

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

**California Independent System) Docket No. ER21-1790-000
Operator Corporation)**

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

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The California Independent System Operator Corporation (CAISO)¹ answers comments and protests filed in this proceeding² in response to the CAISO’s April 28, 2021, tariff amendment (April 28 Filing).³ The April 28 Filing proposes to revise load,

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

² The following entities filed comments: Balancing Authority of Northern California (BANC); Brookfield Renewable Trading and Marketing LP (BRTM); California Department of Public Utilities State Water Project (CDWR); CAISO Department of Market Monitoring (DMM); El Paso Electric Company (EPE); Leeward Renewable Energy Development, LLC (Leeward); Middle River Power, LLC (MRP); Modesto Irrigation District (MID); Pacific Gas and Electric Company (PG&E); Public Utilities Commission of Nevada (PUCN); Sacramento Municipal Utility District (SMUD); San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SCE); U.S. Department of Energy, Western Area Power Administration (WAPA); and Western Resource Advocates (WRA). The following entities filed protests: Arizona Corporation Commission (ACC); Arizona Municipal Power Users’ Association; Arizona Power Authority (APA); Arizona Public Service Company (APS), Salt River Project Agricultural Improvement and Power District (SRP), Tucson Electric Power Company (TEP), UNS Electric, Inc. (UNSE), and Arizona Electric Power Cooperative, Inc. (AEPCO) (collectively, Arizona Utilities); Bonneville Power Administration (BPA); California Public Utilities Commission (CPUC); Idaho Power Company and Portland General Electric Company (collectively, Idaho Power-PGE); Irrigation & Electrical Districts’ Association of Arizona; Large Public Power Council (LPPC); Nevada Power Company and Sierra Pacific Power Company (collectively, NV Energy); Powerex Corp. (Powerex); Public Power Council (PPC); Public Service Company of New Mexico (PNM); Southwest Public Power Agency, Inc.; and Vistra Corp. (Vistra). The Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities) filed comments and a limited protest. In addition, the following entities filed motions to intervene: Alliance for Retail Energy Markets; American Clean Power Association; California Municipal Utilities Association; Calpine Corporation; City and County of San Francisco; City of Santa Clara, California; Colorado River Energy Distributors Association; Imperial Irrigation District; Morgan Stanley Capital Group Inc.; Northern California Power Agency; Oregon Public Utility Commission; Public Generating Pool; Western Resource Advocates; and Xcel Energy Services, Inc.

³ The CAISO files this answer pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. For the reasons explained below, the CAISO

export, and wheeling through priorities in the day-ahead and real-time market optimization processes and establish related market rules. For the reasons explained in the April 28 Filing and this Answer, the Commission should accept the CAISO's tariff revisions without condition or modification.

First, the CAISO proposes two changes to the scheduling priorities for self-scheduled exports in the real-time market optimization to reinforce the CAISO's ability to recall resource adequacy (RA) Capacity when the system is constrained, and the CAISO must utilize its RA Capacity to meet internal load. Second, the CAISO proposes several new rules and requirements regarding the capacity that can support high-priority non-recallable exports. These bidding and behavioral rules will better ensure capacity supporting high-priority non-recallable exports (1) is not otherwise contracted with a CAISO load serving entity (LSE), *i.e.*, the capacity is committed solely to an external LSE, and (2) is available and physically capable of meeting its schedule so capacity procured to serve CAISO native load does not support the export. Third, the CAISO proposes tariff revisions to facilitate the allocation of derated capacity when only a portion of a resource's capacity is RA Capacity.

Finally, to address the potential effects wheeling through transactions can have on the CAISO's ability to meet native load obligations, the CAISO proposes, on an interim basis through May 31, 2022, to establish two categories of wheeling through self-schedule transactions – a Priority Wheeling Through and a non-Priority Wheeling Through. Priority Wheeling Through transactions will have a priority equal to self-

respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the protests filed in the proceeding.

scheduled imports needed to serve CAISO load. Non-Priority Wheeling Through transactions will have a lower priority. A Priority Wheeling Through is a wheeling through self-schedule supported by (1) a firm power supply contract to serve an external LSE's load throughout the calendar month, and (2) monthly firm transmission from the source to the CAISO border for Hours Ending 07:00 through 22:00, Monday through Saturday excluding North American Electric Reliability Corporation (NERC) holidays.

As part of its wheeling through proposal, the CAISO proposes to perform a process after the hour-ahead scheduling process (HASP) to allocate available transmission capacity *pro rata* between supply needed to meet CAISO load and Priority Wheeling Through transactions. The CAISO will perform this post-HASP process only when an intertie is constrained in the import direction by a scheduling limit or Path 26 is constrained in the north-south direction, and HASP cannot meet CAISO Forecast of CAISO Demand or fully accommodate a Priority Wheeling Through transaction.

Numerous parties protest or comment on the CAISO's proposed tariff revisions regarding wheeling through transactions. Only one party protests the CAISO's export-related tariff revisions. The tariff revisions establishing priorities for wheeling through transactions attracted a wide diversity of views. Intervenors in California generally support the CAISO's proposal or contend it does not go far enough to protect native load. Intervenors from other regions of the western United States oppose the CAISO's proposal.

The CAISO's proposed wheeling through priority tariff revisions will enable the CAISO to manage intertie constraints more effectively and balance the interests of market participants in a manner that will minimize the need to shed load across the west

during the critical summer 2021 period. For the reasons explained below, the CAISO believes its proposal is just and reasonable. The CAISO respectfully requests the Commission accept the April 28 Filing subject to the clarifications provided in this Answer. In that regard, the CAISO clarifies its proposal as follows:

- A monthly firm power supply contract “throughout the entire month” does not require energy be scheduled 24 x 7 every day of the month, but the contract must be for service the entire month, *i.e.*, not a weekly, daily, or hourly supply contract. The proposed power supply contract and firm transmission requirements are integrally-related non-severable components of the CAISO’s proposal.
- Nothing in the CAISO’s proposal requires a Priority Wheeling Through to use energy from the originally contracted resource. Once a scheduling coordinator satisfies the eligibility requirements for a Priority Wheeling Through, it can support the Priority Wheeling Through transaction in real-time with a different resource if the originally contracted resource is on outage, or is otherwise unavailable, or the customer procures a more economic resource. The Priority Wheeling Through Customer need only deliver the energy to the import Scheduling Point originally specified.

I. EXECUTIVE SUMMARY

The CAISO recognizes the issues it sought to address for this summer are complex and controversial. The CAISO also recognizes the importance of establishing more durable market rules that will enable external LSEs to request priority treatment during constrained conditions, while also providing adequate assurances for CAISO native load. The CAISO has already launched a stakeholder process to consider longer-term solutions to these issues. Despite the shortness in time, after last summer’s heat events shed light on the reliability issues the CAISO faces under today’s rules, the CAISO conducted an open and active stakeholder process to develop the tariff revisions it proposes in this proceeding. The CAISO recognizes there may be

other ways of solving these issues, and it is fully committed to exploring alternatives with all stakeholders in its new stakeholder initiative dedicated to finding a more durable solution. In the short-term, however, the CAISO's proposal provides a just and reasonable, balanced, interim approach that provides reasonable assurances when the system is significantly constrained. The interim proposal will ensure the CAISO can reliably serve CAISO load, while providing equal treatment to those wheeling through schedules external LSEs have reasonably demonstrated are necessary to serve their load. In addition, the CAISO will continue to coordinate and collaborate with neighboring balancing authority areas this summer to minimize reliability risks in the greater Western interconnection.

The most important question before the Commission in this proceeding is whether the CAISO can implement the proposed native load protections to provide reliable service to its customers this summer, recognizing the dependencies of external LSEs on the CAISO grid. Most transmission providers, including most independent system operators (ISOs) and regional transmission organizations (RTOs), have some form of protection or reservation of capacity for native load in their tariffs. Until recently, however, conditions in the western United States did not require reservations of capacity or curtailment priorities for native load in the CAISO tariff to ensure reliable service to customers in the CAISO balancing authority area (BAA). Indeed, because the issue of relative priority of service to native load and wheeling through transactions has been such a non-issue in years past, the CAISO tariff does not even expressly specify the priority for scheduling wheeling through transactions in the day-ahead and real-time market optimization processes.

However, conditions in the West are changing, making the relative priority of service to native load and wheeling through transactions a more important issue in the foreseeable future. The CAISO's assessment discussions with market participants in the west point to the likelihood of increased wheeling through transactions this summer, which could displace RA imports and internal RA generation in northern California because the CAISO has no transmission reservation requirements that protect native load when transmission is constrained. The proposed interim tariff revisions are necessary to avoid wheeling through self-schedules "crowding out" both RA imports using the interties and RA capacity from northern California generation that must flow north-to-south on Path 26 to serve load elsewhere in California. Increased wheeling through transactions potentially can prevent the CAISO from serving its native load even from internal RA resources built to serve CAISO load and paid for by LSEs within the CAISO BAA.

The CAISO cannot implement traditional native load protections, such as reserving capacity for native load in the existing transmission commitment component in available transfer capability (ATC) calculations and setting aside a capacity benefit margin (CBM) to access generation during contingencies in time for summer 2021, and doing so would require more comprehensive discussions with stakeholders. These facts, however, should not prevent CAISO BAA customers from receiving some form of native load protection. The CAISO's Priority Wheeling Through proposal is comparable in effect, but not identical in form, to the native load protections maintained by other ISOs, RTOs, and transmission providers. The CAISO's proposal reflects the unique

nature of its services and markets – where there are no advance transmission reservations, only a single class of transmission service, and a volumetric access rate.⁴

The CAISO's proposal provides an opportunity for LSEs in other parts of the West to obtain wheeling service through the CAISO BAA with a priority equal to native load, while also allowing the CAISO to manage transactions on the interties and important internal transmission paths during constrained conditions. Transmission capacity on the CAISO system remains available for wheeling through transactions not qualifying as Priority Wheeling Throughs, albeit with a lower priority in constrained conditions.

Although the CAISO's proposal is just and reasonable and balanced, the CAISO has launched a new stakeholder initiative dedicated to exploring and developing a longer-term approach that will provide native load protections and also accommodate the interests of other entities in the Western Interconnection. As conditions in the Western Interconnection evolve, the CAISO is justified in developing just and reasonable tariff provisions to allow for reliable service to its customers when the system is constrained and supply is tight. The Preliminary Root Cause Analysis published by the CAISO, CPUC, and California Energy Commission (CEC) on October 6, 2020, put all stakeholders on notice last year that the CAISO was pursuing market

⁴ To account for certain historic arrangements, the CAISO tariff carves out capacity for Existing Transmission Contracts (ETCs) and Transmission Ownership Rights (TORs). Throughout this Answer, the CAISO uses the term ETC solely to mean an Existing Transmission Contract as defined in the CAISO tariff. The CAISO spells out the term existing transmission commitment as used in the calculation of ATC to distinguish it from an ETC as used in the CAISO tariff.

rule enhancements including a review of “existing rules for scheduling priorities and protection of internal and external schedules.”⁵

Rejecting the CAISO’s proposal would (1) prevent the CAISO from implementing reasonable native load protections, and (2) allow spot wheeling through transactions to displace RA Capacity CAISO LSEs have procured in advance to serve their load through their annual and monthly RA showings. That is not a just and reasonable outcome.

The CAISO’s wheeling through priority proposal is consistent with general open access principles, including the native load priority articulated in Order Nos. 888 and 890. Importantly, the CAISO is not precluding wheeling through transactions on its system. Unlike most other transmission providers, including those who oppose the CAISO’s proposal, the CAISO is not carving out transmission capacity on its system only to serve CAISO native load (thus limiting the capacity, if any, available to accommodate wheeling through transactions in the first instance). In addition, the CAISO is not giving native load a higher priority than Priority Wheeling Through transactions; it is according them the same priority.

Under the CAISO tariff, no self-schedules have a higher scheduling priority than CAISO load, except ETCs and TORs, which are not at issue in this proceeding. The existing tariff does not expressly specify the scheduling priorities for wheeling through

⁵ *Preliminary Root Cause Analysis: Mid-August 2020 Heat Storm*, at 66 (Oct. 6, 2020) (Preliminary Root Cause Analysis). This analysis is available on the CAISO website at: <http://www.caiso.com/about/Pages/News/SummerReadiness.aspx>. The same website page also includes the *Final Root Cause Analysis: Mid-August 2020 Extreme Heat Wave* (Jan. 13, 2021) (Final Root Cause Analysis), and the *DMM Report on System and Market Conditions, Issues and Performance: August and September 2020* (Nov. 24, 2020) (DMM Report).

transactions. The CAISO's proposed wheeling through tariff revisions specify the scheduling priorities for wheeling through transactions in the tariff and indicate what types of wheeling through transactions should have a priority equal to CAISO load (and exports backed by non-RA Capacity). Numerous parties protest the wheeling through tariff revisions. They raise many arguments that detract from the key issues in this proceeding, are irrelevant or beyond the scope of this proceeding, or take an unjustifiably narrow view of the Commission's open access policies.

The Commission need only focus on two issues: (1) is the CAISO's proposal to establish two categories of wheeling through transactions with different scheduling priorities just and reasonable; and (2) are the proposed eligibility criteria for Priority Wheeling Through transactions just and reasonable and not unduly discriminatory. The discussion in the transmittal letter for the April 28 Filing, supplemented by the clarifications and discussion herein, shows the answer to these two questions is clearly yes.

