acknowledge that TransWest may become the first entity to become a Subscriber Participating TO.<sup>22</sup> As shown in the diagram below, TransWest's interconnection to the CAISO controlled grid would bring three new scheduling points to the CAISO balancing area – the Ferris scheduling point with PacifiCorp East (PACE), the Utah scheduling point with the Los Angeles Department of Water and Power (LADWP), and the TWE Crystal scheduling point with NV Energy (NVE). TransWest's interconnection to the CAISO controlled grid also would not eliminate the existing scheduling point at Eldorado, as an example, because the new Subscriber Participating TO line is not interconnecting to that substation, *i.e.*, interconnections with other balancing areas at the Eldorado substation would remain available for use as CAISO scheduling points.

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<sup>22</sup> SCE-PG&E at 3 n.4.



SCE-PG&E go on to claim that, even if a scheduling point is not eliminated, to the extent exports on existing Participating TO facilities are reduced either to accommodate exports on Subscriber Participating TO facilities or because of Subscriber Participating TO exports, there will be a negative impact on the TAC.<sup>23</sup> This argument, too, is unpersuasive. If the CAISO controlled grid does not change and the Subscriber Participating TO only

<sup>23</sup> SCE-PG&E at 8 n.18.

introduces a new transmission facility that expands the CAISO balancing area, then the amount of exports from an existing scheduling point(s) and the associated wheeling revenue are unlikely to change. The diagram above illustrates this: the existing exports at the Eldorado substation should not change because the new TransWest transmission line will not interconnect to that substation, and thus the wheeling revenue disbursed at the Eldorado substation will likely still be based on the same current interconnection points to other balancing areas, which are not changing.

The CAISO will still charge a WAC for power exiting the CAISO controlled grid at the new Subscriber Participating TO scheduling point(s) and, consistent with the existing tariff,<sup>24</sup> distribution of all WAC will be allocated to the Subscriber Participating TO – not to TAC customers as SCE-PG&E claim.<sup>25</sup> However, the CAISO proposes to provide Non-Subscriber Usage Payment Amounts for such wheeling directly to the Subscriber Participating TO versus the WAC to avoid rate

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<sup>24</sup> See existing tariff section 26.1.4.1 (“The Wheeling Access Charge shall be determined by the transmission ownership or Entitlement, less all Encumbrances, associated with the Scheduling Point at which the Energy exits the CAISO Controlled Grid. The Wheeling Access Charge for Scheduling Points that are not joint facilities shall be equal to the Regional Access Charge in accordance with Schedule 3 of Appendix F plus the applicable Local Access Charge if the Scheduling Point is on a Local Transmission Facility.”). The CAISO does not propose to revise this tariff section in the September 22 Filing.

<sup>25</sup> See SCE-PG&E at 7-10. TAC revenues (specifically, Regional Access Charge revenues) are distributed to the Participating TOs and Approved Project Sponsors, not customers, in accordance with tariff section 26.1.3. Under the September 22 Filing, a Subscriber Participating TO will be a Participating TO (see tariff appendix A, revised definition of New Participating TO) and thus will receive such distributions. The CAISO proposes to revise tariff section 26.1.3 in the September 22 Filing solely to state that the CAISO will provide Non-Subscriber Usage Payments Amounts to Subscriber Participating TOs in accordance with specified provisions of schedule 3 of tariff appendix F.

pancaking.<sup>26</sup> Charges for Non-Subscriber uses of Subscriber Participating TO scheduling point(s) will generate new revenue to the CAISO that is not currently being collected and therefore provide a new revenue source that does not exist today.

SCE-PG&E argue that the proposal in the September 22 Filing to compensate the Subscriber Participating TO for Non-Subscriber use of the Subscriber Participating TO facility can also increase the TAC rate by forcing TAC customers to compensate the Subscriber Participating TO for any difference between the TAC and the Non-Subscriber Usage Rate.<sup>27</sup> SCE-PG&E's argument reflects a misunderstanding of the impact of the proposed tariff provisions.

