

January 12, 2024

The Honorable Debbie-Anne A. Reese
Acting Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, D.C. 20246

**Re: California Independent System Operator Corporation
Docket No. ER23-2917-001**

**Response to Deficiency Letter Regarding
Subscriber Participating Transmission Owner Model**

Dear Secretary Reese:

The California Independent System Operator Corporation (CAISO) submits via eTariff the following response to the letter from the Division of Electric Power Regulation – West, dated December 14, 2023 (Deficiency Letter) requesting additional information related to the CAISO’s September 22, 2023 filing in this proceeding.¹ The September 22 Filing proposes amendments to the CAISO tariff to implement the Subscriber Participating Transmission Owner (Subscriber Participating TO) model, which will establish a new opportunity for building transmission projects and placing them under the operational control of the CAISO.

The CAISO provides responses to the numbered requests contained in the Deficiency Letter. In addition, as explained in the CAISO’s responses to Request Nos. 1 and 2 below, this filing also includes proposed modifications to the CAISO tariff that supplement and in some cases supersede tariff revisions proposed in the September 22 Filing.²

¹ The Deficiency Letter states that the “CAISO must respond within 30 days of the date of this letter by making an amendment filing in accordance with the Commission’s electronic tariff requirements,” and that the “amendment filing must include at least one tariff record . . . [and] must be filed using Type of Filing Code 180 – Deficiency Filing.” Deficiency Letter at 3 & n.5. This filing satisfies these requirements.

² The CAISO submits the tariff revisions contained in this response pursuant to section 205 of the Federal Power Act, 16 U.S.C. § 824d, and Part 35 of the Commission’s regulations, 18 C.F.R. Part 35. Capitalized terms not otherwise defined herein have the meanings set forth in

The CAISO respectfully requests that the Commission issue an order accepting the September 22 Filing, as modified by this response to the Deficiency Letter, effective March 13, 2024 (*i.e.*, 61 days after the date this response was filed). The CAISO has provided ample information, including in this response, for the Commission to find that the tariff revisions to implement the Subscriber Participating TO model are just and reasonable. Timely issuance of an order accepting the September 22 Filing, as modified by this response, will provide the needed certainty for transmission developers interested in becoming Subscriber Participating TOs in their decision-making processes and participation in procurement processes, including a developer that submitted a notice of intent on January 1, 2024, to become a Participating TO pursuant to the Subscriber Participating TO model under Section 4.3.1 of the CAISO tariff.³

I. CAISO RESPONSES

Request No. 1:

“Proposed revisions to section 24.14.4 state that, ‘[o]nce a New Participating TO has executed the Transmission Control Agreement and it has become effective, the cost for new Regional Transmission Facilities for all Participating TOs, except Subscriber Participating TOs, shall be included in the Grid-wide component of the Regional Access Charge . . .’ Additionally, Appendix F, Schedule 3, section 8.1 specifies that the ‘Regional Access Charges and Regional Wheeling Access Charges shall be adjusted . . . on the date [the Commission] makes effective a change to the Non-Subscriber Usage Rate of any Subscriber Participating TO.’ Please clarify how these tariff sections work in conjunction with each other. If a Subscriber Participating TO revises its Non-Subscriber Usage Rate and the Commission has made that rate effective, is that Non-Subscriber Usage Rate then included in the calculation of the Access Charge?”⁴

Appendix A to the CAISO tariff as revised by the September 22 Filing, and references to specific tariff sections and appendices are references to sections and appendices in the current CAISO tariff as revised by the September 22 Filing unless otherwise specified.

³ As noted in the September 22 Filing, the CAISO Board of Governors has already approved TransWest Express, LLC to become a Participating TO subject to certain conditions, including Commission acceptance of the Subscriber Participating TO model. See transmittal letter for September 22 Filing at 16. The new application referenced in the notice of intent above would follow a similar pathway if in fact the Subscriber Participating TO model is ultimately accepted by the Commission.

⁴ Deficiency Letter at 1.

CAISO Response Request No. 1:

CAISO tariff section 24.14.4 as revised by the September 22 Filing states that, once a New Participating TO has executed the Transmission Control Agreement and the executed Agreement has become effective, the Subscriber Participating TO cost will not be included in the costs for Regional Transmission Facilities and that, “[w]ith respect to cost recovery due to Non-Subscriber use of the Subscriber Participating TO transmission assets and Entitlements and unscheduled Subscriber Rights, Non-Subscriber Usage Payment Amounts will be included in the RAC [Regional Access Charge] allocation in accordance with Section 15 of Schedule 3 of Appendix F.”

Appendix F, Schedule 3, Section 8.1 as revised by the September 22 Filing is intended to operate separately from, not in conjunction with, Section 24.14.4. The tariff revisions contained in the September 22 Filing provide that, if a Subscriber Participating TO revises its Non-Subscriber Usage Rate and the Commission has made that rate effective, that Non-Subscriber Usage Rate will not be included in the calculation of the Access Charge. The CAISO recognizes that the revisions to Appendix F, Schedule 3, Section 8.1 contained in the September 22 Filing may create confusion on this point and therefore proposes to make the following tariff clarifications.