Regarding the first question, transmission provider tariffs routinely establish different transmission reservation priorities depending on the characteristics of the transaction, *e.g.*, native load vs. non-native load, firm vs. non-firm, and long-term firm vs. short-term firm. The CAISO tariff also establishes different scheduling priorities in the day-ahead market depending on whether the capacity supporting an export is RA Capacity or non-RA Capacity. Order No. 888 also expressly provided that transmission

providers can propose different reservation priority provisions for firm service in section 205 rate filings.⁶

The CAISO justifiably distinguishes Priority Wheeling Through transactions from non-Priority Wheeling Through transactions and provides Priority Wheeling Through transactions a scheduling priority equal to CAISO load being served by self-schedule imports up to the volume of RA import showings (while providing non-Priority Wheeling Through transactions a lower priority). Priority Wheeling Through transactions will have demonstrated a legitimate need and commitment to use the CAISO transmission system for the month based on their advance contractual arrangements, similar to CAISO LSEs that must make monthly RA showings. The CAISO is essentially treating Priority Wheeling Through transactions like monthly transmission on the CAISO system. The Commission also has recognized it is appropriate to provide different reservation priorities or curtailment priorities based on the duration and firmness of the service. Short-term transmission service of a longer duration will have a reservation priority over shorter-term service (e.g., monthly vs. weekly vs. daily vs. hourly, in descending order).⁷ Under the *pro forma* OATT, curtailment priorities for non-firm transmission service are based on the duration of the service (i.e., monthly vs. weekly vs. daily vs. hourly, in

⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. By Pub. Utils.*; *Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,747 (1996) (Order No. 888), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (Order No. 888-A), *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. New York v. FERC*, 535 U.S. 1 (2002).

⁷ *Pro forma* OATT, section 13.2(ii)| Order No. 888 at 31,748.

descending order).⁸ Non-Priority Wheeling Through transactions do not demonstrate a legitimate need or commitment to use the CAISO system on a monthly basis and, thus, they are more akin to shorter-term spot or opportunity transmission that should have a lower reservation or curtailment priority.

Regarding the second question, the eligibility criteria for Priority Wheeling Through transactions are just and reasonable and not unduly discriminatory. The monthly firm power supply contract and firm transmission requirements are a proxy to demonstrate the Priority Wheeling Through customer will be utilizing the CAISO transmission system on a monthly basis. The 45-day showing requirement provides the CAISO advanced notice similar to monthly RA showings, so the CAISO can effectively plan its operations for the month and take actions to the extent the showings foretell potential reliability challenges. The RA program includes both annual and monthly RA Capacity showings. The proposed requirements reasonably distinguish monthly Priority Wheeling Through transactions from shorter-term transactions. Absent these requirements, wheeling through customers engaging in spot hourly and daily transactions could unjustly “crowd out” native load customers and wheeling through customers that have made longer-term commitments, both of which are dependent on using the CAISO system to serve their load. Duration of commitment is a legitimate factor to distinguish service priorities, and the Commission should find the proposed proxy criteria for differentiating duration of service are just and reasonable.

The claim that the eligibility criteria for Priority Wheeling Through transactions are unduly discriminatory because they are not identical to the RA requirements for CAISO

⁸ *Pro forma* OATT, section 14.7.

LSEs is misplaced. Under the tariff, CAISO load has the highest scheduling priority for self-schedules (except for ETCs and TORs, which are pre-existing obligations). This priority is not limited to RA Capacity, and the CAISO does not propose any changes to the RA program in its tariff amendment. The CAISO is only establishing the appropriate priority for wheeling through transactions. The Commission has found that internal and external load are not similarly situated regarding their use of, and reliance on, the CAISO transmission system, and it is not unduly discriminatory to require external LSEs to prepay transmission access charges and demonstrate a “legitimate need” to use the CAISO system to receive an allocation of congestion revenue rights (CRRs).

Because the CAISO was unable to implement any capacity prepayment/reservation scheme for summer 2021, it proposed eligibility criteria for Priority Wheeling Through transactions that are a “proxy” for demonstrating monthly use of the CAISO system comparable to the expected use of the system by CAISO LSEs. CAISO LSEs must procure supply capacity for the entire month and “show” that capacity to the CAISO 45 days before the month. Further, unlike external LSEs, CAISO LSEs must use the CAISO system to deliver their energy. Thus, there is no need to require them to have firm transmission to the CAISO border as a “proxy” for using the CAISO system. Satisfying the eligibility criteria for Priority Wheeling Throughs shows an external LSE’s commitment to use, and dependence on using, the CAISO grid for a month to serve its load, similar to an internal CAISO LSE. It also allows the CAISO to plan its operations for the month more effectively because it will know in advance the quantity of Priority Wheeling Through transactions. The monthly eligibility showing for Priority Wheeling Through transactions approximates monthly transmission on the

CAISO, whereas non-Priority Wheeling Through transactions are more akin to a shorter duration (and a lesser priority) of service.

The CAISO's service framework, with the modifications proposed herein, will remain consistent with or superior to the *pro forma* OATT. All interested scheduling coordinators – whether they represent supply, load, exports, or Wheeling Through Transactions – can continue to schedule their use each day, thus maximizing flexibility and the use of available capacity. This framework provides greater access to transmission than the Commission-approved frameworks of other transmission providers. The CAISO is merely establishing scheduling priorities it will apply in the day-ahead and real-time market optimization processes when the system is constrained and the market does not solve, requiring the CAISO to adjust self-schedules. All transmission providers, including other ISOs and RTOs, apply scheduling priorities in these circumstances. The CAISO's proposed priorities are comparable in effect and, thus, just and reasonable and not unduly discriminatory.

Only one party protests the export-related tariff revisions, which are severable from the wheeling through tariff revisions. Vistra claims that the tariff revisions are inconsistent with the requirements for point-to-point transmission under the *pro forma* OATT. Vistra's objections are baseless. The proposed export rules have nothing to do with point-to-point transmission service, which the CAISO does not even offer. They address the types of supply that clear the market optimization to support export self-schedules. The CAISO tariff identifies two types of capacity that can support export self-schedules – RA Capacity and non-RA Capacity. Different scheduling priorities apply depending on whether RA Capacity supports the export (*i.e.*, a low-priority

recallable export) or non-RA Capacity (*i.e.*, a high-priority recallable export). The proposed rules reasonably ensure that (1) RA Capacity is not supporting high-priority non-recallable exports, and (2) the generation capacity backing a high-priority non-recallable export (a) has not been sold to a CAISO LSE and (b) is available and capable of supporting the hourly block export schedule so the CAISO is not forced to support the export self-schedule with RA Capacity. *Vistra* offers no evidence to the contrary.

The Commission should accept both the export-related tariff revisions and the wheeling through tariff revisions without condition or modification.

II. MOTION FOR LEAVE TO FILE ANSWER

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,⁹ the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the protests filed in the proceeding. Good cause for the waiver exists because this Answer will aid the Commission in understanding the issues in the proceeding, inform the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.¹⁰

⁹ 18 C.F.R. §§ 385.212, 385.213.

¹⁰ *See, e.g., Equitrans, L.P.*, 134 FERC ¶ 61,250 at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023 at P 16 (2010); *Xcel Energy Servs., Inc.*, 124 FERC ¶ 61,011 at P 20 (2008).

III. ANSWER

A. The Requirements for Priority Wheels Are Not Unduly Discriminatory

1. The Proposed Firm Transmission Requirement for Priority Wheels Is Reasonable

Numerous intervenors argue the CAISO's Priority Wheeling Through proposal unduly discriminates against wheeling through transactions by establishing criteria not applicable to CAISO LSEs, in particular the requirement that a Priority Wheeling Through transaction be supported by monthly firm transmission to the CAISO boundary. For example, the Arizona Utilities state that the RA rules do not require CAISO LSEs to have firm transmission to the CAISO boundary for their RA import supplies.¹¹ Similarly, NV Energy suggests that CAISO LSEs should have an external firm transmission requirement in order to have the same priority as wheeling through transactions delivered to the CAISO boundary using firm transmission.¹²

These arguments misunderstand CAISO's Priority Wheeling Through proposal. The CAISO is not basing its proposal on the premise that an LSE's acquisition of firm transmission service from a neighboring transmission provider to the CAISO boundary grants that LSE a scheduling priority on the CAISO system. Instead, the CAISO intends to provide a priority to those customers that demonstrate an intent to use, and reliance on using, the CAISO system for the entire month when Priority Wheeling Through status is available. CAISO LSEs depend entirely on the CAISO transmission system and pay the embedded costs of the system through a transmission access charge. They are unable to serve their load (*i.e.*, native load) without using the CAISO controlled grid.

¹¹ Arizona Utilities at 37-38.

¹² NV Energy at 7, 13.

The criteria for Priority Wheeling Through eligibility are a proxy that allows external LSEs to demonstrate that they plan on using the CAISO controlled grid to serve their load during the month in a manner comparable to CAISO LSEs.¹³ The Priority Wheeling Through firm transmission criterion is essentially a proxy for a monthly capacity reservation on the CAISO system given the CAISO has no transmission capacity reservations and has a volumetric wheeling through rate.

The CAISO developed this proxy with input from stakeholders representing interests across the western United States. The CAISO had originally proposed that the proxy would require firm transmission 24 hours a day for each day of the relevant month. Based on stakeholder feedback, however, the CAISO reduced this requirement to firm transmission from the source to the CAISO boundary, for Hours Ending 07:00 through 22:00, Monday through Saturday, excluding NERC holidays, to align with the concept of NAESB peak hours and “heavy load hours” used in the Western Interconnection.¹⁴

The CAISO acknowledges the transmission requirement to qualify for a Priority Wheeling Through transaction is not identical to the transmission requirements for transactions serving CAISO load.¹⁵ As discussed below, the Commission has

¹³ See Transmittal Letter at 63-64.

¹⁴ *Id.* at 63. See, e.g., <https://www.ppcpdx.org/industry-info/glossary/> and <https://www.bpa.gov/Finance/RateCases/InactiveRateCases/BP12/Final%20Proposal/BP-12-FS-BPA-03.pdf>.

¹⁵ Under CPUC decisions, the CPUC’s qualifying capacity rules require sufficient physical resources – both energy and operating reserves – supporting Non-Resource Specific RA imports used to meet RA requirements. Specifically, the CPUC adopted the following methodology:

The qualifying capacity for import contracts is the contract amount if the contract (1) is an Import Energy Product with operating reserves, (2) cannot be curtailed for economic reasons, and either (a) is delivered on transmission that cannot be curtailed in operating

recognized that external LSEs are not similarly situated to CAISO LSEs regarding their use of the CAISO system. There is no basis, or need, to require CAISO LSEs to demonstrate monthly firm transmission arrangements outside of the CAISO in order to demonstrate that they will use the CAISO system. No matter what type of transmission CAISO LSEs have upstream of the CAISO system to deliver imports, they must use the CAISO system to serve native load. External LSEs, on the other hand, have other options to serve their load. Thus, the firm transmission requirement is necessary and appropriate to ensure external LSEs utilizing wheeling through transactions have a comparable commitment to use the CAISO controlled grid for the month. Procuring firm transmission service to the CAISO boundary during heavy load hours in the applicable month signals a commitment (and need) to utilize the CAISO grid to wheel through power to another BAA. When developing the Priority Wheeling Through proposal, the CAISO determined that merely having a power supply contract with a supplier in a different BAA alone is insufficient to demonstrate such a commitment to rely on the CAISO system. The external LSE could simply pick and choose the hours it decides to wheel through the CAISO. On the other hand, if the external LSE has invested in firm transmission to the CAISO boundary for the specified days and hours of the month, it is appropriate to afford that external LSE a priority equal to internal LSEs that must rely on the CAISO grid to serve native load.

hours for economic reasons or bumped by higher priority transmission or (b) specifies firm delivery point (i.e., is not seller's choice).

See CPUC Decision D.04-10-035 Workshop Report at 21, available at http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF.

The CAISO based its proposal on similar principles to those underlying the approach the Commission approved for allocating CRRs to external LSEs. The Commission found it was just and reasonable, and not unduly discriminatory, for the CAISO to allocate CRRs directly to CAISO LSEs, but to require external LSEs to prepay transmission access charges and meet other requirements (*i.e.*, advance contractual commitments) to show a legitimate need for such CRRs and receive an allocation of CRRs.¹⁶

Several entities argued in that proceeding that such treatment was unduly discriminatory against external load and, in particular, violated Order No. 888's prohibition against undue discrimination.¹⁷ The Commission rejected these arguments, finding the CAISO was not required to treat external LSEs identically to CAISO LSEs because they were not similarly situated regarding their ongoing reliance on the CAISO system.¹⁸ The Commission stressed that internal CAISO load cannot avoid CAISO transmission charges, whereas external load can elect to use or not use the CAISO system.¹⁹ The Commission found that requiring external entities to prepay transmission charges ensures the CAISO allocates CRRs to the entities that will actually utilize the system to serve their load and pay the embedded costs of the transmission system.²⁰

¹⁶ *Calif. Indep. Sys. Operator Corp.*, 116 FERC ¶¶ 61,274, at PP 766-69 (2006), *order on reh'g*, 119 FERC ¶¶ 61,076, at PP 368-77 (2007).

¹⁷ 119 FERC ¶¶ 61,076, at PP 251-63.

¹⁸ *Id.* at PP 368-77.

