

**COMMENTS OF THE ALLIANCE FOR RETAIL ENERGY MARKETS
ON THE CAISO'S MAY 18, 2007
CRR ISSUES PAPER**

The Alliance for Retail Energy Markets (AReM)¹ appreciates the opportunity to provide comments on the CAISO's May 18th CRR Issues Paper. AReM has no comments at present on procedures for modeling transmission outages for the monthly CRR allocation and auction processes but looks forward to reviewing other stakeholder comments on this topic. AReM's views on the other topics are provided below. At the end, AReM has added a new topic to be considered by stakeholders – the process by which new LSEs qualify for and obtain CRRs.

Load Migration

AReM appreciates the complexity of this topic and looks forward to working with other stakeholders to find appropriate solutions. AReM's comments follow the format of the CAISO's May 18th paper.

Objectives and Principles – AReM understands that the listing of “objectives and principles” in the paper² represents a consolidation of desires expressed by various stakeholders. As mentioned by CAISO staff on the May 29th call, some are clearly mutually-exclusive. Rather than spend time refining the list and weeding out conflicts, AReM suggests leaving the list as is – a compilation of stakeholder desires – and not using additional valuable time to attempt to reach agreement.

¹ AReM is a California non-profit mutual benefit corporation comprised of electric service providers that serve the majority of the state's direct access load. This filing represents the position of AReM, but not necessarily the view of any affiliates of its members with respect to any specific issue.

² CRR Issues Paper at 7.

Transfer of Financial Equivalent – Electric Service Providers (ESPs) have argued for and support the provision contained in the current CRR tariff language that allows load-serving entities (LSEs) the *option* to negotiate a financial settlement in lieu of transferring the actual Seasonal CRRs to the LSE gaining the load. AReM envisions that this option would be used rarely, but would be most useful if tiny amounts of load were lost and the LSEs involved could simply negotiate a financial settlement. Clearly, the two LSEs employing this approach would be obligated to report it to the CAISO to ensure that (1) the CAISO did not reduce the CRRs of the LSE losing the load and (2) the LSE gaining the load confirmed that the LSE losing the load had met its obligation of financial equivalency under the tariff.

LT-CRRs complicate this calculation and, if held by the LSE losing the load, could mean that tiny amounts of the LT-CRRs would have to be transferred, somewhat negating the benefits of using the approach of a financial settlement. AReM suggests allowing the LSE losing the load the option to negotiate a financial settlement for the LT-CRRs as well. The negotiation would be bilateral and, if unsuccessful, the normal CRR transfer rules would apply.

The main CAISO obligation would be to put in place a reporting requirement and internal checks that would ensure that the normal CRR transfer mechanism be superceded if the financial settlement option is used by the two LSEs involved in the load migration. AReM would appreciate hearing the CAISO's thoughts on how this can be implemented.

Eligible vs. Ineligible LT-CRRs – AReM strongly opposes this proposal by PG&E and believes it to be unjust, unreasonable and unduly discriminatory. FERC's Orders 681 and 681-A require transmission rights to follow the load, recognizing that

such rights are based on the load's payments for the embedded costs of the system. There is no justification for separating such rights into two categories – rights that go and rights that stay. PG&E wishes to tie its rights to certain sources that it owns or for which it has long-term contracts. Although on the surface this desire has some merit, in reality, the proposal is complex to implement and assumes that such sources are *never* selling power into the wholesale market for re-sale (and for which another LSE may wish to obtain a congestion hedge). AReM believes that the FERC would determine this proposal to be unduly discriminatory.

AReM enumerates the following additional issues with PG&E's proposal:

- The selection of the “eligible” LT-CRRs is solely by the LSE losing load. This would mean that highly valuable LT-CRRs desired by all LSEs (e.g., Intertie LT-CRRs) would likely be categorized as “ineligible” – an unjust outcome.
- The proposal would “replace” the LT-CRR with a Seasonal CRR. So, the LSE *losing* the load could be far better off – it lost the load forever (or until the load decided to come back) but only a year's worth of congestion revenue. It gets to *keep* the congestion revenue on the remaining term of the LT-CRRs. This provides a discriminatory outcome to the LSE gaining the load.
- What if the LSE losing the load elects to make *all* of its negatively-valued LT-CRRs “eligible?” Another clearly discriminatory outcome would result.

- Who would decide the amount of the “eligible” vs. “ineligible” LT-CRRs to be designated and what would be the methodology to do so?
- Would there be a maximum MW amount that *could* be designated as “ineligible?”
- What if an LSE lost load that exceeds the MW amount of the “eligible” LT-CRRs? How would that be handled?

As indicated by the above questions and concerns, AReM believes that the PG&E proposal should be rejected and not considered further by the CAISO. Working out any reasonable compromise that could potentially make it through the FERC approval process is unlikely and diverts scarce resources that can be far better put to work on the CRR transfer mechanism.

Functionality – AReM agrees that the CAISO should take a lead role in establishing the systems and requirements for data transfer and that California can learn from other ISOs which already accommodate retail access and transfer of such rights.