First, the CAISO proposes to modify Appendix F, Schedule 3, Section 8.1 to omit the language proposed in the September 22 Filing, which suggested that Regional Access Charges and Regional Wheeling Access Charges will be adjusted “on the date FERC makes effective a change to the Non-Subscriber Usage Rate of any Subscriber Participating TO,” and which indicated that the CAISO will recalculate on a monthly basis the Regional Access Charge during such period using “the Non-Subscriber Usage Rate of any Subscriber Participating TO”⁵:

Regional Access Charges and Regional Wheeling Access Charges shall be adjusted: (1) on January 1 and July 1 of each year when necessary to reflect the addition of any New Participating TO; and (2) on the date FERC makes effective a change to the Regional Transmission Revenue Requirements of any Participating TO or Approved Project Sponsor; ~~and (3) on the date FERC makes effective a change to the Non-Subscriber Usage Rate of any Subscriber Participating TO.~~ Using the Regional

⁵ Appendix A to the existing CAISO tariff defines the Wheeling Access Charge as “[t]he Access Charge applicable under Section 26.1 to recover the Regional Transmission Revenue Requirements of each Participating TO,” and defines the Regional Wheeling Access Charge as “[t]he Wheeling Access Charge associated with the recovery of a Participating TO’s Regional Transmission Revenue Requirements in accordance with Section 26.1.” The CAISO does not propose to revise either definition in the September 22 Filing or in this response to the Deficiency Letter.

Transmission Revenue Requirement accepted or authorized by FERC, consistent with Section 9 of this Schedule 3, for each Participating TO and Approved Project Sponsor, ~~or the Non-Subscriber Usage Rate of any Subscriber Participating TO,~~ the CAISO will recalculate on a monthly basis the Regional Access Charge applicable during such period. Revisions to the Transmission Revenue Balancing Account adjustment shall be made effective annually on January 1 based on the principal balance in the TRBA as of September 30 of the prior year and a forecast of Transmission Revenue Credits for the next year.

The CAISO also proposes to modify Appendix F, Schedule 3, Section 8.1 by adding the following clarifying provisions to the end of the section:

If a Subscriber Participating TO joins the CAISO, the Non-Subscriber Usage Payment Amount will be adjusted in accordance with Section 8.4 of this Schedule 3. The CAISO will not adjust or recalculate Regional Access Charges or Regional Wheeling Access Charges to account for FERC-approved Non-Subscriber Usage Rates.⁶

To ensure that the Non-Subscriber Usage Rate is implemented consistent with the treatment of Participating TOs other than Subscriber Participating TOs when the Commission makes the Non-Subscriber Usage Rate effective, the CAISO proposes to add new Section 8.4 to Appendix F, Schedule 3 (cross-referenced in the modified language of Section 8.1 quoted above), which will state:

After receiving notice of a change to the Non-Subscriber Usage Rates of any Subscriber Participating TO, the CAISO will recalculate on a monthly basis the Non-Subscriber Usage Payment Amount, if necessary, as of the date on which FERC makes effective a change to the Non-Subscriber Usage Rates.

These tariff revisions clarify that the Non-Subscriber Usage Rate and the Non-Subscriber Usage Payment Amount are separate from the Regional Access Charge and Regional Wheeling Charge.

As discussed in the transmittal letter for the September 22 Filing,⁷ Non-Subscribers that import over the Subscriber Participating TO facilities to serve load in the CAISO balancing area will pay the Regional Access Charge and

⁶ Accordingly, the modified version of Appendix F, Schedule 3, Section 8.1 contained in Attachments A and B to the instant filing supersedes the revised version of the same tariff section contained in the September 22 Filing.

⁷ Transmittal letter for September 22 Filing at 30-32.

exports using the Subscriber Participating TO facilities will pay the Regional Wheeling Charge. It is from the disbursement of these revenues that the Subscriber Participating TO is paid the Non-Subscriber Usage Payment Amount. These revisions also clarify that any change to the Non-Subscriber Usage Rate will (i) be passed through to all customers paying the Regional Access Charge when a change in the rate is made effective, and (ii) result in a change to the Non-Subscriber Usage Payment Amount, either higher or lower, when the change in the rate is made effective, thereby ensuring that the Subscriber Participating TO and Non-Subscriber user are paid/paying the correct rate based on when the Commission makes it effective.

Request No. 2:

“Under proposed section 7.1 ‘[e]ach Subscriber Participating TO shall develop a Non-Subscriber Usage rate . . . [that] will be no greater than the applicable Access Charge^[8] rate at the time the Subscriber Participating TO files its Non-Subscriber Usage Rate for approval by [the Commission].’

- a. Will Subscriber Participating TOs be able to file a revised Non-Subscriber Usage Rate if the Access Charge increases?
- b. Similarly, will Subscriber Participating TOs be required to revise the Non-Subscriber Usage Rate if the TAC falls below the Non-Subscriber Usage Rate on file? If not, how does CAISO intend to address a scenario in which the TAC falls below the Non-Subscriber Usage Rate, resulting in a shortfall (i.e., CAISO collecting less money via the TAC than required to pay a Subscriber Participating TO’s Non-Subscriber Usage Rate)?⁹

CAISO Response to Request No. 2(a):

Subscriber Participating TOs will have the right to file a revised Non-Subscriber Usage Rate if the Access Charge increases. Nothing in the September 22 Filing would prevent the Subscriber Participating TO from filing a revised Non-Subscriber Usage Rate in that event. This is consistent with the ability for the existing Participating TOs to file a rate increase at any time.