¹⁹ *Id.* at PP 368-70.

²⁰ *Id.* at P 370.

The prepayment amount was consistent with parties' expected usage of the CAISO system.²¹

The Commission also found it was not unduly discriminatory for the CAISO to require external load to make a showing of "legitimate need" to obtain CRR allocations, but not to require CAISO LSEs to make a similar showing. Again, the Commission stressed internal and external load are not similarly situated. Internal load will be served by the CAISO grid so there is "a *per se* 'legitimate need.'"²² On the other hand, external load might only use the CAISO transmission system to meet a portion of its load and would only pay CAISO transmission charges for a fraction of its load.²³ Therefore, the Commission agreed that it was appropriate for the CAISO to verify external load's need for CAISO transmission service.²⁴ The Commission concluded the requirement to prepay a fixed amount of transmission charges and demonstrate legitimate need reasonably aligned with the CAISO's aim of allocating CRRs to entities that continue to pay the embedded costs of the transmission system and have a legitimate need for them²⁵

The Commission rejected claims the prepayment and legitimate showing requirements violated Order No. 888 because

LSEs serving external load are not being denied transmission service, and all customers, internal or external, receive the same Open Access Transmission Tariff (OATT) service . . . Also, once they qualify for an

²¹ *Id.*

²² *Id.* at P 371.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at P 369.

allocation of CRRs, LSEs serving external load are eligible to obtain them on the same basis as LSEs serving internal load.²⁶

The Commission also recognized that although

the annual payment requirement may not be the only way for a customer to demonstrate its intention to continue to utilize the CAISO grid, it is a reasonable and expedient means of ensuring that external load incurs the same continuing obligation to pay the embedded costs of the CAISO grid as LSEs within the CAISO Control Area incur. Furthermore, if an external LSE relies on the CAISO grid and intends to continue using the CAISO's transmission facilities on a long-term basis, it is difficult to see how the annual payment discriminates against that LSE.²⁷

The Priority Wheeling Through requirement for monthly firm transmission to the CAISO boundary during heavy load hours correlates to the transmission charge prepayment and "legitimate need" showing requirements for external LSEs entities to receive an allocation of CRRs. The requirement does not deny access to the CAISO grid; it merely establishes which wheeling through self-schedules have the same priority as self-scheduled CAISO load.

Importantly, protesters also ignore that the Commission has permitted transmission providers, including other ISOs and RTOs, to set aside capacity up-front for native load customers and native load growth. As the Commission recognized in Order No. 890, Section 217 of the Federal Power Act (FPA), enacted in the Energy Policy Act of 2005, allows LSEs to use their own and contracted transmission capacity to deliver energy as required to meet their service obligations without being subject to charges of undue discrimination.²⁸ This precedent, combined with the Commission's

²⁶ *Id.* at P 377.

²⁷ *Id.* at P 373.

²⁸ *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 96 (Order No. 890), *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007) (Order No. 890-A), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) (Order

prior finding that it is not unduly discriminatory to impose additional requirements on external LSEs seeking an allocation of CRRs, indicates the CAISO's proposal to adopt a monthly firm transmission requirement for Priority Wheeling Through customers – and to give customers satisfying this requirement the same scheduling priority as native load – is not unduly discriminatory.²⁹ The CAISO's proposal is less impactful to wheeling through transactions than setting aside capacity for native load customers and/or CBM and making such capacity unavailable for wheeling through transactions. The CAISO's proposal maximizes the transactions that can occur on a daily basis and only allocates capacity when the system is constrained.

2. The Proposed Power Contract Requirement for Priority Wheels Is Reasonable

Some intervenors object to the eligibility criterion for Priority Wheeling Through transactions that requires a firm power supply contract for the entire month.³⁰ For

No. 890-B), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

²⁹ Protesters also ignore that CAISO LSEs face numerous restrictions regarding their import RA capacity that Priority Wheeling Through customers would not face. First, import RA Capacity has a day-ahead must offer obligation; wheeling through transactions have no similar obligation. Second, LSE's must first obtain import capability through the CAISO's import capability allocation process in order for their procured import supplies to even count as RA Capacity. This greatly restricts their ability to procure imports as RA and limits the amount of RA imports they can procure. Wheeling through transactions face no such requirements. This can allow an external LSE to schedule a wheeling through transaction, but prevent a CAISO LSE from accessing an import as RA Capacity. Third, the CPUC requires that LSEs procure (and show) 90 percent of their summer RA Capacity by October 31 of the prior year. The CAISO is not applying any annual showing requirement for a wheeling through transaction to qualify as a Priority Wheeling Through. Fourth, the CPUC, requires that for capacity from a non-resource specific resource to count as RA Capacity the capacity cannot be subject to economic curtailment and the energy product must be supported by operating reserves. In all these respects, the requirements for Priority Wheeling Through transactions are less onerous than the requirements for RA imports.

³⁰ See, e.g., Powerex at 16-18.

example, Powerex argues the requirement that the power supply contract be “throughout the month” would preclude contracts for a subset of hours each day or contracts that the LSE may activate by providing notice it requires delivery of the underlying energy.³¹

The CAISO notes that the requirement for “a firm power supply contract to serve an external Load Serving Entity’s load throughout the calendar month” is not as rigid as Powerex suggests. The CAISO clarifies that a monthly firm power supply contract “throughout the month” does not require energy be scheduled 24 x 7 every day of the month. The firm power supply contract must be for the entire month, but delivery of energy under the contract can be limited to a subset of hours each day or upon notice by the LSE. The power supply contract cannot be for a week, day, or hour. Thus, “firm power supply contracts” that satisfy this criterion may include subset of hours contracts and contracts that provide delivery upon notification by the purchaser as long as the contract is for the whole month. The CAISO stresses that the proposed power supply contract and firm transmission requirements are integral, non-severable components of the CAISO’s proposal.

The Commission should reject requests seeking material changes to the proposed power supply contract requirement.³² In its *NRG* decision, the United States Court of Appeals for the District of Columbia Circuit held that the Commission “has some authority to propose modifications to a utility’s [FPA Section 205] proposal if the utility consents to the modifications,” but only so long as those modifications do not

³¹ Powerex at 17.

³² *NRG Power Marketing LLC v. FERC*, 862 F. 3d 108 (D.C. Cir. 2017) (NRG).

“result in an entirely different rate design than the utility's original proposal or the utility's prior rate scheme.”³³ Here, the CAISO does not consent to the material changes suggested by intervenors. Therefore, the Commission should reject the intervenors' suggestions pursuant to the *NRG* standard.

Entities procuring capacity and seeking to use the CAISO system only for a week, day, or hour should not have a scheduling priority equal to native load customers that depend on the grid 24 x 7 or Priority Wheeling Through customers that essentially are making a monthly commitment to use the CAISO grid. Any changes eroding the requirement that the power supply contract be for the entire month are unwarranted. First, it would undermine the CAISO's objective of treating Priority Wheeling Throughs like a monthly service, similar to how CAISO LSEs must make monthly showings. CAISO LSEs must meet their RA obligations for the entire month, not a subset of the month. Second, such a change would allow wheeling through self-schedules for only a handful of days or hours during the relevant month to “crowd out” native load during anticipated peak need periods. This essentially would allow external entities to “cherry pick” when to use the system, in contrast to CAISO LSEs that depend on the CAISO system, and must pay for its embedded costs, every hour of every day of the month. Third, allowing partial month contracts to support Priority Wheeling Through eligibility ignores that CAISO LSEs must procure sufficient RA Capacity each month to meet their monthly peak obligation, and most of that capacity has a daily 24 x 7 must-offer obligation. Granting a high priority to wheeling through transactions supported by power

³³ *NRG Power Mktg., LLC v. FERC*, 862 F.3d 108, at 114-15 (D.C. Cir. 2017) (*NRG*) (emphasis and quotation marks omitted).

supply contracts for some unspecified subset of the applicable month is incomparable to the RA obligations of CAISO LSEs, and it does not evince a legitimate need or intent to rely on the CAISO grid “throughout the calendar month” to serve load like a CAISO LSE.

Finally, the requested change contravenes a core component of the CAISO’s proposal – the Commission’s recognition that, because “external load is situated differently than internal load with respect to its ongoing reliance on the CAISO grid,” external LSEs should demonstrate their intention to utilize the CAISO transmission system on a regular basis in order to receive rights comparable to those provided internal load.³⁴ Partial-month supply contracts and transmission would not satisfy the intent of CAISO tariff section 36.9 (or the express requirements of section 36.9) for an external LSE to receive an allocation of CRRs, and they should not be sufficient to warrant Priority Wheeling Through status.

B. The CAISO’s Proposal Aligns With Open Access Principles

The CAISO’s proposal relies on precedent recognizing that the ability of transmission providers to include in their tariffs certain protections to ensure reliable service to native load customers is one of the “core elements” of the Commission’s open access policies.³⁵ The protesters opposing the CAISO’s wheeling priority proposal argue that CAISO customers should not receive any native load protections starting this

³⁴ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 at P 766.

³⁵ *See, e.g., Preventing Undue Discrimination and Preference in Transmission Service*, Notice of Proposed Rulemaking, 71 FR 32,636 (June 6, 2006), FERC Stats. & Regs. ¶ 32,603, at P 4 (2006).

summer, claiming such protections in a form compatible with the CAISO market design are contrary to open access.

Contrary to these protesters' claims, the CAISO's proposal allows customers to benefit from native load protections analogous to those available under the *pro forma* OATT. In addition, although the CAISO does not currently offer any advance reservations for transmission service (other than ETCs and TORs), the Priority Wheeling Through proposal provides a path for customers to reserve higher priority service reservations for wheeling through transactions. Indeed, under the CAISO's proposal, scheduling coordinators that have satisfied the requirements for Priority Wheeling Through transactions will have a priority equal to native load if interties or internal transmission paths are constrained and the CAISO's market software cannot schedule all of the requested service. This is consistent with the requirement in the *pro forma* OATT that a transmission provider curtail service to network customers and transmission customers taking firm point-to-point transmission service on a basis comparable to the curtailment of service to the transmission provider's native load customers.³⁶

Although the CAISO tariff calls the existing form of CAISO transmission service "new firm use," it is unlike firm service under the *pro forma* OATT. Instead, it is a service market participants can request daily under a volumetric rate that offers no capacity reservations and no priority gradations. The Commission recognized as much when it granted the CAISO a waiver of certain Open Access Same-Time Information System requirements:

³⁶ See *pro forma* OATT, section 13.2.

The CAISO states that it currently does not offer the network or point-to-point service contemplated in the *pro forma* OATT. Instead, the CAISO describes itself as providing a single transmission service available daily to all eligible customers on a non-discriminatory basis. Moreover, energy transmitted under the CAISO tariff is treated as “new firm use” and scheduled on a day-to-day basis by transmission customers, with the exception of transactions scheduled pursuant to “Existing Contracts” that predate the existence of the CAISO. Further, all users of the CAISO-controlled grid must schedule their use each day and cannot reserve available transmission capacity beyond the day ahead timeframe.³⁷

In connection with establishing some carefully tailored native load protections, the CAISO also provides a scheduling priority equal to native load in the form of the Priority Wheeling Through option.

Indeed, some commenters recognize firm transmission service historically has not been available on the CAISO system for any customers.³⁸ These commenters are correct that the CAISO’s transmission service is in many respects like a type of non-firm service. Under the *pro forma* OATT, non-firm transmission service has a lower priority than service to native load.

Intervenors have suggested that, because the CAISO did not implement native load protections at the time of Order No. 888 compliance, the CAISO has foregone any right to implement native load protections.³⁹ The Commission’s orders make it clear, however, that the ability to protect native load – a core element of open access policies – was not available only for a limited period when filings to comply with Order Nos. 888 and 890 were due. For example, in acting on numerous Order No. 890 compliance filings by public utilities that did not then reserve CBM for native load, the Commission

³⁷ *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,260, at P 13 (2009).

³⁸ LPPC at 13; PPC at 16.

³⁹ *See, e.g.*, LPPC I at 11-12; PPC at 15-16.

stated that, to the extent those utilities use CBM *in the future* or provide a CBM set-aside at the request of a customer, they must revise their transmission charges consistent with the requirements of Order No. 890.⁴⁰ Also, the definition of the term “Native Load Customers” in the *pro forma* OATT does not contain any cut-off date.⁴¹

In considering the open access implications of the CAISO’s proposal, the Commission should not look solely to the impacts on the CAISO capacity at the interties. Wheeling through transactions also can affect service over transmission paths internal to the CAISO delivering internal generation to native load. The CAISO’s analysis shows in circumstances when Path 26 is constrained in the north-to-south direction, self-scheduled wheeling through transactions occupy capacity on Path 26, preventing capacity from RA resources north of Path 26 from serving load in the southern part of the CAISO BAA. The high priority currently afforded to all self-scheduled wheeling through transactions can unduly limit the CAISO’s ability to use these resources to satisfy reliability needs within the CAISO footprint. Under the Commission-approved provisions of its tariff, the CAISO uses the maximum import capability (MIC) methodology to determine the amount of maximum import capacity that can reliably support RA imports, and then apportions that limited capacity to LSEs.⁴² LSEs cannot count imports above the amount of MIC the CAISO has assigned them on any intertie as RA Capacity. Wheeling through customers face no such restrictions. Modeling in the MIC calculation process shows that CAISO LSEs need most of the

⁴⁰ See, e.g., *Xcel Energy Operating Cos.*, 123 FERC ¶ 61,053, at P 12 n.7 (2008); *Duke Energy Carolina, LLC.*, 122 FERC ¶ 61,077, at P 11 n.6 (2008).

