UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	**)** **)**	**Docket No. ER18-1344-002**

MOTION FOR LEAVE TO ANSWER REQUESTS FOR REHEARING AND ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO REQUESTS FOR REHEARING

Pursuant to Rules 212, 213, and 713 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 C.F.R. §§ 385.212, 385.213, and 385.713 (2018), the California Independent System Operator Corporation (CAISO)[1] files this Motion for Leave to Answer and Answer to the Requests for Rehearing by DC Energy, LLC and Vitol Inc. (DC Energy/Vitol), Western Power Trading Forum (WPTF), both filed on July 30, 2018, and by Appian Way Energy Partners, LLC and Mercuria Energy America, Inc. (Appian Way/Mercuria), filed on July 31, 2018.

The requests for rehearing challenge the Commission's June 29, 2018, order approving modifications to the CAISO's congestion revenue rights (CRR) market rules.[2] As explained in this tailored answer, the rehearing requests include new arguments and unsupported statements that mischaracterize the foreseeable impacts of the approved tariff revisions.[3] In addition, the requests for

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

[2] *Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,237 (2018) (June 29 Order). The June 29 Order approved the CAISO's April 11, 2018, tariff amendment in this proceeding (April 11 Tariff Amendment).

[3] The CAISO is not responding to all arguments raised in the rehearing requests, most of which the CAISO has previously addressed in its April 11 Tariff Amendment and its May 18, 2018, answer to comments and protests in this proceeding (Answer).

rehearing improperly suggest that the Commission's June 29 Order should be reversed in part based on the CAISO's filing of an independent set of CRR-related tariff amendments on July 17, 2018 (July 17 Tariff Amendment) in a separate docket. The requests misconstrue the nature of the CAISO's burden in a Federal Power Act (FPA) section 205[4] proceeding. The rehearing requests also attempt to re-litigate matters settled in the Commission's June 29 Order without pointing to actual errors in the Commission's findings. For all these reasons, the Commission should deny the requests for rehearing in this docket. Lastly, the Commission should reject as untimely the Appian Way/Mercuria joint filing, which was submitted to the Commission after the statutory deadline for rehearing requests.

I. Motion for Leave to Answer

Although answers filed in response to requests for rehearing are generally not permitted by the Commission's Rules of Practice and Procedure,[5] the Commission has accepted such answers when they clarify issues in dispute, provide information to assist in the Commission's decision-making process, or ensure that the record is complete and accurate.[6] The CAISO respectfully

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4 16 U.S.C. § 824d.

5 *See* 18 C.F.R. § 385.213(a)(2).

6 *See, e.g.*, *Appalachian Power Co.*, 161 FERC ¶ 61,070 at P 15 (2017) (accepting an answer to a request for rehearing because it provided information that assisted the Commission in its "consideration of this matter."); *Mich. Elec. Transmission Co., LLC*, 106 FERC ¶ 61,064 at P 3 (2004) (accepting an answer to a rehearing request because "it provides information that clarifies the issues and aids us in the decisional process."); *Duke Energy Oakland, LLC*, 102 FERC ¶ 61,093 at P 10 (2003) (finding good cause to accept an otherwise impermissible answer because it assisted the Commission in understanding and resolving the issues involved in the proceeding); *Carolina Power & Light Co.*, 97 FERC ¶ 61,048 at 61,278 (2001) (finding good cause to waive Rule 213 when the pleading helped to ensure a complete and accurate record);

requests leave to answer the joint request for rehearing filed in this docket by DC Energy/Vitol, as well as the request for rehearing filed by the WPTF. The CAISO will not respond to every individual argument raised in these rehearing requests, as the requestors repeat some arguments that the Commission has previously rejected.[7] The CAISO submits that this limited answer will clarify new disputes raised in these rehearing requests, will correct inaccurate analyses and mischaracterizations, and will otherwise ensure that the record is accurate and complete.