⁸ At this point in the Deficiency Letter, it states that the CAISO uses the defined terms Access Charge and Transmission Access Charge (TAC) interchangeably, and cites Appendix A to the CAISO tariff. References to the Access Charge and the TAC in the CAISO’s response are in reference to the Regional Access Charge, which is a subset of the Access Charge. By definition, the other components of the Access Charge do not apply and are not included in reference to the Access Charge or the TAC in this response.

⁹ Deficiency Letter at 1-2 (internal citation omitted).

CAISO Response to Request No. 2(b):

Subscriber Participating TOs will be required to revise the Non-Subscriber Usage Rate if the Transmission Access Charge (TAC) falls below the Non-Subscriber Usage Rate on file. As indicated in Appendix F, Schedule 3, Section 7.1 as proposed in the September 22 Filing, the TAC that is applicable at the time a Subscriber Participating TO files a Non-Subscriber Usage Rate represents a ceiling on the Non-Subscriber Usage Rate. To make it more clear in the tariff that the Subscriber Participating TO will be required to adjust its Non-Subscriber Usage Rate to ensure it does not exceed that ceiling in the event of a TAC reduction, and that the disbursement of Non-Subscriber Usage Payment Amounts cannot exceed the ceiling, the CAISO proposes to modify Appendix F, Schedule 3, Section 15.1(a) as proposed in the September 22 Filing to include the following new provisions shown in underlined text:

Each Non-Subscriber Usage Payment Amount equals (i) the applicable Non-Subscriber Usage Rate, not to exceed the applicable Regional Access Charge rate, multiplied by (ii) the sum of the absolute value of the MWh flow of a Non-Subscriber's imports at the applicable Scheduling Point plus the sum of the absolute value of the MWh flow of a Non-Subscriber's exports at the applicable Scheduling Point. If any Subscriber Participating TO's Non-Subscriber Usage Rate exceeds the then-applicable Regional Access Charge rate, that Subscriber Participating TO will promptly file for FERC acceptance of an update to its Non-Subscriber Usage Rate so it is no greater than the decreased applicable Regional Access Charge rate and will propose that the decreased \$/MWh charge become effective as of the same date the decreased applicable Regional Access Charge rate went into effect. The CAISO will limit the disbursement of the Non-Subscriber Usage Payment Amounts to a maximum rate of the applicable Regional Access Charge as of the date the FERC-approved decreased Non-Subscriber Usage Rate is made effective.¹⁰

¹⁰ The CAISO also proposes to modify Appendix F, Schedule 3, Section 15.1(a) to omit the phrase "pursuant to this Section 15.1(a) of Schedule 3," which is an erroneous cross-reference. In addition, the CAISO proposes to modify Appendix F, Schedule 3, Section 15.1(b)(i) to add the word "Regional" before the words "Access Charge and Wheeling Access Charge," to make it clear that the referenced provision applies to the Regional Access Charge and the Regional Wheeling Access Charge. Furthermore, the CAISO proposes to modify Appendix F, Schedule 3, Section 15.2 to add a reference to Subscriber Encumbrances that parallels the use of that term in Appendix F, Schedule 3, Section 15.2. Accordingly, the modified versions of Appendix F, Schedule 3, Sections 15.1(a), 15.1(b)(i), and 15.2 contained in Attachments A and B to the instant filing supersede the proposed versions of the same tariff sections contained in the September 22 Filing.

Further, consistent with the need to observe the ceiling imposed by the TAC at all times, the CAISO proposes to add new Section 7.2 to Appendix F, Schedule 3:

If the applicable Regional Access Charge rate later decreases below the \$/MWh charge contained in a Subscriber Participating TO's FERC-approved Non-Subscriber Usage Rate, the CAISO will limit the disbursement of revenues pursuant to Section 15 of this Schedule 3 to the applicable Regional Access Charge rate until the Subscriber Participating TO refiles its Non-Subscriber Usage Rate to be no greater than the applicable Regional Access Charge rate.¹¹

The new tariff provisions in Sections 7.2 and 15.1(a) of Schedule 3 will ensure that the ceiling on the Non-Subscriber Usage rate proposed in the September 22 Filing is always observed both by the Subscriber Participating TO and in the disbursement of revenues. As explained in the answer the CAISO filed in this proceeding on October 30, 2023 (October 30 CAISO Answer), the CAISO periodically posts updates to the TAC on its website.¹² Further, whenever the CAISO implements an update to the TAC, it sends a market notice to all market participants to announce the update. Participating Transmission Owners may also subscribe to a daily briefing service the CAISO provides related to TAC rates.¹³ Thus, Subscriber Participating TOs will have transparency as to any updates to the TAC that will allow them to make filings to update their Non-Subscriber Usage Rates accordingly.

¹¹ The CAISO also proposes minor clarifying modifications to the title of Appendix F, Schedule 3, Section 7 and to Section 7.1 itself. Accordingly, the modified version of Appendix F, Schedule 3, Sections 7 and 7.1 contained in Attachments A and B to the instant filing supersede the proposed versions of the same tariff sections contained in the September 22 Filing.

¹² See October 30 CAISO Answer at 7 n.14.

¹³ See Business Practice Manual for Settlements and Billing, Attachment F (Transmission Access Charge Rates Submission Procedure), at Step 4: Communication of Rate Changes. The cited document is available on the CAISO website at <https://bpmcm.caiso.com/Pages/SnBBPMDetails.aspx?BPM=Settlements%20and%20Billing>.