⁴¹ See *pro forma* OATT, Section 1.20.

⁴² Existing CAISO tariff section 40.4.6.2.1.

available transmission capacity at key interties as well as on Path 26 to serve native load in summer 2021.

Under a traditional *pro forma* OATT model, the transmission provider would reserve that transmission capacity to serve native load, leaving little if any capacity available as ATC for wheeling through transactions. Under the CAISO proposal, however, the CAISO continues to make all capacity available for wheeling, subject to differing scheduling priorities in the limited circumstances when transmission is constrained. This is consistent with the Commission's open access rules providing that capacity reserved for native load should be available for third party use except when the transmission provider actually needs the capacity to serve native load.⁴³

Some protesters argue that the CAISO has not shown that its tariff, as revised to include the Priority Wheeling Through proposal, is consistent with or superior to the *pro forma* OATT.⁴⁴ The Commission has consistently found that the CAISO Tariff and the design of the CAISO markets is consistent with or superior to the *pro forma* OATT.⁴⁵ The CAISO has explained in the April 28 Filing and in this Answer how the Priority Wheeling Through proposal provides native load protections comparable to those afforded by other ISOs and RTOs in a manner consistent with the CAISO market design and implementable in time for summer 2021. The fact that the CAISO market design has numerous beneficial features that differ from the *pro forma* OATT should not

⁴³ Order No. 888 at 31,745 (“The transmission provider may reserve in its calculation of ATC transmission capacity necessary to accommodate native load growth reasonably forecasted in its planning horizon. However, the transmission provider is obligated to provide transmission service to others under the Final Rule *pro forma* tariff out of capacity reserved for native load growth up to the time the capacity is actually needed for such future needs.”).

⁴⁴ See, e.g., Idaho Power-PGE at 16.

⁴⁵ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,099 at P 47 (2009).

deprive the CAISO's customers from native load protections comparable to those available to customers of other transmission providers.

Many parties opposing the CAISO's proposal have native load protections of their own. The CAISO recognizes its proposed native load protections differ from the native load protections these entities provide.

Just because the CAISO's proposal differs from others' practices is not a justifiable reason to outright reject the CAISO's proposal. This would unjustifiably deny the CAISO's customers important native load protections during summer 2021.

NV Energy opposes the CAISO's proposal based on an unsustainable analogy to the requirements for Designated Network Resources (DNRs).⁴⁶ NV Energy argues that, in Order No. 890, the Commission determined that a DNR could be located on an external transmission system, but in order to reserve transmission capacity on the intertie with that transmission system, the DNR had to have firm transmission to the border.⁴⁷ This argument lacks merit. First, the CAISO tariff does not provide for network integration transmission service. Because there are no designated loads on the CAISO's system, there is no need to designate network resources to serve those loads.

Moreover, even if NV Energy intends this as an analogy to the treatment of CAISO RA resources, the comparison fails. In Order No. 890-B, the Commission explained that network resource designation rules were not a proxy for RA requirements, stating "[t]he Commission has made clear that the requirements for the designation of network resources are not intended to replace or replicate resource

⁴⁶ NV Energy at 17-18; 27-28.

⁴⁷ *Id.* at 27.

adequacy requirements, which impose distinct obligations on the transmission provider and its customers.”⁴⁸ The requirements for DNR are thus distinct from resource adequacy requirements. NV Energy inappropriately conflates them.

NV Energy also ignores a crucial clarification the Commission provided in Order No. 890-A regarding the designation of off-system network resources. As relevant here, Order No. 890-A addressed requests for rehearing and clarification of Order No. 890 regarding Section 29.2(v) of the *pro forma* OATT, which lists the information regarding on-system and off-system network resources that an eligible customer must describe in its application for network integration transmission service. The Commission clarified that it only requires DNRs to demonstrate firm transmission service from the point at which title changes, not upstream:

the Commission clarifies that the requirement in section 29.2(v) of the *pro forma* OATT to identify the transmission arrangements on external systems applies to the transmission leg from the resource being designated to the transmission provider’s transmission system. If an off-system power purchase is sufficiently firm to satisfy the designation requirements, then the transmission provider need not be concerned with the upstream transmission leg(s) from the generator(s) to the point where the buyer takes title of the firm power. Because the contract itself is the resource being designated, and that contract is firm in nature, *it is not necessary to demonstrate the firmness of the upstream transmission in order to designate the contract as a network resource.*⁴⁹

Thus, to the extent an entity makes a firm power purchase at the border of a transmission provider offering network integration service, the entity is only required to show it has obtained transmission service from the border to support designating that contract as a network resource.

⁴⁸ Order No. 890-B at P 175 (citing Order No. 890 at P 1584; Order No. 890-A at P 835, 837).

⁴⁹ Order No. 890-A at P 867 (emphasis added). The Commission affirmed this finding at paragraph 169 of Order No. 890-B.

Powerex argues that a few Commission orders finding that transmission providers have violated the terms of their tariffs support rejection of the CAISO's wheeling through priority proposal.⁵⁰ These cases involve violations of explicit requirements for designating network resources or network loads under tariffs based on the *pro forma* OATT.⁵¹ It is indisputable the CAISO tariff does not follow the *pro forma* OATT, so the specific findings in those orders are irrelevant to the CAISO's proposed tariff revisions. In addition, the impact of the tariff violations in those cases is very different from the impact of the CAISO's proposal. In those cases, the Commission found certain public utilities improperly reserved ATC such that they never made available capacity on interties and key transmission paths for firm service by third parties. However, under the CAISO's proposal, the CAISO does not reserve ATC for native load in the first instance. Further, the CAISO continues to make all capacity available for wheeling, subject to differing scheduling priorities in the limited circumstances when transmission is constrained. Any customer can elect a Priority Wheeling Through transaction that will have a priority equal to native load. A customer can also elect a lower priority wheeling through transaction without the same priority. Although the CAISO tariff does not follow the *pro forma* OATT service model and does not allow customers to reserve transmission service prior to the day-ahead/real-time time frames, the Priority Wheeling Through provisions effectively allow customers to

⁵⁰ Powerex at 29-31, discussing *Aquila Corp. v Entergy Services, Inc.*, 90 FERC ¶ 61,260, order on reh'g, 92 FERC ¶ 61,064 (2000); *Wisconsin Public Power Inc. v. Wisconsin Public Serv. Corp.*, 83 FERC ¶ 61,198 (1998); and *Portland General Elec. Co.*, 131 FERC ¶ 61,224 (2010)

⁵¹ These violations benefitted the utility's merchant function in the *Wisconsin Public Serv. Corp.* and the *Portland General Elec. Co.* orders cited immediately above.

obtain a service priority equal to native load. As such, the orders cited by Powerex do not support rejection of the CAISO's proposal.

C. Short-Term Wheeling Through Transactions Should not Have a High Priority

Protesters' comments make it clear that external LSEs intend to rely extensively on last-minute, short-term (*i.e.*, weekly, daily, and hourly) wheeling through transactions. They argue that these transactions should have a scheduling priority at least equal to native load (or at least should be treated as Priority Wheeling Through transactions) if they are supported by firm transmission upstream of the CAISO. PUCN states that the 45-day notice requirement "leaves market participants unable to reliably purchase power in daily increments."⁵² PSCNM notes its desire to utilize short-term (*e.g.*, weekly, daily) wheeling through transactions that are assured of delivery when it needs additional supply to serve load.⁵³ Powerex objects that supply arrangements executed less than 45 days before the month are ineligible to support Priority Wheeling Through Transactions.⁵⁴ The ACC objects to the 45-day notice requirement because it would cause shorter-term contracts to be lower in priority.⁵⁵ NV Energy states that the 45-day requirement will adversely affect "day-ahead bilateral transactions."⁵⁶ Arizona Utilities state that only a fraction of wheeling through transactions will qualify as Priority

⁵² Nevada PUC at 7.

⁵³ PSCNM at 9-10.

⁵⁴ Powerex at 17.

⁵⁵ ACC at 8.

⁵⁶ NV Energy at 21.

Wheeling Through.⁵⁷ They object to the requirement for a firm power supply contract for the entire month because their day-ahead and shorter-term transactions will have a lower scheduling priority in the market optimization process.⁵⁸ Given these parties' apparent intent to rely extensively on transactions shorter than one month (*i.e.*, weekly, daily, or hourly), they argue that such short-term transactions backed by firm transmission on external transmission systems of any duration should have a higher priority.⁵⁹ In particular, they argue that these short-term transactions should have a priority over RA imports supported by non-firm transmission on external systems.⁶⁰ They note that under the *pro forma* OATT, firm transmission of any duration has a curtailment priority equal to native load.⁶¹

Short-term wheeling through transactions that may use firm service on neighboring systems for as little as an hour should not be guaranteed a scheduling priority equal to or greater than the scheduling priority of the delivery of RA Capacity California LSEs have procured either a year or 45 days in advance in accordance with the CAISO's RA rules.⁶² As discussed elsewhere in this Answer,⁶³ the quality of transmission on a neighboring system does not dictate the transmission service one receives on another system. This is a particularly unreasonable result given that RA imports are paired with MIC allocations provided by the CAISO to ensure they are

⁵⁷ Arizona Utilities at 35-39.

⁵⁸ *Id.*

⁵⁹ Arizona Utilities at 39; 46-48. Powerex at 25-26.

⁶⁰ NV Energy at 29-32; ACC at 8; Arizona Utilities at 46-48.

⁶¹ NV Energy at 23-25.

⁶² See existing CAISO tariff sections 40.2.1(a), 40.2.2.4(a)-(b), 40.4.7.1(a)-(b), and 40.10.5.2(a)-(c).

⁶³ See *infra* section III.D of this Answer.

deliverable. Allowing wheeling throughs to schedule on fully subscribed CAISO transmission paths defeats the purpose of the CAISO's MIC process (*i.e.*, to assess the simultaneous deliverability of all imports used in the RA process) in the first place and thereby undermines the entire purpose of RA imports.⁶⁴ It is inequitable and it would unduly jeopardize CAISO reliability to allow short-term self-scheduled wheeling through transactions to displace planned-for delivery of imported RA Capacity.

CAISO LSEs procure most of their RA imports in the year-ahead timeframe and show that capacity to the CAISO in their annual Resource Adequacy Plans submitted by October 31 each year. CAISO LSEs also show the CAISO what RA imports they have procured each month in their monthly Resource Adequacy Plans submitted 45 days before the month. As the CAISO indicated in its April 28 Filing, the CAISO has not planned its system to accommodate wheeling through transactions other than pre-existing firm wheeling through transactions under ETCs and TORs. Historically, wheeling through transactions on the CAISO have been *de minimus*. It is unreasonable to allow spot weekly, daily, and hourly wheeling through transactions to displace more forwardly procured RA supply that is necessary to serve native load.

The CAISO designed its proposal to allow wheeling through transactions that are monthly in nature, much like the monthly RA showings, to have a scheduling priority equal to CAISO load and higher than other types of wheeling through transactions. The Priority Wheeling Through option is comparable to a monthly transmission service reservation priority under the *pro forma* OATT. The CAISO's proposal is akin to the *pro forma* OATT processes for establishing a reservation window for transmission or

⁶⁴ CPUC at 15.

determining how much ATC is available to accommodate service beyond native load needs (except that the CAISO is not actually setting aside capacity for native load). Other transmission providers have forward processes for reserving transmission and setting aside ATC in the first instance; the CAISO does not. The CAISO proposal essentially creates a monthly transmission concept – Priority Wheeling Through transactions – that have a higher scheduling priority than non-Priority Wheeling Throughs, which make no monthly showings and are shorter-term transactions. External LSEs’ monthly reservation of upstream transmission capacity and execution of power supply contracts for the entire month serves as a proxy for monthly use of the CAISO transmission system. The CAISO is essentially establishing two levels of reservation priority for wheeling through transactions based on their duration – monthly transactions vs. shorter-term transactions. The CAISO notes that even though Order No. 888 did not establish different degrees of firmness, it allowed public utilities to propose and justify different degrees of firmness in a subsequent section 205 filing.⁶⁵

Even absent a proposal to establish different gradations of firmness, the *pro forma* OATT does not support protesters’ suggestion that market participants should be able to reserve weekly, daily, and hourly transmission service on an equal reservation priority with native load and monthly Priority Wheeling Through transactions. The OATT defined short-term firm point-to-point transmission service as service with a term less than one year.⁶⁶ Under section 13.2(ii) of the *pro forma* OATT, reservations for short-

⁶⁵ In Order No. 888, the Commission did not adopt different degrees of firmness under point-to-point or network transmission service because it did not want to complicate the priority system unnecessarily. However, it stated that transmission providers were free to propose and support different reservation priorities for firm service in subsequent section 205 filings. Order No. 888 at 31,747, 329.

⁶⁶ *Pro forma* OATT, section 1.45.

term transmission service are *conditional* based on the length of the requested transaction (with shorter term requests having a lower reservation priority). Moreover, whereas long-term firm point-to-point transmission service has an equal reservation priority to native load and network customers, short-term firm point-to-point service does not.⁶⁷ Thus, transmission providers are required to accommodate short-term transmission requests only if capacity is available after setting aside capacity for native load, network integration transmission service, and long-term point-to-point transmission requests. If capacity remains to accommodate short-term transmission requests, monthly service requests will have priority over weekly, daily, and hourly service requests in descending order.