The proposed tariff revisions set forth the means of funding the Non-Subscriber Usage Payment Amounts to be provided to a Subscriber Participating TO. First, WAC revenues from Non-Subscriber exports will be used to fund the Non-Subscriber Usage Payment Amounts; second, if those WAC revenues are insufficient, the remaining revenue requirement will be assessed to CAISO customers who were Non-Subscribers importing on the Subscriber Participating TO transmission facilities by paying the TAC for the MWh imported.<sup>28</sup> Neither of these revenue sources will exist prior to the Subscriber Participating TO

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<sup>26</sup> See transmittal letter for September 22 Filing at 30, 33-34, 35 (explaining that the Non-Subscriber Usage Payment Amount proposal avoids the possibility of rate pancaking, unlike an earlier proposal in the stakeholder process of a separate charge for Non-Subscriber use of a Subscriber Participating TO's initial transmission facilities).

<sup>27</sup> SCE-PG&E at 10-11.

<sup>28</sup> Tariff appendix F, schedule 3, new section 15.1(a).

transmission facilities being placed under CAISO operational control. Thus, the two new revenue sources from the imports and exports at the Subscriber Participating TO scheduling points will be able to cover the Non-Subscriber Usage Payment Amounts, which can be no greater than the WAC/TAC and more likely will generate additional revenue if the Non-Subscriber Usage Rate is less than the TAC and WAC which would then be allocated in the Access Charge disbursement process to the other Participating TOs.

SCE-PG&E contend that the Subscriber Participating TO's compensation for Non-Subscriber use will be equal to the Non-Subscriber Usage Rate, even if the Non-Subscriber Usage Rate is greater than the WAC/TAC in place at a given time.<sup>29</sup> Similarly, SCE-PG&E argue that if the Non-Subscriber Usage Rate is higher than the WAC/TAC, the TAC will fund the shortfall.<sup>30</sup> The argument that the Non-Subscriber Usage Rate is higher than the WAC/TAC is factually incorrect. SCE-PG&E ignore the following new tariff provision included in the September 22 Filing that specifically states the Non-Subscriber Usage Rate cannot be greater than the TAC/WAC:

Each Subscriber Participating TO shall develop a Non-Subscriber Usage Rate in accordance with its TO Tariff, including a \$/MWh *charge will be no greater than the applicable Access Charge rate at the time the Subscriber Participating TO files its Non-Subscriber Usage Rate* for approval by FERC consistent with Section 8 of this Schedule 3 of Appendix F.<sup>31</sup>

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<sup>29</sup> SCE-PG&E at 7.

<sup>30</sup> *Id.*

<sup>31</sup> Tariff appendix F, schedule 3, new section 7.1 (emphasis added).

SCE-PG&E are correct that the TAC will fund the shortfall of the Non-Subscriber Usage Payment Amount if the WAC revenue is insufficient to fund both the Non-Subscriber imports that pay TAC and the Non-Subscriber exports that pay WAC. However, the TAC revenue is generally greater than expected based on the calculation of gross load included in the annual formula rates of Participating TOs based on historic consumption by load serving entities. In other words, concerns about insufficient TAC revenues to pay for Non-Subscriber uses and fully compensate Participating TO Transmission Revenue Requirements are theoretical. As explained below, there is no evidence this would occur in practice, particularly given the load growth in the CAISO balancing area.

SCE-PG&E describe three possibilities depending on the level of the Non-Subscriber Usage Rate compared with the WAC.<sup>32</sup> None of the scenarios supports a finding that the CAISO's proposal is not just and reasonable.

Under the first possible scenario, SCE-PG&E claims if the Non-Subscriber Usage Rate is less than the WAC, the Subscriber Participating TO receives the Non-Subscriber Usage Payment Amount and residual funds purportedly flow to TAC customers. In fact, however, the residual funds will flow to the other Participating TOs.<sup>33</sup> Under the second scenario, if the Non-Subscriber Usage Rate is equal to the WAC, the Subscriber Participating TO receives all revenues

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<sup>32</sup> SCE-PG&E at 10-11.