Definition of CRRs to be Transferred – AReM continues to support *pro-rata* transfer of CRRs to reflect load migration. AReM agrees with the CAISO’s statement³ that designating certain CRRs not subject to transfer is “complex.” AReM’s opposition to this proposal by PG&E is discussed above.

“Lost CRRs” -- Several of the CAISO’s “considerations” in this section refer to “lost CRRs.” AReM is not entirely clear on these issues and would appreciate further explanation, in particular regarding the reference to “buy back” by the previous

³ CRR Issues Paper at 11.

LSE.⁴ AReM questions whether these concerns are significant enough to warrant immediate resolution given our tight time frame.

“Useful” CRRs – The paper raises the point that some LSEs may not serve in all Load Aggregation Points (LAPs) and could, through load migration and associated CRR transfers, receive CRRs that are not “useful.” The CAISO suggests this could be avoided by “transferring the load side of CRRs separately for each LAP.”⁵ AReM does not understand how this would work and requests further explanation. AReM is concerned that such an approach may particularly disadvantage ESPs. AReM also wonders why this issue needs resolution at present. For Seasonal and monthly CRRs, the period of “usefulness” is limited. For LT-CRRs, non-“useful” CRRs could be re-sold during each year for the remaining term. Eventually, the CAISO has committed to allow re-sale in its monthly and annual auctions, which would allow LSEs to unload any unneeded CRRs simply and with, presumably, low transaction costs.

Transparent Formulae – AReM agrees with this principle and commits to working with all stakeholders to achieve this result.

Financial Equivalent –

For Bilateral Transfers -- As described above, AReM views this option as one used rarely and resolved through bilateral negotiations. As a result, the two LSEs involved in the load transfer must come to terms on their own views of “financial equivalent.” The CAISO has no need to set requirements on how this would be measured. If the negotiations are unsuccessful, the normal CRR transfer mechanism would be used.

⁴ CRR Issues Paper at 11.

⁵ CRR Issues Paper at 12.

For Use as the CRR Transfer Mechanism -- AReM agrees that one approach for CRR transfers may be to transfer the future payment stream of the CRRs. As discussed on the May 29th call, we see this as equivalent to transferring the actual CRRs. Perhaps, this, then, is a software question – is it simpler for the CAISO’s systems to transfer the actual CRRs or the future payment streams for those CRRs? Perhaps, there is no difference. AReM would appreciate further discussion of this topic.

Business Processes – AReM agrees that clear processes are needed and supports the CAISO registering the transfer of the CRRs. AReM believes that California may learn from other ISOs on the best business practices to accomplish the transfer and looks forward to that discussion in the CAISO’s next paper.

Reporting of Load Migration – AReM supports data reporting by the Utility Distribution Companies (UDCs), subject to notification of the affected LSEs. AReM envisions that the UDC would copy each LSE on the report send to the CAISO on its behalf, so it can confirm the load transfers. AReM recommends monthly reporting and tracking at a minimum. At least one other ISO does daily reporting (PJM) and the CAISO may want to move in that direction over time.

Eligibility for Nominating Transferred CRRs in the Priority Nomination Process (PNP) – AReM raised this issue in its intervention on the CAISO’s LT-CRR filing.⁶ AReM continues to believe that offering PNP access to expiring Existing Transmission Contracts (ETCs) and Converted Rights (CVRs) requires the same access be afforded to LSEs receiving transfers of CRRs as a result of load migration. Otherwise, the LSEs receiving transferred CRRs are disadvantaged, as aptly noted in the LECG consulting

⁶ *Motion to Intervene and Protest of the Alliance for Retail Energy Markets*, ER07-475-001, February 23, 2007, at pp. 7-8.

firm's analysis of this issue. The CAISO could also remedy this discriminatory treatment by removing the PNP option for ETC and CVR holders.

Elements of Straw Proposal

Data – As mentioned above, AReM agrees that it is appropriate for the UDCs to take on the role of transferring the necessary data to the CAISO to support calculation of CRR transfers among LSEs.

Load Metrics – AReM believes that the approach outlined in the May 18th paper has merit and deserves further consideration and refinement. AReM is concerned, however, that class averages will not work well for the Commercial and Industrial classes, because of the large variation in customer size within those classes. The class-average approach may be acceptable, however, with a couple of modifications. For example, dividing the Commercial class into a "small," "medium," and "large" group with associated averages could remedy the problem. Customers in the Industrial class, however, vary too much in size to be accommodated by averages. Instead, AReM proposes a customer-specific approach for that class using the customer's peak for the previous year -- data the UDCs have available. The CRRs transferred for the Industrial customers would then be based on a pro-rata share.

