PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
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July 10, 2007

To: California Independent System Operator

Re: CPUC Staff Comments on the *CAISO Draft Tariff Language - Congestion Revenue Rights*, posted on July 2, 2007

CPUC staff appreciate the opportunity to provide comments in response to the *CAISO Draft Tariff Language - Congestion Revenue Rights*, ("CRR Tariff Proposal") issued on July 2, 2007. The following CPUC staff comments address the CRR Tariff Proposal itself and discussions that arose during formal stakeholder discussions and informal discussions with CAISO staff on the subjects included in the CRR Tariff Proposal.

Data Tracking and Transfer of CRRs Associated with Load Migration

CPUC staff appreciate the CAISO's continued efforts towards developing the data tracking system necessary to implement a CRR reallocation mechanism to respond to the migration of load between Load Serving Entities ("LSEs") over time. CPUC staff recognize that the details of the methods for exchanging information need not be included in tariff language, and, as stated in the CRR Tariff Proposal, can be enumerated in subsequent Business Practice Manuals ("BPMs"). CPUC staff appreciate the CAISO staff's confirmation that the details will be included in the BPMs if they are not in the tariff.

CPUC staff have participated in calls with the CAISO staff to better understand the CAISO staff's overall approach to tracking CRRs for load migration. CPUC staff have urged the CAISO staff to talk through its proposal with Utility Distribution Company ("UDC") staff to describe the CAISO's proposal and to work with the UDC staff to pursue an implementation of a CRR load migration tracking proposal that is feasible in a timely fashion. CPUC staff understand that CAISO staff have initiated these calls. CPUC staff support further discussions between UDC and CAISO staff to develop a system of Direct Access Service Request ("DASR") information transfer to be incorporated in BPMs. CPUC staff encourage the CAISO to seek a method of information transfer that provides necessary information at minimal cost to ratepayers.

Enforcement of Credit Requirements Associated with Load Migration

The CRR Tariff Proposal states that, in cases where LSEs due to receive CRRs because of load migration do not immediately meet the associated credit requirements, that the CAISO may hold the CRRs until the LSE meets their credit requirement. According to the CRR Tariff Proposal, this applies to both load gaining LSEs receiving a share of allocated CRRs and to load losing LSEs receiving counterflow CRRs.

The CRR Tariff Proposal states that, in cases where the failure to show credit is persistent, the CAISO may auction the CRRs in question. However, the <u>CRR Tariff Proposal does not state how the CAISO will respond to LSEs that post credit in a late manner, and are then issued CRRs that the CAISO has held for a period of time.</u> CPUC staff understands that there are two potential options:

1. The CAISO will transfer the CRR effective the date of credit being posted (or the next reasonable date for CRR distribution), with the CAISO assuming all prior payments or obligations to pay, and the LSE assuming all future payments or obligations to pay; or

2. The CAISO will transfer the CRRs at a reasonable date for all future payments, as described in Option 1, and the CAISO will issue a payment or an obligation to pay to the LSE receiving CRRs including all charges or payments arising from the CRR for the time it was held by the CAISO.

CPUC staff support Option 2 for the following reasons:

1. CPUC staff believe that if obligations to pay were not passed on to LSEs, the LSEs may strategically select to not meet credit requirements while a CRR is negatively valued (that would otherwise require the LSE to pay), and then select to meet the credit requirements when the CRR shifts to positive value. This would permit LSEs to force the CAISO to pay for their CRRs when the CRRs are undesirable, and then to obtain benefits arising from the CRRs when they gain value. Forcing the LSE to assume all costs and payments for the time the CRR was held by the CAISO eliminates this problem because the LSE, in order to receive the positive payments, will be required to pay past obligations arising from the CRR.

2. CPUC staff believe that the CAISO should be willing to accept some delays in the posting of credit by recipients of CRRs. LSEs may not be able to anticipate that they will gain CRRs, and may be unprepared to post credit when informed of the pending CRR transfer. CPUC staff understand that the time between notification of pending CRR transfer and the requirement to post credit may be a matter of days, which may be insufficient for some LSEs to post credit. LSEs in this situation should not be excessively punished for failure to immediately post credit; and if they post credit as soon as reasonably possible, they should not be prevented from receiving payments owed to the holder of their CRRs.

3. CPUC staff believe that withholding CRR payments is not the appropriate penalty for failure to post credit because the penalty is inversely related to the harm done to the CAISO. In cases where a CRR is positively valued, forcing the CAISO to hold the CRR will bring additional revenue to the CRR Balancing Account, and implementation of Option 1 would punish the LSEs failure to post credit by denying the LSE access to those CRR payments. Conversely, in cases where a CRR is negatively valued, forcing the CAISO to hold the CRR would remove funds from the CRR Balancing Account, allowing the LSE to avoid paying penalties. Thus, the LSE doing greater harm to the CAISO escapes with a reward, while the LSE whose non-compliance did some benefit to the CAISO is punished.

CPUC staff ask that, in cases where LSEs persist in failure to post credit, the CAISO use alternate methods to penalize the LSE. CPUC staff understands that the CAISO has the authority to suspend CRR payments or prohibit market participation for LSEs that persist in failing to meet credit requirements, or other options permitted by the CAISO tariff, and suggest that the CAISO use such authority appropriately to ensure timely compliance with credit requirements.

CPUC staff believe that these provisions should be discussed in future stakeholder meetings and incorporated into the CRR Tariff Proposal prior to filing at FERC.

PG&E's Proposal for Possible Retention of CRRs to Hedge Long-Term Contracts

In previous iterations of the load migration stakeholder process, PG&E stated that it would like to develop a system by which LSEs that lose load to migration may be able to keep CRRs that it is using to hedge long-term contracts, rather than shifting a strict pro rata portion of the LSE's entire portfolio of CRRs to the gaining LSE. This proposal is not incorporated into the CRR Tariff Proposal. PG&E

has recently suggested that one method for this transfer may be to establish a process in which the losing and gaining LSEs could voluntarily agree to another package of CRRs to be shifted due to load migration in lieu of a pro rata reallocation. CPUC staff believe the establishment of a mutual agreement process for the transfer of CRRs due to load migration may be a viable solution to PG&E's concerns, and suggests further discussion among stakeholders for possible additional tariff language capturing this option.

Posting of Information Adjustments

Section 36.4 regarding the FNM for CRR Allocation and Auction explains that the CAISO will adjust OTC for long term derates and TOR adjustments. Will the CAISO be posting these adjustments? If not, please explain why.

Section 36.8.2.1 regarding Seasonal CRR Eligible Quantity includes a statement that the "CAISO calculates an LSE's Seasonal CRR Eligible Quantity by first subtracting from the LSE's Seasonal CRR Load Metric the quantity of Load served by its TORs, ETCs, and Converted Rights to form the LSE's Adjusted Load Metric, and then multiplying the result by .75." Will the CAISO be posting these adjustments? If not, please explain why.

CPUC staff believe that transparency in the new market will aid various entities' efforts to monitor the fairness and accuracy of the CAISO's operations, and the overall effectiveness of the market to provide reasonably reliable electric service at a reasonable price.

Please contact the individuals listed below with any questions or concerns:

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