<sup>33</sup> Again, SCE-PG&E erroneously state that the revenue disbursement for TAC and WAC goes to "TAC customers." See *id.* at 10. The TAC and WAC revenue collected is actually disbursed to the Participating TOs and Approved Project Sponsors as described above in this Answer.

for Non-Subscriber usage of the Subscriber Participating TO transmission facilities and other Participating TOs receive nothing. Although this is an accurate description, the Participating TOs are not financially harmed, because they have their existing revenue sources.

Under the third possible scenario described by SCE-PG&E, if the Non-Subscriber Usage Rate is greater than the WAC, the Subscriber Participating TO receives all revenues, and TAC customers are purportedly charged an uplift to provide the Subscriber Participating TO with the shortfall. This third scenario of the Non-Subscriber Usage Rate being greater than the WAC/TAC, while theoretically possible, is not possible from a practical standpoint. As stated above and previously explained in the September 22 Filing, the Non-Subscriber Usage Rate cannot be greater than the TAC or the WAC. Although the TAC and WAC can change after approval of a Non-Subscriber Usage Rate, the well-documented need for transmission infrastructure investment means that the TAC and WAC are only expected to increase for the foreseeable future.<sup>34</sup> The TAC customers are not charged an uplift in the foreseeable future, and the WAC revenue is allocated to the Participating TOs that have rights at the scheduling point.

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<sup>34</sup> The 2022-2023 transmission plan is based on state projections provided to the CAISO in 2022 that California needs to add more than 40 gigawatts (GW) of new resources over the next 10 years, and a sensitivity study projection calling for 70 GW by 2032 reflecting the potential for increased electrification occurring in other sectors of the economy, most notably in transportation and the building industry. The California Public Utilities Commission (CPUC) has recently established that next year's transmission plan is to be based on this projection of 70 GW by 2033. The CAISO Governing Board approved \$9.3 billion in new transmission to be built over the next 10 years. See <https://www.caiso.com/InitiativeDocuments/ISO-Board-Approved-2022-2023-Transmission-Plan.pdf>. Then the TRR for the new transmission is typically amortized over 40 years.



In the example regarding TransWest depicted in the diagram above, TransWest would be the only Participating TO at the Ferris, Utah, and NVE Crystal substations. Thus, all exports by Non-Subscribers on the TransWest transmission facilities would be fully paid for and if the applicable Non-Subscriber Usage Rate were less than the TAC/WAC, there would be excess revenue.

For imports on the Subscriber Participating TO transmission facilities, the load receiving the energy from those facilities will pay the TAC rate that is then disbursed in accordance the tariff as modified by the September 22 Filing.<sup>35</sup> Because the gross load increases over time and will in all likelihood continue to increase, particularly with the California state policies supporting electrification and renewable generation,<sup>36</sup> typically more revenue is received than the gross load listed in Participating TOs' filings of their TRRs with the Commission. Thus, the actual revenue received is most certainly likely to be greater than the revenue needed to pay the base TRRs of the Participating TOs. As a case in point, the June 13, 2023 update to the CAISO's Regional Access Charge rate for the total CAISO controlled grid was:

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|---------------------|------------------|
| Base TRR            | \$3,474,723,691  |
| TRBAA <sup>37</sup> | (\$ 477,385,924) |
| Standby Credit      | (\$ 20,941,277)  |

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<sup>35</sup> See tariff appendix F, schedule 3, revised section 10.1.

<sup>36</sup> See transmittal letter for September 22 Filing at 9-11, 32-33.

<sup>37</sup> *I.e.*, Transmission Revenue Balancing Account adjustments. The Transmission Revenue Balancing Account is a "mechanism to be established by each Participating TO and Approved Project Sponsor that will ensure that all Transmission Revenue Credits and other credits specified in Sections 6, 8, and 13 of Appendix F, Schedule 3 and Section 11.4 of Appendix DD [of the CAISO tariff], flow through to transmission customers." Tariff appendix A, revised definition of Transmission Revenue Balancing Account.



explanation in the September 22 Filing that the Non-Subscriber Usage Rate is consistent with the Commission's open access and cost causation principles.<sup>41</sup> Those principles support a Commission finding that the Non-Subscriber Usage Rate is just and reasonable.

