

contractual use limitations which do not represent actual environmental or physical limitations.”³

DMM views the exemption for contractual use limitations as being separable from the remainder of the CAISO proposal. The separability of this exemption is reflected by the fact that this provision was only added by the CAISO in the last iteration of the stakeholder process and – under the CAISO proposal -- may be eliminated after three years from the time it is implemented. However, if the Commission does not view this exemption as separable from the remainder of the CAISO proposals, DMM respectfully requests the Commission reject the CAISO’s March 23 Tariff Amendment.

DMM’s April 13 protest indicates that based on data previously provided by the CAISO, as much as 5,000 to 10,000 megawatts (MW) of recently built gas-fired capacity may be eligible for the exception for contractual limits proposed by the CAISO. The CAISO’s reply indicates that “the CAISO [now] believes that approximately 6,000 MW of such capacity may be eligible, but again the exact figure cannot be known with certainty at this time.”⁴ CAISO provides no explanation for this updated estimate, but reasserts that the 6,000 MW figure now cited by CAISO is a “small set of contracts.”⁵

³ *Motion to Intervene and Protest of the Department of Market Monitoring of the California Independent System Operator*, ER18-1169-000, April 13, p 2. (DMM Protest)
http://www.caiso.com/Documents/Apr13_2018_DMMIntervention_Protest-CCEPhase3TariffAmendment_ER18-1169.pdf

⁴ *CAISO Answer*, p. 2.

⁵ *CAISO Answer*, pp. 21-22.

The 6,000 MW figure now cited by the CAISO is not a “small set of contracts” and confirms DMM’s concern the would be “inefficient and inequitable to treat contractual limitations as actual physical or environmental limitations when calculating bids caps used in the market optimization,”⁶ and that the proposed exemption will have “the effect of reducing both overall market efficiency and the flexibility of the CAISO’s gas-fired fleet at a time when the CAISO will likely need to rely on a smaller but more flexible gas fleet to integrate the growing volume of renewable resources on the CAISO system.”⁷

In addition, DMM’s protest raises serious concerns about the lack of clarity of the definition of resources eligible for opportunity costs adders based on contractual limitations, and the problematic issues involved in trying to implement this definition.⁸ The CAISO dismisses these concerns on the grounds that “DMM alone argues that the proposed eligibility criteria for qualifying contractual limitations are not sufficiently clear,” and that “any uncertainty regarding the meaning of the tariff language can be resolved in the documentation and review process.”⁹ CAISO offers no response to DMM’s specific concerns, such as the equity of such criteria or how the CASIO or a generator will be able to determine if review by a Local Regulatory Entity (i.e. which occurred *years before*) included an assessment of “the overall cost-benefit of those contracts taking into consideration the overall benefits and burdens, including the limitations on such resources’ numbers of starts,

⁶DMM Protest, p.2.

⁷DMM Protest, p.2.

⁸DMM Protest, p.2.

⁹ CAISO Answer, p. 21.

numbers of run-hours.”¹⁰ The proposed criteria for the exemption for contractual use limitations are highly problematic, inequitable, and potentially discriminatory.

Overall, the potential detrimental impact of the exemption of contractual use limits proposed would outweigh any positive benefits from the rest of the CAISO proposal. As noted in DMM’s protest, the proposed exemption reverses what the CAISO describes as “its longstanding position that economic limitations such as those originating from contracts, such as power purchase or tolling agreements, are not acceptable limitations for establishing an opportunity cost adder under the resources bid cap.”¹¹ Thus, the CAISO’s March 23 Tariff Amendment is a clear and significant step backward if the exemption is included in the proposal. As noted in the comments by DMM and other entities, numerous other aspects of the proposal appear problematic as well. Moreover, there is no component of the CAISO’s March 23 Tariff Amendment that merits approval because of a critical timing issue or ongoing market problem – as evidenced by the fact that the CAISO has already delayed the filing and implementation of the proposal by two full years since receiving approval from its Board of Governors.

Therefore, if the Commission does not view the exemption for contractual use limitations as being separable from the rest of the CAISO proposals, DMM respectfully requests the Commission reject the CAISIO’s March 23 Tariff Amendment.

¹⁰ *DMM Protest*, p.15.

¹¹ *Filing to Implement Commitment Cost Enhancements Phase 3 Initiative, Request for Timely Commission Order, and Request for Waiver of Notice Requirement*, March 23, 2018, p. 24. http://www.caiso.com/Documents/Mar23_2018_TariffAmendment-CommitmentCostEnhancementsPhase3_ER18-1169.pdf.

III. CONCLUSION

DMM respectfully requests that the Commission reject the CAISO's proposed exemption that would allow opportunity cost adders based on contractual use limitations which do not represent actual environmental or physical limitations. DMM views the exemption for contractual use limitations as being separable from the remainder of the CAISO proposal. However, if the Commission does not view this exemption as separable from the remainder of the CAISO proposals, DMM respectfully requests the Commission reject the CAISO's March 23 Tariff Amendment.

Respectfully submitted,

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Dated: April 27, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service lists in the above-referenced 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 Folsom, California this 27th day of April, 2018.

Grace Clark
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