Request No. 3:

“CAISO states that because the Subscriber Participating TO transmission facilities will add new scheduling points, CAISO will be receiving more revenue as a result of non-subscriber uses of those facilities than will be required to meet the existing Subscriber Participating TO’s transmission revenue requirements, and asserts that this additional revenue will be available to pay the non-subscriber usage payment amount to Subscriber Participating TOs.^[14] CAISO also explains that if the Regional Wheeling Access Charge (WAC) revenue is insufficient to fully pay the non-subscriber usage payment amounts, any remainder will be paid by using the TAC.^[15]

- a. To the extent that the non-subscriber usage payments reflect a shortfall in a given year and the shortfall is funded through TAC revenues that would otherwise flow to Subscriber Participating TOs, please explain how Subscriber Participating TOs will recover the shortfall in their transmission revenue requirements. How would non-subscriber usage payment shortfalls affect the TAC over time, assuming no change in gross load year over year?”¹⁶

CAISO Response to Request No. 3 (Including Request No. 3(a)):

A Subscriber Participating TO would not experience a shortfall in Transmission Revenue Requirements because Subscriber Participating TOs do not have Transmission Revenue Requirements for their facilities initially placed under the CAISO’s operational control. Instead they have a Non-Subscriber Usage Rate.

The portion of the CAISO’s September 22 Filing cited in the first sentence of Request No. 3 reads:

Because the Subscriber Participating TO transmission facilities will add new scheduling points, the CAISO will be receiving more revenue as a result of Non-Subscriber uses of those facilities than will be required to meet *the existing Participating TO’s* [not “the existing Subscriber Participating TO’s,” as stated in Request No. 3] Transmission Revenue Requirements. This additional revenue will

¹⁴ At this point in the Deficiency Letter, it cites the transmittal letter for the September 22 Filing at pages 32 and 35.

¹⁵ At this point in the Deficiency Letter, it cites the transmittal letter for the September 22 Filing at pages 31-32.

¹⁶ Deficiency Letter at 2-3.

be available to pay the Non-Subscriber Usage Payment Amount to the Subscriber Participating TO.¹⁷

The “existing Participating TO” referenced in the quoted language above means the existing Participating TOs *other than* a Subscriber Participating TO,¹⁸ because only an existing, non-Subscriber Participating TO (*i.e.*, an existing Participating TO other than a Subscriber Participating TO) can have a Transmission Revenue Requirement. Again, a Subscriber Participating TO will not have a Transmission Revenue Requirement for its initial transmission facilities – which are the only facilities for which the Subscriber Participating TO would be eligible to receive Non-Subscriber Usage Payment Amounts. As explained in the September 22 Filing:

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.¹⁹

¹⁷ Transmittal letter for September 22 Filing at 32 (emphasis added).

¹⁸ The first sentence of Request No. 3 also cites page 35 of the transmittal letter for the September 22 Filing, which states:

The Subscriber Participating TO will add more scheduling points to the CAISO balancing area and thereby bring in more revenue than existed prior to the interconnection of its transmission facilities. In addition, 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. Thus, it is only fair that they [*i.e.*, the existing Participating TOs] receive that revenue as part of the compensation for Non-Subscribers using the Subscriber Participating TO’s transmission facilities.

¹⁹ Transmittal letter for September 22 Filing at 34 (citing new tariff section 4.3A.7.3(a) as proposed in the September 22 Filing) (emphasis added); *see also* transmittal letter for September 22 Filing at 3 (“Subscribers in the new transmission project will be solely responsible for funding the project without establishing a Transmission Revenue Requirement to recover their costs from ratepayers through the CAISO’s Transmission Access Charge (TAC) and Wheeling Access Charge (WAC).”). The September 22 Filing also states that although the Subscriber Participating TO may not seek a Transmission Revenue Requirement for the costs of its initial transmission project, “[t]he Subscriber Participating TO may *subsequently* construct additions or upgrades to the initial transmission project that are funded solely by Commission-approved Transmission Revenue Requirements *and not used to provide Subscriber Rights* only to the extent authorized under the CAISO tariff.” *Id.* at 21 (citing new tariff section 4.3A.1) (emphases added); *see also id.* at 36 (“A Subscriber Participating TO may seek Commission approval of a Transmission Revenue Requirement for additions and upgrades to its transmission assets and Entitlements undertaken to facilitate an interconnection or pursuant to the Transmission Planning Process,

The portion of the September 22 Filing cited in the second sentence of Request No. 3 states that “[i]f the Wheeling Access Charge [WAC] revenue is insufficient to fully pay the Non-Subscriber Usage Payment Amounts, then the remainder will be paid by using Transmission Access Charge revenue received by the CAISO prior to allocating the TAC revenue *to the other Participating TOs*” besides the Subscriber Participating TO.²⁰

Assuming Request No. 3(a) refers to non-Subscriber Participating TOs, any shortfall in Non-Subscriber Usage Payment Amounts that are funded through TAC revenues would be addressed pursuant to the relevant provisions in Appendix F, Schedule 3 as revised by the September 22 Filing. Specifically, pursuant to Appendix F, Schedule 3, new Section 10.1(c), the shortfall in the Regional Access Charge (RAC) Revenue Adjustment would roll over to a subsequent month. If that is insufficient to resolve the shortfall, non-load-serving Participating TOs and Approved Project Sponsors would include any under-recovery in the Regional Transmission Revenue Balancing Account consistent with Appendix F, Schedule 3, existing Section 6.1(b). Participating TOs with load would have the ability to update their Regional Revenue Requirements in accordance with Appendix F, Schedule 3, existing Section 9.1.²¹ Applying these tariff provisions would keep these Participating TOs financially whole.