II. The Commission Should Reject the Untimely Appian Way/Mercuria Filing

The Commission should reject thee Appian Way/Mercuria request for rehearing as untimely. The Commission's eLibrary system shows that the Appian Way/Mercuria joint request for rehearing was received by the Commission on July 30, 2018 at 7:52:13 p.m.[8] In accordance with Commission Rules, "[a]ny document received after regular business hours is considered filed on the next regular business day."[9] Consistent with the regulations, and confirmed by the "Filed Date" noted on eLibrary, because this rehearing request

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Morgan Stanley Capital Group, Inc. v. N.Y. Indep. Sys. Operator, Inc., 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record.").

[7] On rehearing, DC Energy/Vitol and WPTF argue that the Commission erred in accepting the CAISO's proposal to limit the source and sink pairs for CRRs that market participants can purchase in CRR auctions. The June 29 Order also approved the CAISO's proposal to require transmission owners submit an annual transmission outage plan by July 1 of each year for outages that could affect power flows in the day-ahead market. DC Energy/Vitol, WPTF, and Appian Way/Mercuria do not challenge the approval of new requirements to submit outage information in their respective rehearing requests.

[8] *See* https://elibrary.ferc.gov/idmws/doc_info.asp?document_id=14693760.

[9] 18 C.F.R. § 385.2001(a)(2).

was filed after 5:00 p.m. Eastern Standard Time (*i.e.*, after the Commission's normal business hours; *see* 18 C.F.R. § 375.101(c)), the Commission considers Appian Way's and Mercuria's rehearing request is to have been filed on July 31, 2018, a day beyond the 30-day statutory deadline for rehearing requests.[10]

The Federal Power Act requires that any rehearing applications be filed within 30 days after the issuance of a Commission order.[11] As the relevant order was issued by the Commission on June 29, 2018, requests for rehearing were due by the statutory deadline of July 30, 2018.[12] Courts have been clear that the Commission may not waive this statutory deadline,[13] but an agency is permitted to determine how time and the end of a statutory deadline is computed.[14] After considering modifying its filing deadlines in light of accepting electronic filings, the Commission determined that its filing deadline should remain at the close of business, *i.e.*, 5:00 p.m., Eastern Standard Time.[15] Because the Appian Way/Mercuria request for rehearing was received after 5:00 p.m. on July 30,

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10 16 U.S.C. § 825*l*; 18 C.F.R. § 385.713(b).

11 *See* 16 U.S.C. § 825*l*(a).

12 Thirty days from June 29, 2018 was Sunday, July 29, 2018. Pursuant to Rule 2007 of the Commission's Rules of Practice and Procedure, when a time period prescribed or allowed by statute falls on a weekend, the statutory time period does not end until the Commission's close of business on the next day which is not a weekend, holiday, or day when the Commission is closed due to adverse conditions. *See* 18 C.F.R. § 385.2007(a)(2). Thus, requests for rehearing in these proceedings were due by July 30, 2018.

13 *See, e.g., Arlington Storage Co., LLC*, 151 FERC ¶ 61,160 at P 8 (2015) (citing *Boston Gas Co. v. FERC*, 575 F.2d 975, 978 (1st Cir. 1978) and *Associated Gas Distributors v. FERC*, 824 F.2d 981, 1005 (D.C. Cir. 1987)).

14 *Arlington Storage Co., LLC*, 151 FERC ¶ 61,160 at P 8 (2015).

15 *Cameron LNG, LLC*, 148 FERC ¶ 61,237 at P 7 (2014).

2018, the Commission should reject it as untimely.[16] The rehearing request by Appian Way/Mercuria therefore should be given no additional consideration in these proceedings.