As the CAISO has explained, Commission precedent requires the owner of a subscriber-funded transmission project to make any unsubscribed capacity on its transmission project available for service on an open access basis.<sup>42</sup> The Commission has reaffirmed this requirement in other cases where it has required such transmission project owners to have an open access transmission tariff (OATT) on file to govern the rates, terms, and conditions of service to customers who were not allocated transmission service rights as part of an initial open solicitation or open season.<sup>43</sup>

Furthermore, the Commission has approved obligations for customers of subscriber-funded transmission projects to make their transmission service rights available for resale on an open access basis when those customers are not using the rights. For example, in accepting the submittal by Central Maine Power Company (CMP) of seven bilateral, cost-based transmission service agreements (TSAs) to fund the construction, operation, and maintenance of CMP's portion of

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<sup>41</sup> See transmittal letter for September 22 Filing at 29, 34.

<sup>42</sup> *Id.* at 29 (citing *Allocation of Capacity on New Merch. Transmission Projects & New Cost-Based, Participant-Funded Transmission Projects; Priority Rights to New Participant-Funded Transmission*, 142 FERC ¶ 61,038, at P 4 n.7 (2013), and *TransWest Express LLC*, 174 FERC ¶ 61,160, at P 35 (2021)).

<sup>43</sup> See, e.g., *SunZia Transmission, LLC*, 179 FERC ¶ 61,135, at PP 19, 30, 36 (2022); *Pattern Energy Grp. LP*, 178 FERC ¶ 61,090, at PP 15-17, 28 (2022); *Ameren Transmission Co.*, 172 FERC ¶ 61,123, at P 26 (2020); *Nogales Transmission, L.L.C.*, 161 FERC ¶ 61,009, at P 41 (2017); *S. Cross Transmission LLC*, 157 FERC ¶ 61,090, at P 27 (2016); *W. Spirit Clean Line LLC*, 155 FERC ¶ 61,252, at PP 31-32 (2016).

the New England Clean Energy Connect (NECEC) subscriber-funded transmission project, the Commission accepted a provision in each TSA requiring the resale of unused capacity on an open access basis.<sup>44</sup> As referenced in CMP's filing, those TSA provisions were consistent with the policy under Order No. 890 that the creation of a competitive market for secondary transmission capacity will "send[] more accurate price signals for identification of the appropriate location for construction of new transmission facilities to reduce congestion" and "send more accurate signals that promote efficient use of the transmission system by fostering the reassignment of unused capacity."<sup>45</sup> Similarly, in granting requests for priority firm transmission rights for the capacity of transmission facilities, the Commission has required the requesting parties to offer service on those transmission facilities on an open access basis to the extent the parties are not using such capacity.<sup>46</sup> The treatment of Non-Subscribers under the Subscriber Participating TO model, including the Non-Subscriber Usage Rate, is consistent with this Commission precedent.

### **3. The Commission Should Reject the Alternative to the Non-Subscriber Usage Rate Proposed by SCE-PG&E**

SCE-PG&E argue that "as an alternative to the Non-Subscriber Usage Rate, the S-PTO could be awarded CRRs and keep the congestion revenue

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<sup>44</sup> See transmittal letter for CMP filing of TSAs, Docket Nos. ER18-2256-000, *et al.*, at 22-23 (Aug. 20, 2018); *Cent. Me. Power Co.*, 165 FERC ¶ 61,034, at PP 18-21 (2018).

<sup>45</sup> *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890-A, 121 FERC ¶ 61,297, at PP 374, 388 (2007).

<sup>46</sup> See, e.g., *Avalon Wind, LLC*, 141 FERC ¶ 61,220, at P 15 (2012); *Alta Wind VII, LLC*, 140 FERC ¶ 61,096, at P 22 (2012); *Terra-Gen Dixie Valley, LLC*, 137 FERC ¶ 61,179, at P 32 (2011).

associated with the S-PTO line (in excess of that needed for its perfect hedge).<sup>47</sup>

The Commission should reject SCE-PG&E's arguments in support of their proposed alternative.