Lastly, in response to the question at the end of Request No. 3(a) that asks how Non-Subscriber usage payment shortfalls would affect the TAC over time, assuming no change in gross load year over year, such shortfalls could increase the TAC if there were both (1) no load growth and (2) limited WAC revenues (*e.g.*, due to imports significantly exceeding exports and the level of the Non-Subscriber Usage Rate being only a little below the level of the TAC). The CAISO believes it is unlikely that both (1) and (2) in the preceding sentence

unless such additions or upgrades are for the benefit of Subscribers in the use of their Subscriber Rights consistent with their original Participating TO application.”) (emphasis added).

²⁰ Transmittal letter for September 22 Filing at 31-32 (emphasis added).

²¹ Appendix F, Schedule 3, existing Section 9.1, which the CAISO does not propose to revise in this proceeding, reads:

Participating TOs and Approved Project Sponsors will make the appropriate filings at FERC to establish their Transmission Revenue Requirements for their Local Access Charges and the Regional Access Charge, and to obtain approval of any changes thereto. All such filings with the FERC will include a separate appendix that states the RTRR [Regional Transmission Revenue Requirement], LTRR [Local Transmission Revenue Requirement] (if applicable) and the appropriate Gross Load data and other information required by the FERC to support the Access Charges. The Participating TO or Approved Project Sponsor will provide a copy of its filing to the CAISO and the other Participating TOs and Approved Project Sponsors in accordance with the notice provisions in the Transmission Control Agreement.

would occur. The CAISO anticipates that a Subscriber Participating TO may increase the number of CAISO scheduling points and additional exports over these new scheduling points will increase WAC revenues. Furthermore, all indications are that load in the CAISO balancing area will continue to increase and the pool of revenue available will also increase.²² In light of projected load growth and increased export locations, the CAISO believes any shortfall is extremely unlikely.²³ The question posed at the end of Request No. 3(a) describes a hypothetical scenario that in the CAISO's view is unlikely to occur, although it remains theoretically possible that the Non-Subscriber Usage Rate could result in some increase to the TAC over time. Regardless, any increase in the TAC based on these circumstances would not result from recovery of any original facility costs through the TAC, because such recovery is expressly precluded as explained above in this response.

Request No. 4:

“CAISO states that, in accordance with the existing CAISO tariff, it will assess the TAC for Non-Subscriber imports that use scheduling points on the Subscriber Participating TO's transmission facilities, and will assess the WAC for the Non-Subscriber exports and wheeling through transactions that use such scheduling points.^[24] Please explain what the existing Tariff provides for with regard to assessing the TAC on imports that are not part of a wheeling through transaction and provide the applicable Tariff sections.”²⁵

CAISO Response to Request No. 4:

The CAISO statement cited in Request No. 4 illustrates that the imports using the Non-Subscriber Participating TO facility are likely serving a CAISO load and therefore will pay the TAC.²⁶ Specifically, existing section 26.1(a) of the CAISO tariff provides that:

²² See Southern California Edison Company's *Pathway 2045*, white paper executive summary (November 2019) (representing that “[b]y 2045, significant electrification of the state's economy combined with population and economic growth will result in a 60% increase in electricity sales from the grid and a 40% increase in peak load”), available at <https://www.edison.com/our-perspective/pathway-2045>.

²³ See transmittal letter for September 22 Filing at 9-11, 32-33; October 30 CAISO Answer at 8-18; page 4 of the limited answer filed by the CAISO in this proceeding on November 17, 2023 (November 17 CAISO Limited Answer).

²⁴ At this point in the Deficiency Letter, it cites the transmittal letter for the September 22 Filing at page 31.

²⁵ Deficiency Letter at 3.

²⁶ See existing tariff section 26.1(c) for the TAC and existing tariff section 26.1.4 for the WAC.

All Market Participants withdrawing Energy from the CAISO Controlled Grid shall pay Access Charges in accordance with this Section 26.1 and Appendix F, Schedule 3, except (1) as provided in Section 4.1 of Appendix I (Station Power Protocol) and (2) for storage resources, including Non-Generator Resources and Pumped-Storage Hydro Units, withdrawing Energy for later resale to the CAISO Markets or to provide Ancillary Services.

Market Participants withdrawing energy imported over Subscriber Participating TO's transmission facilities that is then withdrawn from the CAISO Controlled Grid – *i.e.*, load – will pay the TAC.

Beyond this payment of the TAC by load, the existing tariff does not separately charge an Access Charge for imports not tied to an export, *i.e.*, imports that are not part of wheeling through transactions. The CAISO market only charges a WAC to exports and wheeling through transactions. While it is true the TAC and the WAC are the same \$/MWh charge, they apply to different transactions.²⁷ Under existing definitions contained in Appendix A to the tariff, “Wheeling” means only “Wheeling Out” (*i.e.*, exports out of the CAISO Controlled Grid) and “Wheeling Through,” and the “Wheeling Access Charge” is defined in relevant part as “[t]he charge assessed by the CAISO that is paid by a Scheduling Coordinator for Wheeling in accordance with Section 26.1.”²⁸ None of the tariff revisions in the September 22 Filing alter this existing framework.