III. Answer

A. The Rehearing Requests Provide No New Bases for Questioning the CAISO Proposal or the Commission's Approval.

DC Energy/Vitol attempt to raise new arguments and present additional evidence to purportedly demonstrate flaws in the June 29 Order, calling into question the Commission's decision-making. To the extent that DC Energy/Vitol attempt to enlarge the record in these proceedings beyond the record that the Commission considered in coming to its conclusion, such requests for rehearing should be deemed the equivalent of out-of-time protests that cannot form the basis of a request for rehearing. If new arguments or analyses are being offered for the first time, that evidence should be rejected. The Commission has previously found that "[p]arties are not permitted to introduce new evidence for the first time on rehearing since such practice would allow an impermissible moving target, and would frustrate needed administrative finality."[17] The Commission should therefore reject any new evidence included in the rehearing requests as out-of-time and contrary to Commission precedent.

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[16] *See, e.g., id.* at PP 1, 4, 14, 17 (2014) (Commission rejecting arguments that an order on rehearing was timely, as it was electronically filed at 5:00:25 p.m. on the date requests for rehearing were due.)

[17] *PaTu Wind Farm, LLC v. Portland Gen. Elec. Co., LLC*, 151 FERC ¶ 61,223 at P 42 (2015). *See also Potomac-Appalachian Transmission Highline, L.L.C.*, 133 FERC ¶ 61,152 at P 15 (2010).

DC Energy/Vitol argue that "[t]he CAISO determined the low clearing price per dollar of congestion revenue of $0.38 for non-delivery path CRRs by erroneously combining prevailing flow non-delivery path CRRs (*e.g.*, "buying apples") with counterflow non-delivery path CRRs (*e.g.*, "selling oranges")."[18] The CAISO examined auction revenues versus payouts of the set of CRRs that do not place supply delivery flows on the system, regardless of how each CRR was *priced* in the auction, based on the principle that CRRs are used to hedge supply delivery. There is nothing erroneous about evaluating negatively and positively priced non-delivery CRRs together for purposes of analyzing auction efficiency based on this principle. There is greater efficiency when flows in the CRR auction are more closely aligned with day-ahead market flows. Non-delivery CRR flows can cause greater discrepancies between CRR and day-ahead market congestion, regardless of the CRR's price in the CRR auction.

DC Energy/Vitol tries to establish a distinction between two CRRs based only on the resulting auction price and by doing so, DC Energy/Vitol conflate negatively *priced* CRR to mean it only places counterflow on system constraints. However, a negatively priced CRR can place both counterflows and prevailing flows on system constraints and a positively priced CRR can place both counterflows and prevailing flows on system constraints. Furthermore, both positively and negatively priced CRRs are similarly driven by binding transmission constraints, and both types still have to be simultaneously feasible.

[18] Request for Rehearing of DC Energy/Vitol, Docket No. ER18-1344-002, at 16 (July 30, 2018) (DC Energy/Vitol).

These price references can change from auction to auction. Regardless of the resulting auction prices, both negatively and positively priced non-delivery CRRs place flows not associated with supply delivery on the system. Therefore, the CAISO did not segment CRRs based on whether they are positively or negatively priced, but instead appropriately accounted for all CRR flows that can cause greater discrepancies between CRR and day-ahead market congestion.

B. The CAISO's July 17 Tariff Amendment Does Not Require the Commission to Re-Examine the June 29 Order.

Any attempt to link the" Track 1A" CRR tariff revisions approved in the June 29 Order with the separate "Track 1B" CRR tariff revisions submitted in the July 17 Tariff Amendment is based on a false assumption that the CAISO may only improve its market design by proposing the bare minimum of changes. For example, WPTF argues that the CAISO should not be permitted to eliminate non-delivery CRRs if the CRR auction efficiency issues could be solved "in a less dramatic matter."[19] But the suggestion that the CAISO is so limited in the changes it can make to the design of its CRR auctions essentially is a claim that the CAISO can only remedy those aspects of its market rules that are not just and reasonable. Such an approach would only be warranted if the Commission was considering the April 11 Tariff Amendment under section 206 of the FPA. Such a standard is inappropriate under FPA section 205.