The September 22 Filing and this Answer explain why the CAISO's proposal is just and reasonable, and proposing a potential alternative does not undermine the CAISO's explanation. "Pursuant to section 205 of the FPA [Federal Power Act], the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into 'whether the rates proposed by a utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.'"<sup>48</sup> Therefore, "[u]pon finding that CAISO's Proposal is just and reasonable, [the Commission] need not consider the merits of alternative proposals."<sup>49</sup> Furthermore, "[t]he courts and th[e] Commission have recognized that there is not a single just and reasonable rate. Instead, [the Commission] evaluate[s proposals under FPA section 205] to determine whether they fall into a zone of reasonableness. So long as the end result is just and reasonable, the [proposal] will satisfy the

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<sup>47</sup> SCE-PG&E at 15-16.

<sup>48</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44 n.43 (2012) (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)). In that same order, the Commission also explained that the revisions proposed by the utility "need not be the only reasonable methodology" and that "even if an intervenor develops an alternative proposal, the Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternative proposal." 141 FERC ¶ 61,135, at P 44 n.43 (citing federal court and Commission precedent). See also *New Eng. Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd sub nom. 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>49</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44.

statutory standard.”<sup>50</sup> For the reasons the CAISO has explained, its proposal satisfies the standard required by FPA section 205, which means the Commission should reject SCE-PG&E’s alternative proposal.

Moreover, the CAISO explained in the stakeholder process that preceded the September 22 Filing why it should not adopt the alternative proposal to provide CRRs to the Subscriber Participating TO. Using the alternative CRR approach would be inconsistent with the Commission’s open access and cost causation principles, would fail to provide compensation in some circumstances, would undermine the viability of the Subscriber Participating TO model, and has to date not resulted in development of new transmission projects.<sup>51</sup>

SCE-PG&E provide no compelling reasons in their comments why the CAISO should adopt their proposed alternative. They argue that replacing the Non-Subscriber Usage Rate with CRRs will guarantee that TAC customers will not end up paying the Subscriber Participating TO through an increased TAC.<sup>52</sup> While this may be true, this approach would be no advantage as compared with the CAISO’s proposal, because the TAC should not increase under the CAISO’s proposal either, as explained above.<sup>53</sup> Moreover, SCE-PG&E’s suggested approach would increase uncertainty regarding the revenue that may be recoverable for use by Non-Subscribers.

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<sup>50</sup> *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168, at P 17 (2021) (citing court and Commission precedent).

<sup>51</sup> See transmittal letter for September 22 Filing at 34-35.

<sup>52</sup> SCE-PG&E at 16.

<sup>53</sup> See section III.A.1 of this Answer.

SCE-PG&E also argue that the CAISO's proposal provides the Subscriber Participating TO with "private rights to use the transmission" on its line.<sup>54</sup> What SCE-PG&E characterize as "private rights" are no different than the Existing Contracts that the Participating TOs, including SCE and PG&E, have on their own transmission systems. The CAISO will treat those Subscriber Rights in the same manner as Existing Contracts and provide them with the perfect hedge and scheduling priority, because the contract rights holder will pay for the transmission under its transmission service agreements with the Subscriber Participating TO. Similar to Existing Contract rights holders, the Subscribers have already paid for the cost of transmission and expect their service rights to include all costs of managing congestion on the Subscriber Participating TO project because they entirely funded that underlying transmission project.<sup>55</sup> Also similar to Existing Contracts, the Subscriber Participating TO line is available for market use if the Subscriber in the day-ahead or real-time market does not schedule on it.<sup>56</sup>

SCE-PG&E contend that a variant on the CRR aspect of the existing merchant transmission framework in the CAISO tariff could be used to effect their alternative proposal.<sup>57</sup> But as the CAISO has stated and demonstrated over the past 26 years, building merchant transmission and compensating it with CRRs has not resulted in a new transmission line being built in the CAISO balancing

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<sup>54</sup> SCE-PG&E at 16 n.26.