The CAISO's proposal is consistent with this approach. It effectively grants a reservation priority to serve native load, but grants an equal capacity reservation priority to monthly Priority Wheeling Through transactions in the market optimization process. If capacity is available after reserving it for use by native load and Priority Wheeling Through customers, the CAISO market makes it available to accommodate shorter-term wheeling through transactions. Duration of service is a just and reasonable criterion to determine reservation priorities. Native load must use the CAISO transmission system every day, and Priority Wheeling Through customers have demonstrated their dependence on using the CAISO transmission system for the month. They should have a reservation priority over market participants seeking to use the CAISO transmission system only for opportunistic weekly, daily, and hourly transmission. The CAISO's proposal also is fair because it gives wheeling through customers that have made

⁶⁷ *Pro forma* OATT, section 13.2(iv).

monthly supply and transmission arrangements a higher reservation priority than wheeling through customers that will be relying on shorter-term transactions. Importantly, the CAISO is not denying customers engaging in these shorter-term transactions access to the CAISO grid. To the extent capacity is available, non-Priority Wheeling Through customers will be able to “reserve” service. However, if capacity is constrained, the CAISO will first “reserve” it for service to native load and Priority Wheeling Through customers.

PPC and LPPC state that firm transmission service is not “available on the system for any customers” because “the CAISO tariff does not provide for the advance purchase transmission services” and “the CAISO charges for transmission usage by internal and external load on a per megawatt hour basis.”⁶⁸ To the extent the CAISO’s transmission service is considered non-firm, there is even less basis for customers to argue that weekly, daily, and hourly service should have a priority equal to Priority Wheeling Through Transactions and a priority higher than certain native load transactions. As short duration non-firm transactions, these types of wheeling through transactions would have the lowest non-firm service curtailment priority under section 14.7 of the *pro forma* OATT.⁶⁹ Similarly, they would have the lowest curtailment priority under the NERC Transmission Loading Relief (TLR) procedures.⁷⁰ Such non-firm

⁶⁸ LPPC at 13; PPC at 16-17.

⁶⁹ Under section 14.7 of the *pro forma* OATT, “If multiple transactions require Curtailment or Interruption, to the extent practicable and consistent with Good Utility Practice, Curtailment or Interruption will be made to transactions of the shortest term (*e.g.*, hourly non-firm transactions will be Curtailed before daily non-firm transactions, and daily non-firm transactions will be Curtailed or Interrupted before weekly non-firm transactions).”

⁷⁰ See NERC Transmission Service Reservation Priorities available at: <https://www.nerc.com/pa/rrm/TLR/Pages/Transmission-Service-Reservation-Priorities-.aspx>.

transactions would also have a lower priority than secondary service to network customers from resources not designated as Network Resources.⁷¹ In summary, these short-term transactions would have a lower priority than *all* native load transactions and monthly non-firm transmission (*i.e.*, Priority Wheeling Through transactions). Under these circumstances, the CAISO's proposal clearly is not unjust and unreasonable.

Also, weekly, daily, and hourly spot wheeling through transactions do not indicate an "intention to continue to utilize the CAISO transmission system" or "continue to pay the embedded costs of the transmission system."⁷² The Commission found that external LSEs could meet these standards and receive an allocation of CRRs only if they (1) demonstrated in advance historical usage of the CAISO system and existing contracts and (2) prepaid transmission access charges.⁷³ Last-minute wheeling through transactions do not meet these standards. For the same reason these transactions would not support a direct allocation of CRRs, they should not support eligibility as a Priority Wheeling Through transaction.

There are other reasons why weekly, daily, and hourly wheeling through transactions should not have Priority Wheeling Through status. First, it would undermine the CAISO's objective of aligning Priority Wheeling Through eligibility with the monthly RA showings required for CAISO LSEs. CAISO LSEs must meet their RA obligations for the entire month, not a subset of the month. By analogy, monthly

⁷¹ *Pro forma* OATT, section 28.4.

⁷² *Calif. Indep. Sys. Operator, Corp.*, 116 FERC ¶ 61,274 at P 766-68 (2006).

⁷³ *Id.* at P 767. Existing CAISO tariff sections 36.9 and 36.9.1. Such transactions must also (1) demonstrate on a forward basis transmission service to the CAISO border, and (2) clear a simultaneous feasibility test to ensure the allocated CRRs do not exceed any transmission constraints. Existing tariff section 36.9.

transmission service is for the month not a mere week during the month. Second, it would allow wheeling through self-schedules to crowd out native load during anticipated peak need periods, essentially allowing external entities to “cherry pick” when to use the system. This contrasts with CAISO LSEs that depend on the CAISO system, and must pay for its embedded costs, every hour of every day of the month. Third, the suggestion ignores that CAISO LSEs must procure sufficient RA Capacity each month to meet their monthly peak obligation, and most of that capacity has a 24 x 7 must-offer obligation. Granting a high priority to wheeling through transactions supported by power supply contracts to serve external load for some unspecified period during the applicable month is wholly incomparable to the RA obligations of CAISO LSEs, and it does not evince an intent to rely regularly on the CAISO grid to serve load like a CAISO LSE. Fourth, it would undermine the CAISO’s allocation of import capability.⁷⁴ The CAISO uses the MIC process to ensure imports are deliverable, which limits the import resources that CAISO LSEs can show in their annual and monthly Resource Adequacy Plans. Allowing the unfettered scheduling of short-term wheeling through transactions would accord them a right denied to CAISO LSEs for their RA capacity, undermining the purpose of the RA import allocation process.

Protesters’ requested change also contravenes a core principle underlying CAISO’s proposal – the Commission’s recognition that, because “external load is situated differently than internal load with respect to its ongoing reliance on the CAISO grid,” external LSEs should demonstrate their intention to utilize the CAISO grid on a

⁷⁴ Existing tariff section 40.4.6.2.1; see *also* Business Practice Manual for Reliability Requirements, section 6.1.3.5 and Exhibit A-3.

regular basis in order to receive rights comparable to those provided internal load.⁷⁵ Partial month supply contracts and transmission would not satisfy the intent of CAISO tariff section 36.9 (or the express requirements of section 36.9) for an external LSE to receive an allocation of CRRs, and they should not be sufficient to warrant Priority Wheeling Through status.

D. The CAISO's Proposal Does Not Inappropriately "Strand" Upstream Firm Transmission

Some intervenors argue that the CAISO's interim proposal to utilize a two-tier priority for wheeling through transactions is unjust and unreasonable because it discriminates against external purchasers and suppliers. They argue the CAISO's proposal does not properly recognize the priority of transmission service secured outside of the CAISO's BAA, because it would prioritize RA imports with non-firm transmission to the CAISO border over wheeling through transactions delivered to the CAISO border with firm transmission.⁷⁶ They claim the consequences of the CAISO's scheduling priority proposal will be essentially to "strand" supply from other BAAs that has been committed to meet the needs of LSEs in other parts of the West.

The fundamental flaw in these arguments is the erroneous assumption that because entities in BAAs external to the CAISO have secured firm transmission to and/or from the border with the CAISO system, they are entitled to a higher scheduling priority on the CAISO's system relative to transactions having non-firm service on external systems. This assumption has no basis in Commission precedent or policy.

⁷⁵ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 at P 766.

⁷⁶ *See, e.g., NV Energy* at 29-42; *Arizona Utilities* at 51-59; *Powerex* at 22-23.

Under the *pro forma* OATT, firm transmission service on the system of one transmission provider does not entitle a customer to any particular level of service, firm or otherwise, on the system of a neighboring transmission provider. Likewise, there is nothing in the CAISO tariff stating that obtaining firm transmission service on an external system entitles an entity to “firm” transmission on the CAISO’s system, or requiring the CAISO to afford a scheduling priority to a wheeling through transaction because that transaction has firm service on another system.⁷⁷

NV Energy states no other OATT transmission provider, ISO, or RTO “uses its control over the transmission system to support the economic decision of LSEs not to reserve firm transmission or external networks for critical resource adequacy supply.”⁷⁸ This argument mischaracterizes the CAISO’s proposal. The CAISO’s proposal has nothing to do with the decisions made by LSEs regarding the transmission service they obtain on external systems. Rather, the purpose of the two-tier wheeling priority proposal is to provide reasonable protections to native CAISO load when tight system conditions require the CAISO to allocate scarce transmission capability *on its own system*. NV Energy’s argument also ignores the fact that a superior scheduling priority for CAISO load on the CAISO system relative to certain wheeling transactions does not provide CAISO load, or the LSEs serving that load, a service priority on neighboring

⁷⁷ Parties may argue that the CAISO is, in fact, proposing to implement a scheduling priority that depends on firm service on another system because one of the criteria for obtaining a Priority Wheeling Through designation is having a transaction supported by firm transmission for on-peak periods during the relevant month. However, unlike the result that these parties urge, the CAISO does not base its proposal on the premise that an LSE’s acquisition of firm transmission service from a neighboring transmission provider to the CAISO boundary grants that LSE a reservation priority on the CAISO system. Rather, as explained in Section III.A of this Answer, the firm transmission criteria for obtaining a Priority Wheeling Through transaction is simply intended as a proxy that allows external LSEs to demonstrate they plan to use the CAISO controlled grid to serve their load on a monthly basis in a manner comparable to CAISO LSEs.

⁷⁸ NV Energy at 32.

systems. Thus, if a CAISO LSE makes an “economic decision” not to reserve firm transmission service on a neighboring transmission provider’s system, that LSE faces the same risk as any other non-firm customer of that transmission provider of having its service curtailed in favor of transactions that have reserved a higher level of service.

Consider an example of a customer that wishes to transmit energy from the system of transmission provider “A” to the system transmission provider “D,” but in order to do so must cross systems “B” and “C.” For the purposes of this example, all transmission providers are using the *pro forma* OATT. That customer will need to obtain transmission service from transmission provider A to reach system B, service from transmission provider B to reach system C, and finally, service from transmission provider C to reach system D. Assume that the customer elects firm service from A to B, non-firm service from B to C, and firm service from C to D. Just because the customer in this example elected to obtain firm service from transmission provider A does not in any way entitle it under the *pro forma* OATT to firm service on the systems of transmission providers B or C. The customer’s wheeling through transactions on systems B and C are subject to potential curtailment based solely on the firmness of service obtained from those transmission providers. So if, for instance, the customer’s non-firm wheeling through on system B was subject to curtailment in order to meet native load needs (*e.g.*, service at secondary points), the fact that the customer obtained firm service on system A would not alter this outcome.

Indeed, the CAISO is not aware of any transmission provider, ISO, or RTO that provides wheeling through transactions or other external uses of its system a priority over native load based on the firmness of service obtained from a neighboring

transmission provider. NV Energy notes other ISOs and RTOs that have adopted firm transmission requirements for external RA resources, and notes that the CAISO has advocated for similar requirements for its own RA program. However, these requirements have nothing to do with the scheduling or transmission priority afforded to transactions in the CAISO markets. Instead, these firm transmission requirements go to the separate question of whether certain external resources are eligible to serve as RA resources or capacity resources for planning purposes.

E. The CAISO Proposal Does Not Improperly Favor Non-RA Imports

Some intervenors contend that the CAISO's proposal unjustly prioritizes non-RA capacity imports.⁷⁹ As an initial matter, the CAISO notes that non-RA imports serve native load, which is entitled to protection under Order Nos 888 and 890. Moreover, the CAISO tariff assigns a scheduling priority to CAISO load.⁸⁰ The tariff does not distinguish between CAISO load served by RA imports and CAISO load served by non-RA imports. Thus, protesters object to a delineation the Commission has already accepted.

Powerex objects that the proposed tariff changes will prioritize non-RA imports over non-Priority Wheeling Through self-schedules. This will occur when the CAISO has insufficient supply to meet its load without relying on non-RA imports. Powerex points out that the market penalty prices the CAISO would implement in its markets to implement the proposed tariff changes would result in economic imports bid anywhere

⁷⁹ Powerex at 31.

⁸⁰ Existing tariff sections 31.4 and 34.12.2.

below \$300/MWh having a higher scheduling priority than non-Priority Wheeling Through self-schedules.⁸¹

Powerex omits that in addition to competing with imports for intertie transmission capacity, non-Priority Wheeling Through self-schedules also compete with RA generation inside the CAISO BAA for internal transmission (*i.e.*, Path 26). If the CAISO were to provide non-priority wheeling through transactions a higher scheduling priority, they could prevent power from RA resources north of Path 26 from serving load in the southern part of the CAISO BAA. As the CPUC points out, the CAISO needs the transmission capacity on Path 26 to transmit RA generation in the north of the CAISO BAA to load in the south.⁸² If the CAISO were to provide non-Priority Wheeling Through self-schedules a scheduling priority equal to non-RA import self-schedules, RA generation in the north would have to self-schedule to ensure non-Priority Wheeling Through transactions do not displace their output needed to meet load in the south over Path 26. This would be an untenable outcome and would undermine the fundamental tenets of nodal markets. A BAA should have the right to use its internal transmission to meet its native load. Further, forcing large numbers of internal CAISO Resource Adequacy Resources to self-schedule would cause significant cost inefficiencies and undermine the market's congestion management. The CAISO's proposed approach prioritizes internal generation bidding energy at less than \$300/MWh. \$300/MWh is a

⁸¹ Powerex at 35. The \$300/MWh number is the difference between the constraint penalty price of \$1450 and the export leg of a low priority wheel which is at \$1150. These penalty prices are in the Business Practice Manual for Market Operations. Assume there is internal generation bidding \$305/MWh. The cost of meeting the power balance constraint with that generation is $\$1450 - \$305 = \$1145$. Because the low priority wheel is linked with an import whose penalty price is \$0, the cost of cutting the low priority wheel is $\$1150 - \$0 = \$1150$, which is a higher cost than meeting load.