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

[19] Request for Rehearing of WPTF, Docket No. ER18-1344-002, at 4 (July 30, 2018) (WPTF).

market rules are unjust and unreasonable. In order for the Commission to accept such proposals, it need only make the determination that the proposed revised tariff provisions are just and reasonable.[20] In these proceedings, the Commission properly determined that the April 11 Tariff Amendment, which was filed pursuant to FPA section 205, was just and reasonable.[21]

The CAISO's filing of additional modifications to the CRR market construct via its July 17 Tariff Amendment does not require the Commission to re-examine its prior approval of CRR tariff revisions. DC Energy/Vitol suggest that the Commission should grant rehearing "to reconsider the proposed restriction of CRR paths" in light of the July 17 Tariff Amendment.[22] But in considering the April 11 Tariff Amendment, the Commission found the proposal to be just and reasonable when considered on its own, properly determining that the Track 1A filing was a complete set of market rule revisions. Although the July 17 Tariff Amendment arose from the same stakeholder initiative as the April 11 Tariff Amendment that generally aimed to enhance the performance of the CRR processes, the two filings address separate sets of CRR issues. The April 11 Tariff Amendment was specifically targeting the CRR auction efficiency whereas the July 17 Amendment was more tailored to address revenue insufficiency. Although the two principles are related, subsequent revisions related to different aspects of CRRs should not alter the Commission's acceptance of the April 11

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20 *See, e.g.*, 16 U.S.C. § 824d.

21 June 29 Order at P 58.

22 DC Energy/Vitol at 31.

Tariff Amendment. The Commission will evaluate the July 17 Tariff Amendment on its own merits in Docket No. ER18-2034-000.

WPTF's argument that the Commission erred in permitting the CAISO to eliminate all non-delivery CRR pairs, when subcategories of non-delivery CRRs do not contribute to the auction revenue shortfall,[23] ignores the fact that the Commission evaluates and reviews proposals brought to it under FPA section 205. If the proposal is just and reasonable, the Commission will approve it. Alternatives to a proposal filed pursuant to section 205 of the FPA need not be considered.[24] Here, the Commission found the April 11 Tariff Amendment to be just and reasonable. The Commission did not need to compare that tariff amendment to any alternative set of modifications to the CAISO tariff.

In their explanation of how the July 17 Tariff Amendment obviates the support for the tariff revisions approved in the June 29 Order, DC Energy/Vitol mischaracterize the July 17 Tariff Amendment leading to inaccurate conclusions. Nothing in the July 17 Tariff Amendment obviates the support for the tariff revisions approved in the June 29 Order. DC Energy/Vitol erroneously describe the CRR Track 1B proposed in the CAISO's July 17 Tariff Amendment as a

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[23] WPTF at 7.

[24] *See, e.g., ISO New England, Inc.*, 162 FERC ¶ 61,206 at P 33 (2018) ("[T]he question before the Commission . . . is whether ISO-NE has demonstrated that its [proposals] are just and reasonable, not whether ISO-NE's proposal is more or less just and reasonable than protesters' proposed alternatives.") (footnote omitted); *Louisville Gas & Elec. Co.*, 114 FERC ¶ 61,282 at P 29, *order on reh'g*, 116 FERC ¶ 61,020 (2006) (finding that "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."); *City of Bethany v. FERC,* 727 F. 2d 1131, 1136 (D.C. Cir. 1984) (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").

"constraint-by-constraint allocation of underfunding to CRR holders in response to constraints binding in the day-ahead market that were not included in the CRR auction model."[25] This description is inaccurate. These tariff enhancements do not allocate underfunding to CRR holders in response to constraints binding in the day-ahead market that were not included in the CRR auction model. Nor does the proposal eliminate revenues from "unmodeled constraints" in the CRR auction model. Instead, the methodology proposed in the July 17 Tariff Amendment considers implied CRR flow on the day-ahead market constraints compared to actual energy schedules on the day-ahead market constraints. DC Energy/Vitol's claims are thus inaccurate.