<sup>55</sup> Transmittal letter for September 22 Filing at 20-21.

<sup>56</sup> *Id.* at 4, 28.

<sup>57</sup> SCE-PG&E at 16.

area. SCE-PG&E provide no evidence to suggest that doing so might work this time when it has always failed in the past.

**B. The Commission Should Reject Comments that Are Beyond the Scope of This Proceeding**

SCE-PG&E argue that the Commission should reject the Non-Subscriber Usage Rate because future proceedings in which a Subscriber Participating TO files for Commission approval of its Non-Subscriber Usage Rate will purportedly involve difficulties as to cost verification and usage assumptions.<sup>58</sup> TransWest mentions no such potential difficulties and correctly notes that the determination of a just and reasonable Non-Subscriber Usage Rate will be addressed in individual future rate cases, but also requests Commission guidance in this proceeding on the September 22 Filing as to the structure of a Non-Subscriber Usage Rate that will not be subject to a cost-based revenue requirement.<sup>59</sup>

These comments concern issues that are beyond the scope of this proceeding. Under the tariff revisions proposed in the September 22 Filing, the Subscriber Participating TO will be solely responsible for receiving Commission approval of a Non-Subscriber Usage Rate in accordance with its TO Tariff. Any issues interested parties may have related to a proposed Non-Subscriber Usage Rate (*e.g.*, a concern about potential double recovery) can and should be addressed in any separate Commission proceeding regarding it once it is filed.<sup>60</sup>

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<sup>58</sup> *Id.* at 11-15.

<sup>59</sup> TransWest at 7-8. The CAISO similarly considers the request for guidance by TransWest to be outside the scope of this proceeding but does not oppose Commission guidance as requested.

<sup>60</sup> Transmittal letter for September 22 Filing at 33 (citing new tariff section 4.3A.7.2 and tariff appendix F, schedule 3, new section 7.1 and revised section 8.1); *id.* at 35.



Similar to the discretion the CAISO tariff provides for individual Participating TOs to determine the specifics of their TRR filings, the CAISO does not believe its tariff should prescribe the specifics of a proposed Non-Subscriber Usage Rate. For these reasons, the Commission should reject, as beyond the scope of the proceeding at hand, requests to address matters to be addressed in potential future proceedings.<sup>61</sup>

NextEra Resources requests that, after the September 22 Filing is implemented, the CAISO continue to further refine and improve the Subscriber Participating TO model via the stakeholder process.<sup>62</sup> Based on experience with the Subscriber Participating TO model after implementation, the CAISO will consider whether to make any enhancements in consultation with stakeholders. For the present, however, the Commission should accept the Subscriber Participating TO model included in the September 22 Filing as just and reasonable.

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<sup>61</sup> See, e.g., *S. Cent. MCN LLC*, 164 FERC ¶ 61,114, at P 118 (2018) (“We find that the instant proceeding is not the appropriate forum for addressing the issues raised by Xcel. Instead, these issues are best addressed in a potential future proceeding once a filing is made to allocate the costs of these facilities, upon transfer of functional control of the facilities to SPP.”); *Cal. Indep. Sys. Operator Corp.*, 151 FERC ¶ 61,158, at P 21 (2015) (“The Commission agrees with CAISO that the issues raised by commenters, including the readiness measures and Puget’s arrangements with BPA, are beyond the scope of this proceeding. The Implementation Agreement establishes the scope and schedule of implementing the EIM service and sets forth milestones for the Parties to meet as they move forward. We find that nothing in the Implementation Agreement prejudices either the issues raised by commenters or any future OATT modifications Puget may file.”); *Am. Elec. Power Serv. Corp.*, 116 FERC ¶ 61,059, at P 101 (2006) (“We find that ODEC’s and Chambersburg’s concerns are outside the scope of this proceeding and will be better addressed at the time that AEP submits a filing seeking additional incentives. In any such future proceeding, parties will have an opportunity to intervene and raise their concerns at that time.”).