⁸² CPUC at 16.

reasonable value to capture the typical range of generation energy bids dispatched by the CAISO market.

In addition, in most cases, it is reasonable to expect RA resources will be sufficient to serve load in the CAISO BAA. The basis for CAISO RA requirements is the expectation that LSE's will procure sufficient resources to meet each month's peak load. The need for non-RA imports arises when unanticipated contingencies or extreme weather events require internal LSEs to rely on resources in excess of RA capacity. In this respect, providing a priority to non-RA imports is analogous to CBM. As the Commission has explained, "CBM is a term used to describe import capacity at interties of neighboring systems that is set aside to access generation reserves during contingencies."⁸³ Providing a priority to non-RA imports serves a similar function.

F. Criticisms of RA Requirements Are Beyond the Scope of this Proceeding

NV Energy argues that, rather than revising its wheeling through scheduling priorities, CAISO should "seek to harmonize its resource adequacy requirements" with those of other BAAs. NV Energy states that other ISOs and RTOs have adopted firm transmission requirements for eternal RA resources and that the CAISO has itself supported such a requirement for RA imports to the CAISO.⁸⁴

The Commission should dismiss these arguments as irrelevant to and beyond the scope of the tariff revisions proposed in this proceeding. This amendment involves

⁸³ *Midwest Indep. Transmission Sys. Operator, Inc.*, 98 FERC ¶ 61,075, at 61,215 (2002).

⁸⁴ NV Energy at 32-39. Relatedly, Arizona Utilities claim the CAISO's proposal is being driven by the CAISO's decisions regarding the level of deliverability needed to support RA imports, and that the "solution" to CAISO LSEs not securing firm transmission should be to increase the firmness of that transmission, rather than alter its scheduling priorities. Arizona Utilities at 55.

modifications to the CAISO's scheduling priorities – that is, how the CAISO allocates scarce transmission capability to transactions as part of its day-ahead and real-time market optimization process. Issues regarding RA requirements go to whether a particular resource is eligible for designation as RA Capacity in the first place – *i.e.* the reliability and dependability of this capacity for resource adequacy planning purposes. None of the tariff revisions included in this filing relate to RA eligibility requirements. As such, there is no basis for the Commission to entertain arguments regarding the structure and eligibility requirements of the CAISO's RA program in this proceeding.

As an initial matter, the CAISO notes the default provisions of its tariff provide that RA imports be supported by transmission “that cannot be curtailed for economic reasons or bumped by higher priority transmission.”⁸⁵ The default provisions apply if local regulatory authorities do not approve different requirements. As noted above, the CPUC has required imports either be delivered on firm transmission or be delivered to a firm delivery point (*i.e.*, no sellers choice contract).⁸⁶ The Commission has found the CAISO's existing RA tariff provisions and paradigm to be just and reasonable.⁸⁷ This finding follows the Commission's recognition that other ISOs and RTOs have capacity constructs that are very different from the CAISO's, and the Commission has expressly declined to require the CAISO to emulate theirs.⁸⁸ Nowhere in those orders or

⁸⁵ CAISO tariff sections 40.8.1.12.1 and 40.8.1.12.2.

⁸⁶ See CPUC Decision D.04-10-035 Workshop Report at 21, available at http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/REPORT/37456.PDF.

⁸⁷ Indeed, abruptly imposing such a requirement for current RA resources midstream in the annual RA term, and in the middle of summer, would potentially *undermine* reliability insofar as it would require significant changes to LSE procurement practices that would be difficult if not impossible to implement on short notice.

⁸⁸ See, e.g., *CXA La Paloma*, 165 FERC ¶ 61,148, at P 76 (“We also find that CXA La Paloma has not substantiated its general claims that CAISO's and CPUC's decision not to implement centralized

anywhere else has the Commission required the CAISO to restrict RA eligibility to imports accompanied by firm transmission to the CAISO border, or opined that it should.

Consistent with the Commission’s rejection of a one-size-fits-all approach to resource adequacy, the CAISO is not obligated to require firm transmission service for RA eligibility. As the Commission is aware, the CAISO is considering a firm transmission requirement for RA imports in an ongoing stakeholder initiative, and the CPUC is considering it in an ongoing RA proceeding.⁸⁹ These are the proper forums to address that issue, not a tariff amendment regarding scheduling priorities in the market optimization. The CAISO has not proposed any revisions to its RA program in this proceeding. Arguments regarding the merits of the CAISO’s Commission-approved RA

capacity procurement renders the existing resource adequacy paradigm unjust and unreasonable”); *id.* at P 79 (“Moreover, we find that Powerex has not demonstrated that circumstances have changed in any way to render CAISO’s previously-accepted tariff provisions unjust and unreasonable or unduly discriminatory or preferential.”); *CXA La Paloma*, 169 FERC ¶¶ 61,045, at P 44 (“Moreover, the Commission has previously found unpersuasive similar arguments asserting that, under the current resource adequacy framework in California, existing generation is treated in an unduly discriminatory manner.”) (citing *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶¶ 61,229, at P 99 (2008); *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶¶ 61,053, at P 104 (2008)).

⁸⁹ BRTM proposes that the Commission not accept the CAISO’s proposed requirements for Priority Wheeling Throughs and instead direct the CAISO to adopt a materially different requirement, such as a day-ahead e-Tagging requirement.⁸⁹ The Commission should reject this alternative proposal, which is essentially an implementation detail for according only those imports supported by firm transmission on an upstream system a scheduling priority. The matter before the Commission is to determine whether the CAISO’s proposal, not any proposed alternative, is just and reasonable. “Pursuant to section 205 of the FPA, the Commission limits its evaluation of a utility’s proposed tariff revisions to an inquiry into ‘whether the rates proposed by a utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable [than] alternative rate designs.’” *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶¶ 61,135, at P 44 n.43 (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)). In that same order, the Commission also explained that the revisions proposed by the utility “need not be the only reasonable methodology” and that “even if an intervenor develops an alternative proposal, the Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternative proposal. 141 FERC ¶¶ 61,135, at P 44 n.43 (citing federal court and Commission precedent). See also *New Eng. Power Co.*, 52 FERC ¶¶ 61,090, at 61,336 (1990), *aff’d*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (proposed rate design need not be perfect, it merely needs to be just and reasonable); *Louisville Gas & Elec. Co.*, 114 FERC ¶¶ 61,282, at P 29 (2006) (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, but rather a range of different approaches often may be just and reasonable).

program are beyond the scope of this proceeding, and the Commission should reject them.⁹⁰

G. Some Commenters and Protestors Misunderstand the CAISO Tariff and the CAISO's Proposal

Some protests and comments include inaccurate descriptions of the CAISO tariff or proposal. The CAISO addresses them below.

BPA argues that the CAISO's proposal is unduly discriminatory because it allows economic imports to displace RA Capacity and still receive a high priority, but does not afford Priority Wheeling through transactions the same opportunity. This argument is incorrect. Economic imports cannot "displace" RA self-schedules in the CAISO markets.⁹¹ They can only "displace" higher-priced economic bids. BPA also ignores that in the post-HASP process, the CAISO can only consider the real-time energy bids of Resource Adequacy Resource in determining the *pro rata* adjustments; it cannot consider the economic bids of non-Resource Adequacy Resources.⁹² Also, as the CAISO clarifies in section III.L of this answer, the CAISO's proposal does not require the originally contracted resource to support the Priority Wheeling Through transaction in real time. The scheduling coordinator can substitute a different, more economic

⁹⁰ See, e.g., *Sage Grouse Energy Project, LLC v. PacifiCorp*, 154 FERC ¶ 61,223, at P 29 (2016) (denying complaint in relevant part on the grounds that it "constitutes an untimely request for rehearing and an improper collateral attack on the Commission's December 2015 Order"); *New Eng. Conference of Pub. Utils. Comm'rs, Inc. v. Bangor Hydro-Elec. Co.*, 135 FERC ¶ 61,140, at P 27 (2011) ("Despite NECPUC's arguments on rehearing, we continue to find that NECPUC's complaint constitutes a collateral attack on Opinion No. 489."); *Consol. Edison Co. of N.Y., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,059, at P 57 (2004) ("denying complaint in relevant part on the grounds that "complainants' contention that NYISO should have calculated refunds based on the methodology superseded by the Demand Curve Order constitutes an improper collateral attack on the Demand Curve Order.").

⁹¹ See CAISO tariff sections 34.1 and 34.12.

⁹² Proposed tariff section 34.12.3.

resource for the originally contracted resource to support the Priority Wheeling Through transaction in real-time as it delivers the energy at the specified Scheduling Point.

The CAISO also notes it is not requiring wheeling throughs to self-schedule, but if they do economically bid, they may not clear the market optimization. This filing does not address how to allocate scarce transmission among market participants that submit economic bids. It addresses the relative priorities when the CAISO has to adjust self-schedules because there are insufficient economic bids in the market.

BPA also alleges the CAISO's proposal is unduly discriminatory because the tariff allows the CAISO to declare a Capacity Procurement Mechanism (CPM) Significant Event to procure additional resources to meet reliability needs, and such resources "are defined as Resource Adequacy Resources."⁹³ BPA incorrectly states that CPM resources are RA Resources or provide RA Capacity. Appendix A to the CAISO tariff defines a Resource Adequacy Resource as "[a] resource that is designated on a Supply Plan to provide Resource Adequacy Capacity." Appendix A to the tariff defines RA Capacity as "[t]he supply capacity of a Resource Adequacy Resource listed on a Resource Adequacy Plan and a Supply Plan." CPM resources the CAISO procures in response to a CPM Significant Event are not on a Supply Plan or a Resource Adequacy Plan. Accordingly, they are not Resource Adequacy Resources and do not provide RA Capacity. Also, in the post-HASP process, the CAISO only considers shown Resource Adequacy Capacity and "each applicable Resource Adequacy Resource's Real-Time Energy bid quantity."⁹⁴ Because CPM resources are

⁹³ BPA at 8-9. BPA provides no specific tariff cite in support of its argument.

⁹⁴ Proposed tariff section 34.12.3.

not Resource Adequacy Resources and are not shown RA Capacity, the CAISO does not consider them in the post-HASP process.

Powerex suggests that the CAISO's proposal requires scheduling coordinators to identify physical capacity, but the CAISO does not require RA imports to identify physical capacity.⁹⁵ Powerex incorrectly describes the CAISO's proposal. The CAISO's proposal merely requires "a firm power supply contract to serve an external LSE's load throughout the calendar month."⁹⁶ The CAISO's proposal does not require the scheduling coordinator for the Priority Wheeling Through to identify the physical resource supporting the transaction. The obligation for a Priority Wheeling Through aligns with the requirement for CAISO LSEs to show RA Capacity in their monthly RA Plans.⁹⁷

Powerex argues that the that the process for the real-time adjustment of transmission allocated to Priority Wheeling Through Transactions is unduly discriminatory because the formula the CAISO uses caps real-time Priority Wheeling Through transactions at no more than 10 percent above the level of the day-ahead awards, but RA imports are not limited in this manner.⁹⁸ The CAISO explained in the April 28 Filing that the CAISO included this requirement in response to comments filed by its DMM and others that allowing Priority Wheeling Throughs to schedule only in real-time could create uncertainty and potential reliability challenges because they could

⁹⁵ Powerex at 17. NV Energy also incorrectly claims that the CAISO's proposal requires the Priority Wheeling Through customer to identify a specific source. NV Energy Comments at 17.

⁹⁶ See CAISO tariff Appendix A, proposed definition of Priority Wheeling Through.

⁹⁷ Existing tariff section 40.2.2.4; Business Practice Manual for Reliability Requirements, section 4.

⁹⁸ Powerex at 19-20.

displace generation, including internal generation, needed to serve CAISO load.⁹⁹ Powerex ignores that under the CAISO tariff all RA imports have a day-ahead must offer obligation, so there is no reason or need to impose a similar obligation on them.¹⁰⁰ This requirement on Priority Wheeling Through transactions is essentially a proxy for a day-ahead must offer obligation on Priority wheeling through transactions. DMM recommended the CAISO impose a day-ahead must offer obligation on Priority Wheeling through transactions, but the CAISO declined to do so, opting instead for the 10 percent scheduling requirement. A day-ahead must offer obligation would have been even more burdensome for Priority Wheeling Throughs.

H. Parties Had No Legitimate Expectation the CAISO Would Never Implement Native Load Protections or Update the Priorities for Wheeling Through Transactions

Some intervenors argue that the CAISO's proposal to revise the requirements and scheduling priorities for wheeling through transactions to protect native load is not just and reasonable because it upsets the entities' expectations of what the CAISO's rules would be.¹⁰¹ The Commission should disregard these arguments.