DC Energy/Vitol effectively claim that, if the Commission accepts the CAISO's July 17 Tariff Amendment, it will reduce instances where market participants receive additional congestion revenue from a *constraint* binding in the day-ahead market that was not modeled in the CRR auction.[26] However, the CAISO did not base its July 17 Tariff Amendment revenue sufficiency allocation methodology on whether or not a constraint was enforced in the CRR auction. The CAISO based its revenue sufficiency allocation methodology on a comparison between day-ahead scheduled energy flow on day-ahead binding constraints and implied CRR flow on day-ahead binding constraints. Claims DC Energy/Vitol make related to the filing were based on its incorrect

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25 DC Energy/Vitol at 28-29.

26 *Id.* at 30.

characterization. The example that DC Energy/Vitol cites[27] from the CAISO Answer[28] does not involve unenforced *constraints* in the CRR auction that are then enforced in the day-ahead market. Rather, it involves changes in shift factors between the CRR auction and the day-ahead market when a transmission line is initially modeled as *in or out of service* for the CRR auction, but is modeled the opposite way in the day-ahead market. In either event, the July 17 Tariff Amendment does not prevent market participants from earning excess revenues for non-delivery CRRs based on unavoidable inconsistencies between the CRR auction model and the model used for the day-ahead market.

The July 17 Tariff Amendment does not directly address the issue of constraints unenforced in the CRR auction that then bind in the day-ahead market. Congestion revenue shortfall can occur in circumstances not involving the disparity between constraints enforced in the auction and the day-ahead market. Due to the many factors that influence the efficiency of the CAISO's CRR product, the CAISO is justified in proposing multiple sets of independently-justified enhancements to its CRR market rules.[29]

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27 *Id.*

28 Answer at 22-24.

29 Track 0 focused on CRR auction enhancements that the CAISO can implement within its current tariff authority. Tracks 1A and 1B focused on improvements the CAISO hopes to implement this year, while Track 2 will focus on more comprehensive changes to the CRR auction design that CAISO management will present to the CAISO Board of Governors later in 2018.

C. Rehearing Requests Provide Unsupported Statements that Incorrectly Characterize the Foreseeable Impacts of the CAISO Proposal.

DC Energy/Vitol wrongly characterize the potential impact of the tariff revisions approved in the June 29 Order. For example, DC Energy/Vitol claim that the CAISO will be unable to reduce auction revenue shortfalls while collecting less revenue "because after the CRR path restrictions are in place, the CAISO will continue to auction off the same amount of underlying transmission system capacity, entitling CRR holders to the same collective amount of day-ahead congestion revenue."[30] But while the CAISO may collect less total CRR auction revenue under the tariff revisions approved in the June 29 Order, the CAISO explained in its Answer that it can collect less in total auction revenue and still reduce auction revenue shortfall because sufficient day-ahead market revenues can be collected to pay the CRRs that do clear the auction.[31]

DC Energy/Vitol also claim that once the non-delivery CRRs are removed from auction, "[t]he CAISO will auction the same underlying transmission system capacity" and that "[t]his underlying transmission system capacity determines the total congestion revenue paid out to CRR holders; the volume of CRR capacity sold does not."[32] But this contention is also inaccurate. It is not the underlying transmission system capacity in the CRR auction that determines the total congestion revenue paid out to CRR holders. Instead, the underlying transmission system capacity in the day-ahead market and the volume of the

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30 DC Energy/Vitol at 14.

31 Answer at 46-47.

32 DC Energy/Vitol at 15 (footnote omitted).

CRR capacity sold in the CRR auction determines the total congestion revenue paid to CRR holders. In other words, day-ahead congestion payouts to CRRs are determined by CRR flows placed on the transmission system capacity modeled in the day-ahead market. DC Energy/Vitol would be correct if the CRR payments were based on the CRR auction shift factors. But they are not. The day-ahead market shift factors determine the payments. By restricting the source/sink pairs that can be purchased in the auction, the CAISO will allow the sale of the same amount of flows over the constraints in the auction, but will still reduce the day-ahead market payout by preventing the purchase of source/sink pairs designed to receive inflated payouts in the day-ahead market.

