

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**California Independent System) Docket No. ER19-26-000
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER AND LIMITED ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
COMMENTS AND PROTESTS**

The California Independent System Operator Corporation (CAISO)¹ submits this limited answer to comments and protests filed in this proceeding² in response to the CAISO's October 1, 2018, filing of tariff revisions to pay Congestion Revenue Rights (CRR) holders for their CRR entitlements only to the extent the CAISO collects sufficient revenue through day-ahead market congestion charges and CRR charges (October 1 Tariff Amendment). The October 1 Tariff Amendment improves the efficiency and performance of the CAISO's CRR processes.

Most commenters either support or do not oppose the October 1 Tariff Amendment.³ However, a few commenters argue that the Commission should reject the proposals in the October 1 Tariff Amendment in whole or in part. For

¹ Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff.

² The following entities filed motions to intervene in the proceeding: the Alliance for Retail Energy Markets; American Public Power Association (APPA); California Department of Water Resources State Water Project; California Municipal Utilities Association (CMUA); California Public Utilities Commission; Calpine Corporation (Calpine); Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities); City of Santa Clara, California d/b/a Silicon Valley Power (SVP); DC Energy, LLC (DC Energy); Department of Market Monitoring of the CAISO (DMM); Modesto Irrigation District; Northern California Power Agency (NCPA); NRG Power Marketing LLC; Pacific Gas and Electric Company (PG&E); Southern California Edison Company (SCE); Vitol Inc. (Vitol); and Western Power Trading Forum (WPTF).

³ APPA at 3-4; CMUA at 3-4; DMM at 1-3; PG&E at 2-3; Six Cities at 2-7; and SVP at 5-9.

the reasons set forth below, the Commission should accept the October 1 Tariff Amendment as filed without condition or modification.⁴

I. Motion for Leave to File Answer

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,⁵ the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer certain issues in the protests filed in the proceeding. Good cause for the waiver exists because this limited answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.⁶

II. Answer

A. The October 1 Tariff Amendment Includes the One Change Needed to Make the Elimination of Guaranteed Full Funding of CRRs Acceptable to the Commission

A couple commenters argue that the CAISO's proposal to eliminate the guaranteed full funding of CRRs by load-serving entities should be rejected, claiming that the CAISO's proposal is not sufficiently "symmetrical."⁷ These arguments fail to account for the fact that the CAISO has responded to the sole

⁴ The CAISO files this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. For the reasons explained below, the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the protests filed in the proceeding.

⁵ 18 C.F.R. §§ 385.212, 385.213.

⁶ 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).

⁷ WPTF at 3-6; AReM at 5.

basis the Commission provided for rejecting an earlier CAISO proposal to eliminate full funding of CRRs.

Specifically, the Commission's September 20, 2018, order in Docket No. ER18-2034 rejected the prior proposal to eliminate full funding of CRRs "without prejudice to CAISO refiling a proposal that allows CRR holders to consistently net prevailing and counterflow CRRs against each other as in other ISO and RTO markets."⁸ The October 1 Tariff Amendment allows CRR holders to consistently net prevailing and counterflow CRRs against each other, fully resolving the deficiency identified by the Commission.

WPTF acknowledges that the CAISO's filing in this proceeding provides symmetry through the netting of prevailing and counterflow CRRs within a CRR holder's portfolio, but argues that netting should also be permitted for CRRs held by different participants.⁹ Nothing in the September 20 Order, however, suggests that revenue shortfalls and surpluses of prevailing and counterflow CRRs held by different CRR holders must be netted.

Since the purpose of the CAISO's proposal effectively is to derate CRRs when there is insufficient revenue to fund them, the CAISO does not believe that it is appropriate to net revenue shortfalls and surpluses of prevailing and counterflow CRRs held by different CRR holders because doing so reduces funds available to cover revenue insufficiencies for CRRs with flows on specific constraints and would promote auction valuations based on expectations of CRR

⁸ *California Indep. Sys. Operator Corp.*, 164 FERC ¶ 61,209 at P 53 (2018) (September 20 Order).

⁹ WPTF at 4-6.

payouts instead of more appropriately promoting auction valuations based on expected exposure to congestion in the day-ahead market. The Commission should recognize that DC Energy/Vitol, one of the commenters that opposed the earlier CAISO proposal to eliminate full funding of CRRs because it did not allow CRR holders to net prevailing and counterflow CRRs against each other within a single CRR holder's portfolio, does not support the approach proposed by WPTF. DC Energy/Vitol stated that they do not "advocate for the 'symmetrical' treatment of positive CRR capacity and negative CRR capacity when the capacity is held by different market participants."¹⁰ These arguments were all before the Commission previously in Docket ER18-2034-000 and the Commission did not reject the CAISO's proposal because it failed to treat all CRRs symmetrically across the board. Rather, the sole reason the Commission provided for rejecting that CAISO proposal was because it failed to ensure that a CRR from A to B is the mathematical inverse of a CRR from B to A.¹¹ Further, the Commission indicated clearly that the CAISO could file its proposal again without prejudice if it "allows CRR holders to consistently net prevailing and counterflow CRRs against each other."¹²

WPTF's concern with not treating all CRRs symmetrically is that CRRs are no longer fully fungible, stating that the CAISO proposal "would result in the same CRR being worth different amounts to different parties."¹³ Generators

¹⁰ DC Energy/Vitol September 5, 2018, Answer in Docket No. ER18-2034 at 6.