<sup>62</sup> NextEra Resources at 2-3.

**C. The Commission Should Reject Golden State Clean Energy’s Alternative Proposal to Extend the Subscriber Participating TO Model to In-State Transmission Projects**

Golden State Clean Energy supports the September 22 Filing, but also comments that the tariff revisions contained therein have “the potential to leave in-state resources without the same creative opportunities to meet the State’s demand for renewable resources.”<sup>63</sup> Golden State Clean Energy “encourages CAISO to ensure that the application of the Subscriber Participating TO Model will include in-state generation and transmission.”<sup>64</sup>

Insofar as these comments could be read as requesting a conditional approval of the September 22 Filing, including a directive in this proceeding to alter or modify the design of the Subscriber Participating TO model, the Commission should not entertain such a request. The Subscriber Participating TO model contained in the September 22 Filing was designed to apply only to transmission projects constructed in whole or in part outside of the current CAISO balancing area.<sup>65</sup> As noted above,<sup>66</sup> precedent requires the Commission to reject alternatives to a just and reasonable proposal submitted by the filing utility. Because the September 22 Filing is just and reasonable for the reasons

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<sup>63</sup> Golden State Clean Energy at 6.

<sup>64</sup> *Id.* at 9.

<sup>65</sup> See transmittal letter for September 22 Filing at 1, 3, 14, 19, 21, 25 n.75; new tariff section 4.3A.1 (“A transmission owner or developer of a transmission project *may apply to join the CAISO Balancing Authority Area* as a Subscriber Participating TO . . . The Subscriber Participating TO’s initial project will consist of transmission components and any associated generation components *located outside of the then-existing CAISO Balancing Authority Area*, with the transmission component being funded solely by the Subscriber Participating TO based on the Subscribers’ commitments used to provide Subscriber Rights.”) (emphasis added).

<sup>66</sup> See section III.A.3 of this Answer.

explained therein and in this Answer, the Commission should not consider Golden State Clean Energy's alternative proposal.

Golden State Clean Energy claims that in-state renewable resources are "similarly situated" to out-of-state generation that can be delivered through Subscriber Participating TO under the proposed tariff revisions.<sup>67</sup> This is not correct. The Subscriber Participating TO model that is the subject of the September 22 Filing was developed considering the needs of the out-of-state resources and the context of both the industry framework for out-of-state resources accessing the CAISO and the application of existing CAISO policies for in-state resources.

Renewable resources being developed within the CAISO balancing area have opportunities to deliver within the CAISO footprint that may not be viable for resources being developed outside the CAISO balancing area absent the implementation of the Subscriber Participating TO model. If in fact a Subscriber Participating TO-type framework were found to be needed for in-state resources, the CAISO would have to consider how such a framework would align or conflict with the processes already in place for in-state resources. The CAISO anticipates that numerous issues would have to be addressed to create the equivalent of the Subscriber Participating TO model for in-state resources to ensure fair and non-discriminatory treatment through the application of existing CAISO policies and tariff provisions affecting in-state resources, subject of course to the need for such an equivalent framework to be created. It is relevant

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<sup>67</sup> Golden State Clean Energy at 7.

to consider the framework in which in-state resources currently achieve transmission access, and the interaction between the transmission planning and the generator interconnection processes.

The CAISO already has an annual Transmission Planning Process that incorporates resource forecasts for the 10-year planning horizon identified by the CPUC and forecasted customer load requirements from the California Energy Commission. Based on those inputs, the CAISO plans and initiates reliability-driven, policy-driven, and economic-driven transmission projects to meet those resource development needs in areas selected through state agency resource forecasting. The approval by the CAISO of policy-driven transmission – that predated the requirement in Commission Order No. 1000 – to meet state clean energy goals is particularly relevant. The transmission upgrades and enhancements developed through the policy-driven planning create the “deliverability.” These processes are then aligned with key aspects of the CAISO interconnection process, especially in awarding transmission plan deliverability to interconnection customers, and set signals for resource procurement conducted by load serving entities. The interaction with the interconnection process is critical to ensuring fair and non-discriminatory treatment to resources seeking access to the grid.