The CAISO understands parties wish to preserve maximum flexibility to utilize the CAISO's transmission system. However, it is unreasonable to expect the CAISO's

⁹⁹ Transmittal Letter for April 28 Filing at 75. Absent the 110 percent of the day-ahead award requirement, Priority Wheeling Through transaction could show up in real-time and cause the HASP to become infeasible. If the CAISO knew in RUC that the Priority Wheeling Through was going to show up, then the RUC would have become infeasible, and the CAISO would have given all RA imports a real-time must offer obligation. Because the CAISO's share in the post-HASP pro-rata allocation process is based upon RA import bids in real-time, if RUC does not become infeasible and the CAISO did not clear all RA imports because it did not need to, then the CAISO's share would be significantly and inappropriately reduced.

¹⁰⁰ Existing tariff section 40.6.1.

¹⁰¹ See, e.g., ACC at 18-19; Arizona Utilities at 27-28, 31-40, 56; LPPC at 7-10.

transmission access rules, which provide no native load protections, would remain unaltered, particularly in light of the challenges the CAISO faced last year and the potential for increased wheeling through transactions this summer. Stakeholders have been on notice since issuance of the Preliminary Root Cause Analysis on October 6, 2020, that the CAISO, as part of its Summer 2021 readiness efforts would “review and clarify through changes to its tariffs and business practice manuals the existing rules for scheduling priorities and protection of internal and external schedules.”¹⁰²

Consistent with that commitment, the CAISO issued a straw proposal in the Market Enhancements for Summer 2021 stakeholder initiative on January 27, 2021, that stated the CAISO would “[p]ropose to modify [the] priority of wheel through schedules to ensure RA imports can sink in CAISO BAA.”¹⁰³ The next few months of discussions between the CAISO and stakeholders resulted in the wheeling through proposal contained in the April 28 Filing. Thus, the entities that now protest the April 28 Filing could have no reasonable expectation they would be able to enjoy a scheduling priority unsupported by the CAISO tariff for wheeling through transactions this summer. They have had months of notice that the scheduling priority rules were subject to change.

¹⁰² Preliminary Root Cause Analysis at 66. The electric industry trade press extensively covered issuance of the Preliminary Root Cause Analysis, and it was the subject of a press announcement the CAISO, CPUC, and CEC put out the day they issued it. See *CAISO, CPUC, and CEC Issue Preliminary Report on Causes of August Rotating Outages* at [https://www.energy.ca.gov/sites/default/files/2020-10/Outage Release 2020-10-06 ADA.pdf](https://www.energy.ca.gov/sites/default/files/2020-10/Outage%20Release%202020-10-06%20ADA.pdf).

¹⁰³ Market Enhancements for Summer 2021 Readiness – Straw Proposal, at slide 15 (Jan. 27, 2021). This CAISO document is available on the CAISO website page for the stakeholder initiative, California ISO - Market enhancements for summer 2021 readiness at <https://stakeholdercenter.caiso.com/StakeholderInitiatives/Market-enhancements-for-summer-2021-readiness>.

Also, no one disputes, or reasonably could dispute, that the CAISO has an express right under its tariff to file amendments with the Commission at any time to change its tariff.¹⁰⁴ The CAISO submitted the April 28 Filing 61 days prior to the requested effective date of the wheeling through proposal, *i.e.*, within the usual 60-day period prescribed by FPA Section 205.¹⁰⁵ Under its market design, the CAISO “offers a single ‘daily’ transmission service that is available on a non-discriminatory basis to all eligible customers on a day-to-day basis,” and “there are no firm, long-term transmission reservations of capacity.”¹⁰⁶ Because the CAISO’s market design does not include firm long-term transmission capacity reservations, 61 days is ample time for even a market participant that had no advance notice of the April 28 Filing to arrange for transmission service based on the prospect that the Commission would accept the CAISO’s wheeling through proposal.

Further, interveners make no specific showing of harm. They generally assert the tariff changes will disrupt expectations, but the protests contain no specific details regarding contract provisions or the dates parties entered into the contracts. The CAISO is not privy to the terms of these contracts. During the stakeholder process, the CAISO had conversations with certain external entities regarding the types of transactions they have entered into and designed its proposal accordingly.

¹⁰⁴ “Nothing contained [in the CAISO tariff] shall be construed as affecting, in any way, the right of the CAISO to . . . unilaterally to make an application to FERC for a change in rates, terms, conditions, charges, classifications of service, Scheduling Coordinator Agreement, rule or regulation under FPA Section 205 and pursuant to the FERC’s rules and regulations promulgated thereunder.” CAISO tariff, section 15.

¹⁰⁵ FPA Section 205(d), 16 U.S.C. § 824d(d). See also 18 C.F.R. § 35.3 (setting forth notice requirements in the Commission’s regulations).

¹⁰⁶ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,180, at P 7 & n.8 (2008).

To the extent parties are concerned the proposed tariff amendment might disrupt power supply arrangements they have already entered into for this summer, the CAISO notes that such contacts would meet the notification requirement for Priority-Wheeling Through transactions. Parties need only arrange for sufficient transmission to satisfy the Priority Wheeling Through eligibility requirement. If parties' objections are that weekly, daily, and hourly wheeling through transactions do not qualify as Priority Wheeling Throughs, the CAISO addressed above why such short-term, non-monthly service arrangements should not have a scheduling priority equal to CAISO load and Priority Wheeling Through transactions. In any event, the CAISO is not precluding parties from engaging in such short-term wheeling through transactions; it is merely giving a higher priority to wheeling through transactions that have made advance monthly supply and transmission arrangements.

In its protest, LPPC cites to several cases it claims support the proposition that even though the changes proposed in the April 28 Filing would only apply prospectively, they nevertheless have "an unlawfully retroactive effect" because they impact market participants' "settled expectations" regarding the expected use of the CAISO's system when entering into supply arrangements."¹⁰⁷ These cases lend no support to LPPC's argument. The first two cases cited by LPPC, *Clark-Cowlitz Joint Operating Agency v. FERC*, 826 F.2d 1074 (D.C. Cir. 1987) and *Williams v. Natural Gas Co. v. FERC*, 3 F.3d 1544 (D.C. Cir. 1993), involved the general principle that when an agency interprets a statute or announces a new rule in the context of an adjudication, it may apply that new interpretation to the proceeding before it. These cases are irrelevant because the April

¹⁰⁷ LPPC at 8-10.

28 Filing does not ask the Commission to adopt a new statutory interpretation or change any policy. The CAISO is simply exercising its fundamental rights under FPA Section 205 to make prospective changes to the rates, terms, and conditions of its Commission-jurisdictional tariff.

The *ISO New England* cases cited by LPPC are also unavailing. There, the Commission explained that, when protesters assert proposed tariff revisions would disrupt the settled expectations of market participants, the Commission has considered a “balancing of interests” or “balancing of equities” in determining the appropriate outcome.¹⁰⁸ The “settled expectations” the Commission considered in those cases are of a different nature than those discussed by LPPC and other parties to the instant proceeding. For instance, in the 2020 ISO New England case, the Commission determined that proposed changes to ISO New England’s forward capacity market (FCM) unreasonably disrupted the settled expectations of participants in that market. The tariff revisions changed the rules for de-list bids after market participants had already submitted them (or decided not to submit them), and the qualification process had begun.¹⁰⁹ The circumstances here do not involve tariff changes after a deadline has passed. Any bilateral arrangements market participants have made are with third parties, and they executed them outside of the CAISO markets and the CAISO tariff. The CAISO was not privy to these arrangements, and parties did not submit such arrangements to the CAISO for review or approval.

¹⁰⁸ *ISO New Eng. Inc.*, 170 FERC ¶ 61,187, at P 16 (2020).

¹⁰⁹ *Id.* at PP 17-18.

Moreover, even if the Commission were to consider these expectations, the substantial benefits of the CAISO's proposed revisions outweigh any expectations that the CAISO's wheeling through scheduling priorities would remain unchanged.¹¹⁰ These revisions are necessary to ensure that the CAISO can reliably serve load within its BAA during the upcoming summer 2021 period. On the other hand, LPPC and others have failed to demonstrate a reasonable reliance on the CAISO's existing wheeling through rules. As discussed above in this section, market participants have been on notice for some time that the CAISO was considering revisions to its scheduling priorities, including those for wheeling through transactions. In any event, data shows that the use of the CAISO's system for wheeling through self-schedules has been minimal in recent years, but the CAISO expects such transactions to increase this summer, prompting the need for the tariff amendments.

I. The CAISO Is not Required to Demonstrate Wheeling Through Transactions Contributed to the Challenges of the Summer 2020 Extreme Heat Events

Some parties argue the CAISO has not shown its wheeling through priority proposal is just and reasonable because there have been no findings wheeling through transactions contributed to the summer 2020 rolling blackouts.¹¹¹ This argument lacks merit because the purpose of this tariff amendment is not to address the 2020 events,

¹¹⁰ See *ISO New Eng. & New Eng. Power Pool*, 145 FERC ¶ 61,095, at P 30 (2013) (finding that the "important benefits" associated with the proposed changes to ISO New England's FCM distinguished them from situations where "the Commission was reticent to disrupt settled expectations, *i.e.*, where the proposed tariff revisions were 'unnecessary' and 'without any demonstrated benefit.'").

¹¹¹ See *Arizona Utilities* at 56; *BRTM* at 6; *Idaho Power-PGE* at 16-17; *Vistra* at XX.

but rather, to ensure that potential challenges that could lead to service interruptions do not occur in 2021 and beyond. Therefore, whether or not wheeling through transactions contributed to the summer 2020 blackouts is beside the point – the more pertinent question is whether wheeling through transactions potentially could contribute to the reliability challenges the CAISO will face in the near future, particularly during the summer 2021 period.

The CAISO reasonably believes the answer to this question is “yes.” As explained in the April 28 Filing, although the CAISO did not observe consequential wheeling through transactions during the 2020 events, it expects increased wheeling through transactions this summer, which run the risk of displacing RA imports under the current scheduling priorities. The CAISO explained why it expected increased wheeling through transactions this summer.¹¹² No party denies (let alone even attempts to address) the CAISO’s assessment. The staunch opposition to the CAISO’s proposal and parties’ express intentions to rely on spot wheeling through transactions this summer confirms and highlights the CAISO’s concerns.

Wheeling through transactions not only could limit imports from serving CAISO load, they could also “crowd out” capacity on Path 26 and limit RA resources in Northern California from serving internal load. Path 26 was binding on at least one of the peak load days in August 2020. As discussed above, unlike other transmission providers, the CAISO has no comparable means of protecting its native load or limiting the quantity of non-ETC/TOR wheeling through transactions. The CAISO has not

¹¹² Transmittal Letter for April 28 Filing at 21, 49, 56-58.

planned its system to serve increased levels of non-EC/TOR wheeling through transactions,¹¹³ and it has not had to deal with high levels in past years. The CAISO shed load in 2020 during tight supply conditions with minimal wheeling through transactions. The risk of load shedding will only increase if the quantity of wheeling through transactions increases, and the CAISO lacks the proposed measures to protect native load.

The CAISO's proposal offers reasonable native load protections, while still accommodating Priority Wheeling Through on an equal basis. Another important feature of the CAISO's proposal is that it provides for 45-days advance notice of Priority Wheeling Throughs. This will allow the CAISO to plan in advance to serve wheeling through transactions, promoting more reliable operations both in the CAISO BAA and neighboring BAAs. Affording priority status to wheeling through transactions that are weekly, daily, and hourly will hamper the CAISO's planning efforts and further jeopardize reliability.

Given these legitimate concerns, it is just and reasonable for the CAISO to implement native load protections through its wheeling through priority proposal. If wheeling through transactions do not actually materialize in a manner that threaten to displace CAISO RA imports or internal resources, then the allocation of priority among wheeling through transactions will be irrelevant. Under such conditions, both high-priority and low-priority wheeling through schedules will be able fully to utilize the

¹¹³ The CAISO plans for ETC/TOR wheeling through transactions in its transmission planning process because they are firm transactions.

CAISO's transmission system. In other words, the priority will only be meaningful if the tight supply conditions anticipated by the CAISO appear.

J. The CAISO Proposal Satisfies the Rule of Reason

Powerex argues that the CAISO's failure to exclude the pricing parameters used to effectuate the proposed scheduling priorities violates the FPA because all practices that significantly affect rates, terms, and conditions of service should be included in a Commission-accepted tariff, not in other documents.¹¹⁴ Powerex argues that the CAISO's proposal violates FERC's rule of reason because the CAISO has not proposed to include in the tariff the specific penalty prices associated with wheeling through transactions and other scheduling priorities.¹¹⁵ Powerex recognizes that the Commission allows implementation details to be included in business practice manuals (BPMs) but argues that the "relative scheduling priorities of transactions in the CAISO markets cannot be characterized as mere implementation details and must be filed with the Commission."¹¹⁶ Powerex cites a Commission decision in a prior CAISO proceeding as purportedly requiring the CAISO to file for Commission approval of the parameters the market software uses to determine what bids clear the market or are subject to adjustment, arguing that modifications to penalty parameters could unwind the priority order set forth in the tariff.¹¹⁷

¹¹⁴ Powerex at 36.

¹¹⁵ Powerex at 35-38.

¹¹⁶ *Id.* at 36-37.

¹¹⁷ *Id.*, citing *Calif. Indep. Sys. Operator Corp.*, 126 FERC 61,147 (2009).