D. The Rehearing Requests Provide No Basis to Revisit Arguments Already Rejected by the Commission.

The rehearing requests largely rely on arguments and analyses that the Commission has previously rejected in the June 29 Order, and they should be given no weight at this stage of the proceedings. In restating arguments previously rejected, these parties are attempting to take a "second bite of the apple"—that is, they seek to rehash arguments that the Commission has reviewed, considered, and dismissed. The requestors cite no change in circumstances as to why the previously rejected analyses and arguments now should be adopted by the Commission. Although DC Energy/Vitol and WPTF may disagree with excluding non-delivery pairs from CRR auctions, they have not identified any Commission error that would justify granting rehearing of the June 29 Order.

1. The Tariff Revisions Approved in the June 29 Order Are Consistent with the Commission's Open Access Policies.

DC Energy/Vitol falsely claim that the Track 1A modifications limit open access.[33] As the CAISO has previously noted, "[o]pen access principles exist to ensure market participants have equal and fair access to using the transmission grid for purposes of delivering power."[34] The Commission properly found that the April 11 Tariff Amendment does not limit open access to market participants. Instead, the Commission recognized that the April 11 Tariff Amendment would provide all market participants with an opportunity to hedge congestion costs associated with supply delivery, which is the "primary purpose of [the CAISO's] CRR market."[35] The Commission agreed with the CAISO's analysis that "in removing non-delivery pair CRRs from the auction, more capacity will be available to hedge the delivery of power to load . . . . enhanc[ing] this core function of the CRR auction."[36]

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33 *See id.* at 6.

34 Answer at 11. That Answer also notes that the Commission laid out the primary objective of open access in the Preamble to Order No. 888, which states "Today the Commission issues three final, interrelated rules designed to remove impediments to competition in the whole-sale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers." *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 at 21541 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (emphasis added) ("Order No. 888"), *order on reh'g*, Order No. 888-A, 62 FR 12274 (May 14, 1997), FERC Stats. & Regs. ¶ 31,048, *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. N.Y. v. FERC*, 535 U.S. 1 (2002).

35 June 29 Order at P 62.

36 *Id.* at P 64.

Open access does not require that the CAISO offer CRRs that correspond to every conceivable source and sink pair to ensure "the maximum feasible use of the transmission capacity."[37] Moreover, "open access does not require that the CAISO make available financial instruments that go beyond the objective of providing congestion hedges for physical transactions."[38] The Commission has recognized that by improving the ability of CRRs to serve as a congestion hedge for supply delivery transactions, the goals of open access are furthered, not threatened.

2. The Tariff Revisions Approved in the June 29 Order Do Not Favor Load-Serving Entities.

The April 11 Tariff Amendment approved by the Commission does not discriminate against market participants in favor of load-serving entities. DC Energy/Vitol argue that the proposal discriminates against non-load serving entities because generators are unable to hedge the constraint of concern and their generator is being exposed.[39] WPTF similarly suggests that the April 11 Tariff Amendment will remove benefits of non-delivery CRRs for certain market participants.[40] But the Commission has already rejected these arguments. It found that the April 11 Tariff Amendment "makes available source and sink pair CRRs associated with the supply and delivery of power, not just those that benefit incumbent load serving entities."[41] There exists no requirement for CRRs

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37 DC Energy/Vitol at 8.

38 Answer at 10.

39 DC Energy/Vitol at 13.

40 WPTF at 5.

41 June 29 Order at P 65.

to hedge transactions other than those related to supply delivery. While other CRR benefits may exist, the correct balance must be struck in providing a hedge to supply delivery versus any alternative benefits. The April 11 Tariff Amendment, therefore, does not discriminate against market participants that are not load-serving entities.