Request No. 5:

“Proposed new language in section 26.1 states that ‘Non-Subscribers scheduling transactions on the transmission assets or Entitlements of a Subscriber Participating TO shall pay the Access Charge and Wheeling Access Charge, as applicable.’ Under CAISO’s proposal, if a scheduling coordinator’s import bid clears the day-ahead market or real-time market at a Subscriber Participating TO’s scheduling point, what would be the applicable Access Charge for such a transaction? Would the applicable Access Charge be in addition to Access Charges that would be assessed based on load in CAISO that is served by the import? Please explain.”²⁹

²⁷ See October 30 CAISO Answer at 8 & n.16.

²⁸ The CAISO does not propose to revise any of these definitions in the September 22 Filing.

²⁹ Deficiency Letter at 3.

CAISO Response Request No. 5:

In response to the first question posed in Request No. 5, if the scheduling coordinator's cleared import bid served CAISO load, the scheduling coordinator would pay the TAC as explained in the CAISO's response to Request No. 4. If the scheduling coordinator's import bid were for exports out of the CAISO balancing area, the scheduling coordinator would pay the WAC.³⁰

In response to the second question posed in Request No. 5, the applicable Access Charge would not be in addition to Access Charges assessed based on load in the CAISO that is served by the import. Pursuant to the September 22 Filing, the Access Charge would apply to any Non-Subscriber use of Subscriber Participating TO transmission facilities once, not twice. Indeed, as explained in the September 22 Filing, the CAISO and stakeholders developed the Non-Subscriber Usage Payment Amount with the specific purpose of avoiding such "rate pancaking":

The CAISO had initially considered a separate subscriber wheeling charge to be assessed to customers for Non-Subscriber transmission service on Subscriber Participating TO's facilities. Such a separate subscriber wheeling charge would have been in addition to the TAC for service on the CAISO controlled grid up to the Subscriber Participating TO's transmission facilities. Stakeholders raised concerns that having customers pay two charges under the CAISO tariff for service over portions of the CAISO controlled grid would introduce a rate "pancake" and lead to market inefficiencies. To address these concerns, the CAISO modified its proposal so that Non-Subscriber uses of Subscriber Participating TO facilities will pay a single rate for use of the CAISO controlled grid – the existing applicable Access Charge. In addition, if the load or export being serviced by the generator associated with Subscriber Rights is not connected to the Subscriber Participating TO's facilities, then Subscribers will also pay the applicable Access Charge.³¹

The tariff revisions contained in the September 22 Filing will ensure that rate pancaking cannot and will not occur.

³⁰ See the CAISO's response above to Request No. 4.

³¹ Transmittal letter for September 22 Filing at 30-31. See *also id.* at 31-35 and November 17 CAISO Limited Answer at 3-4 (providing additional discussion).

II. CONTENTS OF FILING

In addition to this response to the Deficiency Letter, this filing includes the following attachments:

Attachment A	Clean tariff sheets showing the modified CAISO tariff provisions discussed in the responses above to Request Nos. 1 and 2
Attachment B	Red-lined tariff revisions showing the CAISO tariff modifications discussed in the responses above to Request Nos. 1 and 2

III. EFFECTIVE DATE

The September 22 Filing requested that the Commission accept the tariff revisions contained therein effective December 21, 2023.³² Given the issuance of the Deficiency Letter on December 14, 2023, the CAISO now respectfully requests that the Commission issue an order accepting the September 22 Filing, as modified by this response to the Deficiency Letter, effective March 13, 2024 (*i.e.*, 61 days after the date this response was filed).³³ The CAISO has provided ample information, including in this response, for the Commission to find that the tariff revisions implementing the Subscriber Participating TO model are just and reasonable.³⁴

As the CAISO previously explained, timely issuance of an order accepting the September 22 Filing will provide the needed certainty for transmission developers interested in becoming Subscriber Participating TOs in their decision-making processes. In addition, such Commission acceptance will provide certainty to the ultimate load serving entities as to the implementation of the Subscriber Participating TO model and its market and financial impacts, so they

³² Transmittal letter for September 22 Filing at 38.

³³ In order to ensure that the tariff revisions in the September 22 Filing, as modified by this response, become effective as a single coherent set of tariff amendments, the CAISO is also refiled the remaining tariff records from that filing with the same proposed effective date of March 13, 2024. No clean tariff sheets or red-lined tariff revisions are included for the tariff records from the September 22 Filing unaffected by the textual revisions accompanying this Deficiency Letter response, since the new requested effective date is the only change proposed to those tariff records.

³⁴ “The 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 statutory standard.” *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168, at P 17 (2021) (citing court and Commission precedent).

can make more informed decisions about becoming off-takers. Moreover, it will provide sufficient time for potential Subscriber Participating TOs to respond to requests for offers in future procurement proceedings, an essential step in the process to secure Subscribers and move forward with financing and development of the underlying transmission facilities.³⁵

These same considerations apply today with even greater urgency given that it is now several weeks after the CAISO's originally requested December 21, 2023 effective date. In addition, another developer filed a letter of intent to become a Participating TO, and is interested in joining the CAISO as a Subscriber Participating TO. Other developers may be considering the Subscriber Participating TO model and express similar interest in the near future.