The need for effective coordination of transmission and interconnection processes is critical given the significant escalation in the rate of growth in renewable resources and renewable integration resources. The accelerating

pace of resource development called for over the next 10 years is driven by numerous factors, including:

- The escalating need to decarbonize the electricity grid because of emerging climate change impacts;
- The expected electrification of transportation and other carbon-emitting industries, which is driving higher electricity forecasts;
- Concerns regarding reduced access to opportunity imports as neighboring systems also decarbonize;
- Greater-than-anticipated impacts of peak loads shifting to later-day hours when solar resources are not available; and
- The need to maintain system reliability while planning for the retirement of gas-fired generation relying on coastal waters for once-through cooling and the Diablo Canyon Power Plant.

To contextualize this increase, it is helpful to compare the resource plans in the past three transmission plans with what is expected for 2023-2024. The 2020-2021 transmission plan was based on state agency forecasts calling for approximately 1,000 megawatts (MW) of additional generating capacity per year over the next 10 years. This escalated in each subsequent transmission plan, and the portfolios for this year's plan – the 2023-2024 transmission planning cycle – identify resource requirements of approximately 7,000 MW per year. It is also difficult to rationalize an immediate need for another mechanism for new in-state interconnections given the volume of interconnection applications the CAISO is currently processing. The CAISO's queue currently has over 460

projects totaling over 185,800 MW waiting for transmission upgrades and power purchase agreements. This is more than double what California has forecasted for load, and does not take into account the recent Cluster 15 interconnection applications totaling over 350 GW of new capacity.

The CAISO also has a mechanism to essentially pioneer transmission into in-state location constrained potential resource pockets. The CAISO tariff also includes provisions regarding Location Constrained Resource Interconnection Facilities (LCRIF), under which the CAISO can conditionally approve a facility as a LCRIF when it determines that the facility is needed and all of the following requirements are met: (1) the facility is to be constructed for the primary purpose of connecting to the CAISO Controlled Grid two or more Location Constrained Resource Interconnection Generators in an Energy Resource Area, and at least one of the Location Constrained Resource Interconnection Generators is to be owned by an entity(ies) that is not an Affiliate of the owner(s) of another Location Constrained Resource Interconnection Generator in that Energy Resource Area; (2) the facility will operate at or above 200 kV; (3) at the time of its in-service date, the facility will not be a network facility and would not be eligible for inclusion in a Participating TO's Transmission Revenue Requirement other than as a LCRIF; and (4) the facility meets Applicable Reliability Criteria and CAISO Planning Standards.<sup>68</sup>

Given these mechanisms currently in place, there is no identified need to develop an equivalent Subscriber Participating TO model for in-state resources.

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<sup>68</sup> See existing tariff section 24.4.6.3.2.

#### **IV. Conclusion**

For the foregoing reasons, the Commission should accept the tariff revisions contained in the September 22 Filing, without condition or modification.

Respectfully submitted,

**/s/ John Anders**

John Anders  
Deputy General Counsel –  
Development  
John Spomer  
Lead Counsel  
California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630  
Tel: (916) 351-4400  
Fax: (916) 608-7222  
E-mail: [janders@caiso.com](mailto:janders@caiso.com)  
[jspomer@caiso.com](mailto:jspomer@caiso.com)

Sean A. Atkins  
Bradley R. Miliauskas  
Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 20005  
Tel: (202) 973-4200  
Fax: (202) 973-4499  
Email: [seanatkins@dwt.com](mailto:seanatkins@dwt.com)  
[bradleymiliauskas@dwt.com](mailto:bradleymiliauskas@dwt.com)

Counsel for the California Independent System Operator Corporation

Dated: October 30, 2023

## CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, DC this 30<sup>th</sup> day of October, 2023.

/s/ Daniel Klein  
Daniel Klein  
Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 20005