Under the tariff revisions approved in the June 29 Order, all market participants, including generators, will be able to choose CRRs that hedge transactions at any of the load-aggregation points, trading hubs, or interties for exports, the point of receipt locations on the CAISO system and at any new source/sink combinations (which may consist of paths not currently used) so long as they remain eligible path combinations. These tariff revisions offer a range of available source and sink pair CRRs, permitting all market participants to hedge congestion risk associated with supply delivery transactions.

Consistent with the core purpose of CRRs (*i.e.*, hedging supply delivery), the market rules' changes will benefit generators, marketers, and financial entities who need to hedge locational basis risk for supply delivery transactions. Thus, the benefits tied to the April 11 Tariff Amendment go beyond load-serving entities. In turn, these benefits will ultimately reach consumers. Open access principles, as the Commission acknowledges, "were designed 'to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower cost power to the Nation's electricity consumers.'"[42]

[42] *Id.* at P 64 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,634).

Earlier in these proceedings, WPTF contended that non-delivery CRRs were necessary for certain benefits during both the stakeholder process and before the Commission, but the Commission correctly rejected those arguments. Now, WPTF attempts to reframe their argument, suggesting that a different set of benefits is provided by non-delivery CRRs.[43] But whether or not additional benefits are provided by CRRs, the Commission recognized that "the primary purpose of [the CAISO's] CRR market is to enable market participants to hedge congestion charges associated with supply delivery" and that Track 1A "provides all market participants an opportunity to obtain hedges for congestion costs associated with supply delivery transactions."[44] WPTF's arguments attempt to redefine CRRs' core purpose of hedging supply delivery, but CRRs' core purpose are not to protect generators against market changes unrelated to delivering the supply to customers—they are primarily intended to hedge supply delivery.

3. The June 29 Order Properly Accounted for the Benefits Relating to Non-Delivery CRRs.

WPTF argues that the June 29 Order misconstrued its argument relating to the benefits of non-delivery CRRs.[45] But a close reading of the June 29 Order shows that the Commission directly addressed this contention. Though the Commission "acknowledge[d] that non-delivery pairs can be used in constructing useful hedges," it "[found] that, on balance, the potential loss in market functionality is acceptable given the scope of the auction revenue shortfall

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43 WPTF at 5.

44 June 29 Order at P 62 (footnote omitted).

45 WPTF at 6.

CAISO is attempting to remedy."[46] The Commission acknowledged a benefit of non-delivery CRRs; that is, they can act as "useful hedges." But it found that any potential benefit of non-delivery CRRs is significantly outweighed by the low price at which CRRs have been sold at auction, relative to the payouts they receive. Removing non-delivery CRR source/sink pairs will help reduce the CRR revenue shortfall that the CAISO has experienced in previous years.

Similarly, the Commission also addressed WPTF's concern relating to non-delivery pairs having "important benefits worth preserving." WPTF claims that the Commission did not address its argument that "a CRR provides important benefits whether or not it creates counterflows."[47] In the June 29 Order, however, the Commission found that the April 11 Tariff Amendment "intends to enhance the benefits of" energy market liquidity, price transparency, and market efficiency generally, which WPTF claimed would be lost if the Commission approved the April 11 Tariff Amendment.[48] Any suggestion that the Commission did not address WPTF's arguments relating to the benefits of non-delivery CRRs in the June 29 Order is misplaced.

4. Permitting Only CRR Pairs Associated with Delivery is Well Supported.

WPTF repeated its argument that the selection of non-delivery pairs for elimination from the CRR auction was arbitrary.[49] But the Commission reviewed

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46 June 29 Order at P 65.