¹¹ September 20 Order at P 51.

¹² *Id.*, at P 53.

¹³ WPTF protest at 3.

could not have one CRR portfolio and a load serving entity have another portfolio to hedge delivery risk because the scheduling coordinator's CRRs would no longer be additive. WPTF does not explain why the different portfolios between the two parties should be additive or why they would be needed to hedge for supply delivery. The CAISO assumes that behind WPTF's comments is an assumption that parties transact and coordinate to hedge their positions and therefore should get the same treatment as a market participant that takes on both positions. However, WPTF provides no information in support of such speculation. Nevertheless, even if such transacting behavior may exist, the CAISO suggests this is easily remedied in that if parties wish to engage in such risk management, the two parties should decide on who will hold the CRRs and proceed accordingly through the auction to obtain the necessary portfolio to hedge delivery to load. Any hypothetical inefficiency due to the lack of netting across CRR portfolios held by different market participants under the WPTF examples would likely be very small and is certainly far outweighed by the significant adverse impacts of demonstrated CRR revenue insufficiency. Under current market rules, the CAISO is required to pay significantly more to CRR holders than it collects in day-ahead market congestion revenues. Total CRR revenue insufficiency for 2017 was approximately \$100 million and CRR revenue insufficiency for 2018 to date is approximately \$30 million.

DC Energy/Vitol argue for a different set of offsets of CRR shortfalls and surpluses beyond what is required to satisfy the September 20 Order. Although DC Energy/Vitol claim to support a constraint-by-constraint of revenue

insufficiency to CRR holders, they argue that CRR revenue shortfalls for one constraint should be netted against surpluses on a different constraint if they share the same derated transmission element.¹⁴ They argue that congestion revenue surpluses for one constraint should offset revenue shortfalls on a separate constraint if those constraints are “related for congestion management purposes.”

This argument is at odds with the constraint-by-constraint approach that DC Energy/Vitol claim to support. The CAISO defines a constraint for the CRR process in the same way that the day-ahead market economic optimization defines and prices a constraint: as the combination of a contingency element and monitored element. Each combination is a unique constraint in the economic optimization with different factors influencing its pricing. While DC Energy/Vitol focus on contingency conditions that may be similar in nature, they give no weight to the alternative, contingency conditions that are very different in nature. Consider two very different contingency conditions: flows on a contingency element in southern California placing flows on a transmission line in central California one day versus flows on a contingency element in northern California placing flows on the same transmission line in central California on another day. These are very different contingency conditions that the day-ahead market economic optimization would evaluate and price differently from each other because they are caused by different circumstances. As such, it makes little sense to depart from the rationale underlying the constraint-specific proposal

¹⁴ DC Energy/Vitol at 2, 5-8

by ignoring the contingency condition and netting for each monitored element.

DC Energy/Vitol argue that the proposal further impedes offsetting shortfalls with surpluses by requiring that an underfunded CRR have an implied flow impact on a constraint in the hour when the CAISO collected the surplus. The CAISO proposal allows CRRs with implied flow on constraints to have their portion of surpluses accrued on each such constraint, because those CRRs are shown to have relied in some way on the revenues associated with the constraint in that hour to hedge their day-ahead congestion charges, and therefore those CRRs are closely associated with that constraint in that hour. Other CRRs with no implied flow on the constraint are in no way associated with the constraint in that hour. Therefore, there is no justification for departing from the constraint-specific proposal by netting surpluses across CRRs unrelated to the constraint they are intended to hedge.