IV. SERVICE

The CAISO has served copies of this filing on all intervenors in this proceeding. In addition, the CAISO has posted a copy of this filing on the CAISO website.

V. CONCLUSION

The CAISO respectfully requests that the Commission consider this response to the Deficiency Letter and issue an order accepting the September 22 Filing, as modified by this response, effective March 13, 2024.

Respectfully submitted,

/s/ John Anders

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³⁵ Transmittal letter for September 22 Filing at 38.

Attachment A – Clean Tariff

Deficiency Response – Subscriber Participating Transmission Owner Model

California Independent System Operator Corporation

January 12, 2024

[Note: **Yellow-shaded text** in the language below indicates new tariff language proposed in the CAISO's deficiency letter response.]

Appendix F

Schedule 3

Regional Access Charge and Wheeling Access Charge

* * * * *

7 Determination of **and Updates to the Non-Subscriber Usage Rate**

7.1 Each Subscriber Participating TO shall develop a Non-Subscriber Usage Rate in accordance with its TO Tariff, including a \$/MWh charge **that** will be no greater than the applicable **Regional Access Charge** rate at the time the Subscriber Participating TO files its Non-Subscriber Usage Rate for approval by FERC.

7.2 **If the applicable Regional Access Charge rate later decreases below the \$/MWh charge contained in a Subscriber Participating TO's FERC-approved Non-Subscriber Usage Rate, the CAISO will limit the disbursement of revenues pursuant to Section 15 of this Schedule 3 to the applicable Regional Access Charge rate until the Subscriber Participating TO refiles its Non-Subscriber Usage Rate to be no greater than the applicable Regional Access Charge rate.**

8 Updates to Regional Access Charges.

8.1 Regional Access Charges and Regional Wheeling Access Charges shall be adjusted: (1) on January 1 and July 1 of each year when necessary to reflect the addition of any New Participating TO **and** (2) on the date FERC makes effective a change to the Regional Transmission Revenue Requirements of any Participating TO or Approved Project Sponsor. Using the Regional Transmission Revenue Requirement accepted or authorized by FERC, consistent with Section 9 of this Schedule 3, for each Participating TO and Approved Project Sponsor, **the CAISO will recalculate on a monthly basis the Regional Access Charge applicable during such period.**

Revisions to the Transmission Revenue Balancing Account adjustment shall be made effective annually on January 1 based on the principal balance in the TRBA as of September 30 of the prior year and a forecast of Transmission Revenue Credits for the next year. **If a Subscriber Participating TO joins the CAISO, the Non-Subscriber Usage Payment Amount will be adjusted in accordance with Section 8.4 of this Schedule 3. The CAISO will not adjust or recalculate Regional Access Charges or Regional Wheeling Access Charges to account for FERC-approved Non-Subscriber Usage Rates.**

8.2 Any refund associated with a Participating TO's or Approved Project Sponsor's Transmission Revenue Requirement that has been accepted by FERC, subject to refund, shall be provided as ordered by FERC. Such refund shall be invoiced in the CAISO Market Invoice.

8.3 If the Participating TO withdraws one or more of its transmission facilities from the CAISO Operational Control in accordance with Section 3.4 of the Transmission Control Agreement, then the CAISO will no longer collect the TRR for that transmission facility through the CAISO's Access Charge effective upon the date the transmission facility is no longer under the Operational Control of the CAISO. The withdrawing Participating TO shall be obligated to provide the CAISO will all necessary information to implement the withdrawal of the Participating TO's transmission facilities and to make any necessary filings at FERC to revise its TRR. The CAISO shall revise its transmission Access Charge to reflect the withdrawal of one or more transmission facilities from CAISO Operational Control.

8.4 **After receiving notice of a change to the Non-Subscriber Usage Rates of any Subscriber Participating TO, the CAISO will recalculate on a monthly basis the Non-Subscriber Usage Payment Amount, if necessary, as of the date on which FERC makes effective a change to the Non-Subscriber Usage Rates.**

* * * * *

15 **Payments by Non-Subscribers for Use of Subscriber Participating TO Facilities.**

15.1 **Subscriber Participating TO Facilities Used to Provide Subscriber Rights.**

- (a) **Provision of Non-Subscriber Usage Payment Amounts.** The CAISO will provide Non-Subscriber Usage Payment Amounts to a Subscriber Participating TO for Non-Subscriber use of the Subscriber Participating TO's transmission assets and Entitlements and Subscriber Encumbrances used to provide Subscriber Rights each month. The Non-Subscriber Usage Payment Amounts will be funded first by using Wheeling Access Charge revenue received by the CAISO pursuant to this Section 15.1(a) of Schedule 3 and, if the Wheeling Access Charge revenue is insufficient to fully pay the Non-Subscriber Usage Payment Amounts, second by using Access Charge revenue received by the CAISO. Each Non-Subscriber Usage Payment Amount equals (i) the applicable Non-Subscriber Usage Rate, not to exceed the applicable Regional Access Charge rate, multiplied by (ii) the sum of the absolute value of the MWh flow of a Non-Subscriber's imports at the applicable Scheduling Point plus the sum of the absolute value of the MWh flow of a Non-Subscriber's exports at the applicable Scheduling Point. If any Subscriber Participating TO's Non-Subscriber Usage Rate exceeds the then-applicable Regional Access Charge rate, that Subscriber Participating TO will promptly file for FERC acceptance of an update to its Non-Subscriber Usage Rate so it is no greater than the decreased applicable Regional Access Charge rate and will propose that the decreased \$/MWh charge become effective as of the same date the decreased applicable Regional Access Charge rate went into effect. The CAISO will limit the disbursement of the Non-Subscriber Usage Payment Amounts to a maximum rate of the applicable Regional Access Charge as of the date the FERC-approved decreased Non-Subscriber Usage Rate is made effective.
- (b) **Treatment of Excess Amounts.** For each month and Subscriber Participating TO,
- (i) If the total Regional Access Charge and Wheeling Access Charge revenue received by the CAISO pursuant to this Section 15.1 of Schedule 3 exceeds the total calculated Non-Subscriber Usage Payment Amounts, then the excess amount will be added back to the RAC for allocation to the other Participating TOs besides the Subscriber Participating TO.