47 WPTF at 6.

48 June 29 Order at P 70.

49 WPTF at 7.

the evidence before it, and determined that limiting available CRRs to those associated with supply delivery was a just and reasonable proposal. Removing CRRs with non-delivery sources and sinks from the CRR auction was not arbitrary, as those pairs significantly contribute to auction revenue shortfalls. CAISO analyses in the record show that roughly 80 percent of the CAISO's auction revenue shortfalls were the result of non-delivery CRRs.[50] The tariff revisions approved in the June 29 Order ensure that all market participants may have an opportunity to hedge such delivery, consistent with CRRs' primary purpose.[51] As such, there is no basis for contending that limiting CRR pairs to those associated with supply delivery is arbitrary.

On a related matter, DC Energy/Vitol again argue that CAISO's 80 percent statistic is meaningless in isolation because their analysis showed this statistic indicates that the revenue shortfall was proportionately distributed among non-delivery path CRRs.[52] The Commission appropriately disregarded that argument the first time and should again. As the Commission explained in its June 29 Order, they disagree with DC Energy/Vitol that the CAISO draws an arbitrary line by restricting non-delivery CRR pairs. The Commission relied not only on the CAISO's 80 percent statistic but also on the principle that "the primary purpose of [the CAISO's] CRR Market is to enable market participants to hedge charges associates with supply delivery."[53] Whether or not the shortfall is proportionally

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50 Answer at 28 (citing at Declaration of Guillermo Bautista Alderete, Director, Market Analysis and Forecasting at 12).

51 June 29 Order at P 74.

52 DC Energy/Vitol at 20-21.

53 *Id.*

distributed is irrelevant to the fact that 80 percent of the shortfall is attributable to non-delivery CRRs that are not necessary for the primary purpose of the CAISO's CRR markets. The Commission appropriately relied on the CAISO's statistic to conclude that the removal of the non-delivery pairs will address the auction shortfall, while still providing market participants adequate opportunity to obtain hedges supply delivery.

5. The Commission's Rejection of the DC Energy/Vitol Analysis Was Not an Error.

DC Energy/Vitol argue that dismissing their analysis of a simulation removing non-delivery paths was arbitrary and capricious.[54] But the Commission did not err in dismissing the analysis offered by DC Energy/Vitol, while accepting the CAISO's analysis. It agreed with the CAISO's position that the DC Energy/Vitol's analysis was "not . . . a fair and accurate way to identify baseline deficiencies within CAISO's proposal."[55] The Commission determined that the DC Energy/Vitol analysis was "rooted in the unrealistic assumption that market participants cannot compete efficiently or reconstruct effective counterflow transactions if the non-delivery pairs were removed from auction."[56] As a result, the DC Energy/Vitol analysis was not a "fair and accurate" means of identifying shortcomings in the April 11 Tariff Amendment. The Commission continued, finding "it [to be] more likely that some percentage of these auction participants would bid on the remaining supply paths" and "may use delivery pairs as a

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54 DC Energy/Vitol at 23.

55 June 29 Order at P 71.

56 *Id.*

substitute for the non-delivery CRR pairs."[57] The Commission found the CAISO's analysis reasonable with no evidence in the record that refutes it.[58] As the CAISO explained in its Answer, its 2018 Season 3 re-run was not intended to be an absolute prediction of future results because it did not include the effects of future changes in bidding behavior. Importantly, it was instead a counter-factual exercise that highlighted the impact non-delivery CRR pairs have had on delivery CRR pairs in prior auctions.[59] DC Energy/Vitol analysis on the other hand attempted to portray future results without reflecting changes in bidding behavior.[60]

The June 29 Order clearly demonstrates that the Commission reviewed and considered the evidence proffered by all parties, and made its determination that the April 11 Tariff Amendment was ultimately just and reasonable.

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57 *Id.*

58 *Id.* at P 73.

59 Answer at 29.

60 *Id.* at 35.

IV. Conclusion

For the foregoing reasons, the Commission should grant the CAISO's Motion for Leave to Answer, and reject requests for rehearing of its June 29 Order.

Respectfully submitted,

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Dated: August 14, 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 Folsom, California, this 14th day of August, 2018.

/s/ Grace Clark
Grace Clark