B. The October 1 Tariff Amendment Is Consistent with Commission Precedent

WPTF argues that the proposal to allocate congestion revenue shortfalls to CRR holders is inconsistent with cost causation principles because CRR holders do not control transmission outages or other factors that contribute to congestion revenue insufficiency.¹⁵ WPTF's argument is inconsistent with Commission precedent. The Commission recognizes that holders of financial transmission rights are best situated to manage the risks associated with congestion revenue insufficiency and that they, rather than load, should bear the

¹⁵ WPTF at 15-15.

risk that financial transmission rights may not be funded fully.¹⁶

AReM states that they support WPTF's protest, but their own protest makes it clear that they really oppose "tariff amendments that change CRR valuations or eliminate full funding of CRs."¹⁷ AReM's position that load serving entities must continue to fully fund CRRs cannot be reconciled with widespread Commission precedent. Most other independent system operators (ISOs) and regional transmission organizations (RTOs) do not guarantee full funding of financial transmission rights and allocate congestion revenue shortfalls to the holders of financial transmission rights rather than uplifting those shortfalls to load. PJM Interconnection, L.L.C. (PJM), ISO New England Inc. (ISO-NE), the Midcontinent Independent System Operator, Inc. (MISO), and Southwest Power Pool, Inc. (SPP) each compare congestion revenues with the target values of financial transmission rights¹⁸ on an aggregated basis over various defined "close out" periods of time (hourly, daily, monthly and/or annual). Any shortfalls or surpluses based on those comparisons over the defined periods are allocated *pro rata* to the rights holders, up to the levels of their target financial transmission rights values, and any residual surpluses are carried forward to a subsequent

¹⁶ "As the Commission has previously held, FTRs are not guaranteed to be fully funded, and FTR holders are well positioned to manage and mitigate that risk." *PJM Interconnection, L.L.C.*, 163 FERC ¶ 61,165, at P 30 (2018) (citing *PPL EnergyPlus, LLC v. PJM Interconnection, L.L.C.*, 136 FERC ¶ 61,060, at PP 29, 32 (2011)).

¹⁷ AReM at 5.

¹⁸ The other ISOs and RTOs use terms other than CRR to designate their own financial transmission rights products. PJM, ISO-NE, and the MISO use the term financial transmission right (FTR) and SPP uses the term transmission congestion right (TCR). The market designs of those other ISOs and RTOs also include auction revenue rights (ARRs) that can be converted into FTRs and TCRs. For purposes of this Answer, the CAISO refers to FTRs and TCRs together as financial transmission rights.

period. At the end of the last period, any remaining surplus is allocated *pro rata* to financial transmission rights holders, auction revenue rights holders, market participants, and/or transmission customers, depending on the specific tariff provisions of the ISO or RTO.¹⁹

C. The Proposed Monthly Netting Period Is Reasonable

Two commenters protest the CAISO's proposal to net congestion revenue shortfalls in particular hours with any congestion revenue surplus from other hours resulting from the same constraint over the same month. WPTF and DC Energy/Vitol argue that the CAISO should net congestion revenue shortfalls and surpluses over a year, as is done in SPP and PJM.²⁰ These commenters provide no evidence that the Commission has a policy favoring an annual period for netting congestion revenue shortfalls and surpluses. Indeed, the CAISO's review of Commission orders addressing financial transmission right provisions in PJM and SPP identified no substantive discussion of the appropriate period for netting congestion revenue shortfalls and surpluses.

In developing its proposal, the CAISO recognized that netting over a reasonable period is appropriate to offset any payment reductions to allow CRRs to be firm enough to provide a hedge against congestion costs. There are

¹⁹ See PJM Open Access Transmission Tariff (OATT), attachment K, at sections 5.2.3 and 5.2.5 – 5.2.6; ISO-NE Transmission, Markets, and Services Tariff, Market Rule 1, at section III.5.2.4 – III.5.2.6; MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff at section 39.3.4; SPP OATT, attachment AE, at sections 8.5.12 – 8.5.14. Implementation details regarding these tariff provisions are provided, respectively, in sections 8.4, 16.4, and 17.3 of PJM Manual 28: Operating Agreement Accounting (June 1, 2018); section 6 of ISO-NE Manual M-28: Market Rule Accounting (March 1, 2017); section 2.9.3 of MISO Business Practices Manual 005: Market Settlements (June 9, 2018); and sections 4.5.8.14 through 4.5.8.17 of the Market Protocols for the SPP Integrated Marketplace (June 12, 2018). The ISOs and RTOs also apply comparable provisions to allocations of ARR shortfalls.

²⁰ WPTF at 6-8; DC Energy/Vitol at 8-9.

several reasons, however, why a netting period longer than a month is not justified in the context of the CAISO's CRR framework. First, CRRs acquired through the monthly CRR release process are a monthly product. Other CRRs are allocated or auctioned on a seasonal basis. The CAISO does not release CRRs with an annual duration. Moreover, under the CRR tariff revisions approved by the Commission in Docket No. ER18-1344, market participants can sell back seasonal CRRs in monthly increments.²¹ Because of this new feature, there is no guarantee that the original CRR holder would hold a CRR for longer than a single month. For example, consider a scenario in which a seasonal CRR is sold as a monthly CRR. There may be a revenue surplus due to a constraint during the period the original CRR holder held the CRR and the purchaser of the CRR may benefit from the surplus when a shortage occurs in a later month, even though the later CRR holder had no claim to the CRR when the surplus occurred.