Additional CRR Issue – Period From Allocation to MRTU Startup – The May 18th paper did not address how the CAISO plans to handle load migration that will occur between the date of the initial CRR allocations and startup of MRTU. According to current plans, the annual CRR allocation will be completed by November 1, 2007 and MRTU startup will begin February 1, 2008, requiring the CAISO to account for two months of accrued load migration. The CAISO's roll-out plans must include provisions

to make final adjustments to the CRR allocations before MRTU startup. The stakeholders should discuss how this process would work, the necessary data flows and verification, and the regular timing for subsequent CRR transfers. AReM presumes that the CRR transfer mechanisms as established under MRTU would also be used to reflect load migration before MRTU startup. Stakeholders should agree, however, on a set timetable for making the CRR transfers.

Consistency of Monthly Load Forecasts

Applicability – CPUC-jurisdictional vs. non-CPUC jurisdictional LSEs -- AReM supports using data developed and verified in the Resource Adequacy (RA) process as the basis for the annual and monthly CRR allocations for LSEs that are subject to the CPUC RA program. At present, the CAISO is focusing on using such data for the monthly allocation process, but AReM would not oppose extending this approach to the annual allocation as well. The monthly RA forecast adjusts the annual forecast for each LSE to reflect load migration. Such adjustments can be significant for the electric service providers (ESPs), who may see changes in load of 25% or more from month-to-month. Once the suspension on new direct access service in the retail market is lifted, load migration is likely to increase significantly, as will the number of LSEs operating in California and entitled to CRR allocations.⁷

AReM is concerned that there does not appear to be comparable forecast and verification requirements for the non-CPUC LSEs. If load migration is not expected to occur for these LSEs, perhaps the annual forecast by month, if verified by the CEC,

⁷ On May 24, 2007, the CPUC adopted R.07-05-025 to consider lifting the current suspension of direct access service. See AReM's further discussion of this topic at the end of this paper.

would be acceptable for this purpose. However, if Community Choice Aggregation (CCA) can affect the non-CPUC LSEs, then a comparable monthly reporting obligation should be established for those LSEs as well.

Timing – AReM believes that the timing for the monthly RA load forecasts, as currently operating, is adequate and sufficiently “fresh” for monthly CRR allocations. The CAISO may need to modify its requirements for the monthly submission of information for the CRR process to mesh with the current RA process.

Data -- The most significant issue to resolve is how to convert the peak RA data into the load duration curve used for the CRR allocation. AReM has no suggestions at this time, but looks forward to reviewing proposals by other stakeholders on this issue. AReM appreciates the complexity of this task and is concerned about how it might be accomplished. At the same time, AReM notes that, while a worthy objective, it is not essential to resolve this issue before MRTU startup.

Methodology – AReM does not agree that the CAISO should insert itself into how CPUC-jurisdictional LSEs calculate their loads for RA compliance. A well-developed process is already operating under CPUC rules and the RA forecast for each LSE is thoroughly reviewed, verified, and *adjusted* by the CEC. These forecasts and methodology are highly confidential and include commercially-sensitive information. For example, AReM sees no need for “common assumptions,” when each CPUC-LSE has different business models and customer characteristics. The review process of the CEC ensures the consistency that the CAISO seeks, at least for the CPUC-LSEs. No changes are required nor should be proposed for the CPUC-LSEs.

Early Release of Transmission Encumbrances Associated with Converted Rights (CVRs)

AReM opposes this option, because it provides preferential treatment to a small class of LSEs that are already the beneficiaries of significant preferential treatment, including a “perfect hedge” for congestion. Such preferential treatment is, by nature, discriminatory to other LSEs who are disadvantaged as a result. The proposed early release and “reclamation” option for CVRs provides additional and significant preference to the CVR holders that is unjustified and unsupported by any rationale. In fact, the CVR holders could easily be compared to LSEs holding CRRs from the previous year. These LSEs are able to request to retain their CRRs in the Priority Nomination Tier (PNT). A comparable approach would be to allow the CRR Holder to “give up” its CRR from Year One when making a request in Year Two and then “reclaim” the Year One CRR in Year Three. Unless the CAISO is willing to provide this option to *ALL* CRR Holders, not just those with CVRs, the proposal is clearly discriminatory and AReM urges the CAISO to reject this proposal.

New Issue – Qualification of New LSEs for CRR Allocations

As noted above, when the current retail suspension is lifted, new LSEs will likely enter the California market. The CAISO tariff and associated BPM should include rules for how such LSEs may qualify for and obtain CRRs. Some provisions are already included in the tariff, but additional refinements may be required. New LSEs would first have to meet the requirements to be a Candidate CRR Holder, which is already addressed in the current rules. Further, because the monthly CRR allocation is based on a load *forecast*, AReM is assuming that new LSEs will be able to obtain an allocation in the

monthly process, if they have verified their forecast load through the RA process. The new LSE would also be able to obtain Seasonal CRRs and LT-CRRs through the CRR transfer mechanism reflecting load migration, but would be unable to receive an allocation of their own until the next annual auction. Currently, the LSE obtains an annual allocation based on its previous year's load. This may disadvantage new LSEs that start up part way through a year. AReM wishes to include discussion of this topic in the next CAISO paper and forthcoming stakeholder process.

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Alliance for Retail Energy Markets