15.2 Subscriber Participating TO Facilities Not Used to Provide Subscriber Rights. Each Non-Subscriber that uses Subscriber Participating TO transmission assets, Entitlements, or Subscriber Encumbrances other than those used to provide Subscriber Rights will pay for such use pursuant to the applicable provisions of the CAISO Tariff rather than this Section 15.1 of Schedule 3.

Attachment B – Marked Tariff

Deficiency Response – Subscriber Participating Transmission Owner Model

California Independent System Operator Corporation

January 12, 2024

[Notes: Unshaded red-lining in the text below is reproduced from the red-line contained in the September 22 Filing. **Yellow-shaded red-lining** in the text below indicates new tariff language proposed in the CAISO's deficiency letter response. Please see Attachment B to the September 22 Filing for the balance of red-lined changes proposed in this proceeding.]

Appendix F

Schedule 3

Regional Access Charge and Wheeling Access Charge

* * * * *

7 ~~[NOT USED]~~ **Determination of and Updates to the Non-Subscriber Usage Rate**

7.1 ~~Each Subscriber Participating TO shall develop a Non-Subscriber Usage Rate in accordance with its TO Tariff, including a \$/MWh charge that will be no greater than the applicable Regional Access Charge rate at the time the Subscriber Participating TO files its Non-Subscriber Usage Rate for approval by FERC.~~

7.2 **If the applicable Regional Access Charge rate later decreases below the \$/MWh charge contained in a Subscriber Participating TO's FERC-approved Non-Subscriber Usage Rate, the CAISO will limit the disbursement of revenues pursuant to Section 15 of this Schedule 3 to the applicable Regional Access Charge rate until the Subscriber Participating TO refiles its Non-Subscriber Usage Rate to be no greater than the applicable Regional Access Charge rate.**

8 **Updates to Regional Access Charges.**

8.1 Regional Access Charges and Regional Wheeling Access Charges shall be adjusted: (1) on January 1 and July 1 of each year when necessary to reflect the addition of any New Participating TO; ~~and~~ (2) on the date FERC makes effective a change to the Regional Transmission Revenue Requirements of any Participating TO or Approved Project Sponsor; ~~and~~ (3) **on the date FERC makes effective a change to the Non-Subscriber Usage Rate of any Subscriber Participating TO.**

Using the Regional Transmission Revenue Requirement accepted or authorized by FERC, consistent with Section 9 of this Schedule 3, for each Participating TO and Approved Project Sponsor, or the Non-Subscriber Usage Rate of any Subscriber Participating TO, the CAISO will recalculate on a monthly basis the Regional Access Charge applicable during such period. Revisions to the Transmission Revenue Balancing Account adjustment shall be made effective annually on January 1 based on the principal balance in the TRBA as of September 30 of the prior year and a forecast of Transmission Revenue Credits for the next year. If a Subscriber Participating TO joins the CAISO, the Non-Subscriber Usage Payment Amount will be adjusted in accordance with Section 8.4 of this Schedule 3. The CAISO will not adjust or recalculate Regional Access Charges or Regional Wheeling Access Charges to account for FERC-approved Non-Subscriber Usage Rates.

8.2 Any refund associated with a Participating TO's or Approved Project Sponsor's Transmission Revenue Requirement that has been accepted by FERC, subject to refund, shall be provided as ordered by FERC. Such refund shall be invoiced in the CAISO Market Invoice.

8.3 If the Participating TO withdraws one or more of its transmission facilities from the CAISO Operational Control in accordance with Section 3.4 of the Transmission Control Agreement, then the CAISO will no longer collect the TRR for that transmission facility through the CAISO's Access Charge effective upon the date the transmission facility is no longer under the Operational Control of the CAISO. The withdrawing Participating TO shall be obligated to provide the CAISO with all necessary information to implement the withdrawal of the Participating TO's transmission facilities and to make any necessary filings at FERC to revise its TRR. The CAISO shall revise its transmission Access Charge to reflect the withdrawal of one or more transmission facilities from CAISO Operational Control.

8.4 After receiving notice of a change to the Non-Subscriber Usage Rates of any Subscriber Participating TO, the CAISO will recalculate on a monthly basis the Non-Subscriber Usage Payment Amount, if necessary, as of the date on which FERC makes effective a change to the Non-Subscriber Usage Rates.

* * * * *

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- (b) **Treatment of Excess Amounts.** For each month and Subscriber Participating TO,
- (i) If the total Regional Access Charge and Wheeling Access Charge revenue

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