This disconnect is exacerbated by the fact that transmission system conditions can change dramatically from month to month. For example, congestion revenue on a particular constraint may be insufficient in a summer month due to wildfires or other unanticipated changes in system conditions. There is no reason why a holder of a monthly CRR for that summer month should benefit from very different system conditions in an earlier or later month when the CRR was associated with surplus congestion revenue.

²¹ *Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,237 (2018).

D. The CAISO Is Not Required to Demonstrate That Its Existing Tariff Is Unjust and Unreasonable

WPTF argues that the October 1 Tariff Amendment should be rejected because “[t]he CAISO has not demonstrated that its proposed change is needed.”²² This argument fundamentally misstates the CAISO’s legal obligations in this proceeding. There is no requirement under section 205 of the Federal Power Act (FPA)²³ for an applicant to demonstrate first that the existing rules are not just and reasonable. Under section 205, the CAISO is free to propose changes to the rates, terms, and conditions of its tariff without having to demonstrate that existing market rules are unjust and unreasonable (*i.e.*, that a change is “needed”). In order for the Commission to accept such proposals, the CAISO need only determine that the revised tariff provisions are just and reasonable.²⁴

WPTF suggests that Figure 3 included in the CAISO’s October 1 filing, which shows an overall trend of congestion revenue insufficiency but a congestion revenue surplus for the months of July and August, is evidence that the CAISO’s proposal is not needed.²⁵ WPTF suggests that the improved outage and nomogram practices initiated as part of Track 0 of the CAISO’s CRR auction efficiency initiative as well as the improved outage reporting required by the Track 1A tariff revisions approved by the Commission in Docket No. ER18-1344

²² WPTF at 12.

²³ 16 U.S.C. § 824d.

²⁴ See, e.g., *PJM Interconnection, L.L.C.*, 137 FERC ¶ 61,145, at P 62 (2011).

²⁵ WPTF at 12-13, *citing* Figure 3 on page 19 of the October 1 Tariff Amendment transmittal letter.

have produced a decreasing trend in CRR revenue adequacy. This argument mischaracterizes the data presented in Figure 3. First, none of the months covered by Figure 3 would have been impacted by the Track 1A tariff revisions. The Track 1A outage reporting provisions required transmission owners to submit by July 1 of each year all known, and planned transmission maintenance outages potentially affecting the CRR model *for the following year*. In addition, the Track 0 outage and nomogram practice improvements had no impact on seasonal CRRs for calendar year 2018, all of which were released by the end of 2017. The Track 0 enhancements were implemented beginning in March and April. Congestion revenue inadequacy has continued since those enhancements were implemented. The July and August data points in Figure 3 cannot be viewed as indicative of long-term trends for congestion revenue adequacy. The system experienced unusually high flow patterns during those two months that resulted in higher congestion rents than CRR payments. In short, Figure 3 provides no evidence that the issue of significant congestion revenue shortfalls is going away.

E. Stakeholders Had Ample Opportunities to Comment on the Proposal to Eliminate Guaranteed Full Funding of CRRs

WPTF argues that the stakeholder process leading to the October 1 Tariff Amendment was rushed because the CAISO only had a single stakeholder call on the proposed changes.²⁶ This is a gross mischaracterization of the process that led to the CAISO's filing this proceeding. As documented in the October 1

²⁶ WPTF at 8-10.

Tariff Amendment, the CAISO has been engaged in an extensive stakeholder initiative since early 2017 assessing the efficiency of the CRR auction and related CRR market issues.²⁷ After multiple rounds of stakeholder comments, the CAISO Board of Governors in June 2018 approved the proposal to eliminate the full funding of released CRRs and instead to allocate any day-ahead revenue insufficiency to CRR holders on a constraint-by-constraint basis. The CAISO is proposing in the October 1 Tariff Amendment essentially the same tariff enhancements approved by the CAISO Board in June after an extensive stakeholder process. The October 1 filing only has a singular targeted change that addresses the Commission's concerns in the September 20 Order.

The CAISO believes it could have re-submitted its already extensively-vetted proposal with this one change without the need for any further stakeholder meetings. Nonetheless, the CAISO elected to conduct the September 27 stakeholder call as part of its ongoing commitment to stakeholder engagement. WPTF and other stakeholders have had a full opportunity to review the CAISO's proposal and articulate any objections to the elimination of full funding of CRRs by load serving entities. As explained in the October 1 filing and this Answer, those objections are unsupported and inconsistent with Commission precedent.

²⁷ See October 1 Tariff Amendment transmittal letter at 10-16.

III. Conclusion

For the foregoing reasons, the Commission should accept the tariff revisions contained in the October 1 Tariff Amendment without condition or modification.

Respectfully submitted,

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Dated: October 19, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, pursuant to the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C., this 19th day of October, 2018.

/s/ Daniel Klein
Daniel Klein