The CAISO agrees that the scheduling priorities for wheeling through transactions, relative to other CAISO market transactions, should be specified in the tariff, and the CAISO has done so in the April 28 Filing, proposing appropriate tariff revisions to make these priorities clear for both the day-ahead and real-time markets.¹¹⁸ However, the CAISO's approach of deferring the exact parameter values to the BPM is consistent with the Commission's rule of reason because the tariff in sections 31.4 and 34.12 establishes the relative scheduling priorities of the various schedule types. The penalty price parameters merely reflect the specific numerical values that the CAISO utilizes to implement those Commission-approved relative priorities in the market optimization. Although the CAISO uses the word "price" in defining these penalty parameters, they do not reflect a rate any market participant pays nor do they significantly affect such rates. These penalty pricing parameters pertain to the market scheduling run, not the pricing run, and thus do not affect prices. They are implementation details because they merely effectuate the hierarchy of self-schedule priorities already specified in the tariff. The relative scheduling priorities significantly affect conditions of service, but the CAISO's existing tariff, and proposed tariff provisions, clearly specify the priorities.

As Powerex recognizes, the specific penalty prices that the CAISO utilizes to implement the scheduling priorities stated in the tariff have historically been contained in BPMs in most cases. Indeed, the CAISO tariff in several places states directly that the specific parameter values at issue in this tariff amendment are established in BPMs. For example, section 31.4 of the tariff states that the scheduling priority "functionality of the optimization software is implemented through the setting of scheduling parameters

¹¹⁸ See Revised tariff sections 31.4, 34.12.1.

as described in Section 27.4.3 and specified in Section 27.4.3.1 and *the Business Practice Manuals*.¹¹⁹ Nevertheless, Powerex claims the specific numerical values the CAISO uses to implement the priorities specified in the tariff must also be included in the tariff. Other than conclusory arguments claiming such values “cannot be characterized as mere implementation details,” the only rationale that Powerex offers for this position is that the CAISO could “unwind” the priorities set forth in the tariff by modifying the specific values in the BPM. This claim is puzzling because such an action would clearly run afoul of the filed rate doctrine and basic principles of Commission practice.¹²⁰ The law is clear that an entity with filed tariff cannot ignore or amend provisions set forth in its tariff through changes to its business practices, and in the event of any such conflict between the two, the tariff would take precedence.¹²¹ For these reasons, the Commission should disregard Powerex’s argument on this issue and continue to allow the CAISO to include the specific numerical penalty prices that it uses to implement the scheduling priorities specified in the tariff in a BPM.

¹¹⁹ Two other relevant tariff sections also clearly defer parameter definition to the BPMs. Section 34.12 states the functionality to make “uneconomic adjustments based on assigned scheduling priorities. . . is implemented through the setting of scheduling parameters as described in Section 27.4.3 and specified in Section 27.4.3.1 *and the BPMs*.” (Emphasis added.) Similarly, section 27.4.3 states that the “complete set of scheduling and pricing parameters used in all CAISO Markets is maintained in the Business Practice Manuals.”

¹²⁰ Powerex ignores many programming and implementation details are not in the tariff, but nevertheless the CAISO is responsible for ensuring it operates its market and systems consistent with tariff requirements. Further, these penalty prices are stipulated in the CAISO’s BPMs, are fully visible to stakeholders, and can only be revised under a specified change management process.

¹²¹ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,276, at P 16 (2009) (“Further, the CAISO cannot effectuate a change to the mathematical formula in the business practice manual without also revising the new tariff language.”); *Cal. Indep. Sys. Operator Corp.*, 154 FERC ¶ 61,122, at P 16 (2016) (“Commission precedent has long held that when a conflict exists between a filed tariff and an unfiled business practice manual, the tariff governs”); CAISO tariff, section 1.3.2(k) (specifying that “if the provisions of an Operating Procedure or a Business Practice Manual and this CAISO Tariff conflict, the CAISO Tariff will prevail to the extent of the inconsistency”).

The Commission is well aware that the CAISO includes these scheduling parameters in the BPM. The CAISO has notified the Commission in prior filings that these scheduling run penalty parameters are in the BPM, and the Commission has not required the CAISO to include them in the tariff. In Order No. 844,¹²² the Commission approved a proposal to require, among other things, each RTO/ISO to include in its tariff the transmission constraint penalty factor values used in its market software.¹²³ Order No. 844 did not require each RTO/ISO to include other penalty factors used to implement scheduling priorities in its tariff. In its filing to comply with Order No. 844, the CAISO explained its tariff already included these penalty factors and indicated that its BPM contain numerous other parameters it uses to make uneconomic adjustments to non-priced (*i.e.*, self-scheduled) MW quantities scheduled in the CAISO's market optimizations.¹²⁴ The CAISO noted that the BPMs explain the purposes of these parameters and their value in each of the CAISO's market processes. The CAISO also provided a link to its BPM containing these parameters. The Commission accepted the CAISO's Order No. 844 compliance filing and did not direct the CAISO to include these scheduling penalty parameters in its tariff.¹²⁵

Also, in connection with development of the CAISO's nodal markets, the Commission directed the CAISO to include additional details regarding parameters it

¹²² *Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 844, 163 FERC ¶ 61,041, at n.250 (2018).

¹²³ Order No 844 at P 121.

¹²⁴ Transmittal for CAISO filing to comply with Order No. 844, Docket No. ER18-2398 at 10-13 (Sept. 7, 2018).

¹²⁵ Commission letter order, Docket No. ER18-2398 (Jan. 8, 2018).

proposed to use in its market software to relax transmission constraints in order to settle load at a default load aggregation point.¹²⁶ The CAISO complied with this directive by proposing tariff language that established several rules concerning relaxing transmission constraints.¹²⁷ On compliance, the Commission directed the CAISO to resubmit this tariff language and provide a more in-depth explanation of the tariff provisions.¹²⁸ As part of that subsequent filing, the CAISO provided additional background on scheduling and pricing parameters it uses in its markets as well as whether those parameters would appear in the tariff or in the BPMs. The CAISO explained:

With the exception of one scheduling parameter that will be housed in the tariff [i.e., the transmission constraint penalty factor] the CAISO determined that only the pricing parameters need to be included in the MRTU Tariff because they can have a direct impact on prices. The CAISO proposes to retain the complete set of the configurable parameters in its business practice manuals and the modification of any of these parameters will be subject to the change management process established for the business practices manuals.¹²⁹

The Commission accepted the CAISO proposed parameter values and directed that the CAISO include an effectiveness threshold for whether the market should consider an economic bid for relieving congestion.¹³⁰ The Commission did not direct

¹²⁶ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶¶ 61,274 (2006) at P 618.

¹²⁷ Transmittal letter for CAISO tariff amendment filing, Docket No. ER06-615-003 *et al.* at 18 (Nov. 20, 2006).

¹²⁸ *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶¶ 61,313 (2007) at P 163.

¹²⁹ Transmittal letter for CAISO tariff amendment, Docket Nos. ER09-240 and ER06-615 at 8 (Nov. 4, 2008).

¹³⁰ *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶¶ 61,147 (2009) at P 57-58, rehearing denied by *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶¶ 61,246 (2009).

the CAISO to include additional parameters to implement scheduling priorities in its tariff such as those Powerex recommends in its protest. Powerex references this same Commission order as “requiring the CAISO to revise [sic] tariff to include thresholds applied to determine priority of economic bids and self-schedules.” Contrary to Powerex’s claim, the order did not require the CAISO to include these parameters in the tariff. As the CAISO’s filing in that proceeding made clear, the Commission previously approved the scheduling priorities currently found in tariff sections 31.4 and 34.12.2, but the related scheduling run parameters were included in the BPM.¹³¹ The order Powerex cites, did not require the CAISO to include these scheduling run parameter values in the tariff even though the CAISO advised the Commission they were in the BPM.

K. Commission Should not Require the CAISO to Provide a Scheduling Priority to Non-Priority Wheeling Through Transactions with A Day-Ahead Market Award

Powerex objects that the CAISO’s proposal does not give non-Priority Wheeling Through transactions awarded day-ahead market schedules a scheduling priority equal to native load. Powerex claims that non-Priority Wheeling Through transactions with day-ahead market awards constitute firm use of the CAISO system and, as such, Commission policy dictates these schedules be curtailed on a basis comparable to native load customers.¹³² Powerex states that the CAISO’s proposal would curtail these purportedly “firm” wheeling through schedules before curtailing native load customers. Powerex argues this violates the *pro forma* OATT, which requires the transmission

¹³¹ *Id.*

¹³² Powerex at 26.

provider curtail service to customers taking firm service “on a basis comparable to the curtailment of service to the Transmission Provider’s Native Load customers.”¹³³

The CAISO explained in Section III.C why weekly, daily, and hourly wheeling through transactions should not have a priority equal to native load. That result should not change because such wheeling through self-schedule clears the day-ahead market. Conditions regularly change between day-ahead and real-time. Powerex’s rationale could render the CAISO unable to serve CAISO load in real-time given the CAISO’s transmission and market paradigm.

Treating day-ahead awards as firm transmission with a priority comparable to firm point-to-point service under the *pro forma* OATT is particularly problematic in a market and transmission service paradigm like the CAISO’s. Other transmission providers reserve capacity for native load network integration transmission service, and long-term point-to-point transmission service before even making capacity available for short-term point-to-point transmission service. They also may set aside a CBM. As discussed in section III.C of this Answer, any reservation priority of short-term point-to-point transmission service is conditional. Thus, these transmission providers are only allowing short-term wheeling through transactions to be reserved in advance to the extent capacity is available, thus limiting the quantity of such transactions.

The CAISO has none of the protections offered by other transmission providers. The CAISO does not reserve ATC or CBM for native load use. The CAISO does not – and cannot – limit short-term wheeling through transactions only to the capacity that remains after it first sets aside capacity to satisfy native load and long-term firm point-to-

¹³³ *Id.*

point service obligations. Further, the CAISO has not planned its transmission system to accommodate wheeling through transactions because they are not firm service. Powerex's construct would allow an unlimited number of short-term wheeling through transactions supported by upstream firm transmission to "crowd-out" supply from both internal and external RA Capacity needed to serve native load, which would increase the risk of load shedding. No other transmission provider would even allow customers to reserve short-term transmission that would displace capacity necessary (and previously reserved) to serve native load.

The CAISO also notes that RUC does not award schedules to the resources it clears to serve load. RUC merely imposes a real-time must offer obligation on them. In Powerex's view, all wheeling through self-schedule transactions clearing the day-ahead market would have a higher scheduling priority than RA Capacity that clears the same day-ahead market to serve forecasted CAISO load and has a real-time must offer obligation (instead of a self-schedule). That would unreasonably place serving load at risk because the CAISO cannot reserve capacity in advance to serve native load. This would be particularly problematic because the quantity of spot wheeling through transactions having such a priority would be uncapped as their reservations would not be limited only to the capacity that remains available after capacity has first been reserved for native load, long-term point-to-point service, monthly, short-term firm service, and CBM. Unlike the CAISO, other transmission providers can restrict in advance the reservation of short-term firm wheeling through transactions to ensure such transactions do not infringe on the capacity reserved to serve native load. However, the

CAISO has no calculation of ATC it can release (after accounting for native load) and no CBM to account for changed conditions that arise between the day-ahead and real-time.

The CAISO has initiated a stakeholder process to consider a longer-term solution that may provide an opportunity to support a higher priority for additional wheeling through schedules that clear the day-ahead market. However, because wheeling through transactions can unduly restrict the CAISO's ability to access Resource Adequacy Resources, potentially affecting the CAISO's ability to serve load reliably, the CAISO's proposal does not provide all wheeling through transactions that clear the day-ahead market a priority equal to native load in real-time. Only Priority Wheeling through transactions have the same priority as native load.

L. The CAISO's Proposal Does Not Unduly Deny Opportunities for External LSEs to Use Wheeling Through Self-Schedules to Respond to Emergency Situations

Some entities state that the CAISO's proposed tariff revisions improperly restrict external LSEs from using short-term transmission products and wheeling through service on the CAISO system in response to emergency or unexpected events. NV Energy argues that the criteria for Priority Wheeling Through transactions afford no ability after the 45-day deadline to substitute for resource outages, while CAISO LSEs are permitted to substitute imports for Resource Adequacy Resources on forced outage.¹³⁴ BPA argues that the CAISO's proposal is unduly discriminatory because it allows RA Resources on outage to provide substitute capacity, but does not allow Priority Wheeling Through transactions comparable treatment.¹³⁵

¹³⁴ NV Energy at 14.

¹³⁵ BPA at 8.

The CAISO's clarifies that its proposal does not preclude customers from providing substitute capacity if the primary resource supporting their Priority Wheeling Through transaction is on outage. The CAISO's proposal does not require the scheduling coordinator for the Priority Wheeling Through transaction to identify the specific resource supporting the transaction, nor does it expressly limit the scheduling coordinator to using only one resource to support its transaction.¹³⁶ The CAISO merely requires the scheduling coordinator for the Priority Wheeling Through to (1) confirm a monthly firm power supply contract supports its transaction and (2) indicate the MW quantity of the contract and the CAISO Scheduling Point.¹³⁷ This will establish the MW quantity granted Priority Wheeling Through status. Once a transaction qualifies as a Priority Wheeling Through, the tariff does not preclude the scheduling coordinator from delivering energy to the specified Scheduling Point from a different resource if the initially contracted resource goes on an outage, or for some other reason. Thus, if the resource under a monthly firm power supply contract is on outage, a scheduling coordinator can substitute another resource or resources to support the Priority Wheeling Through transaction as long as the import and export Scheduling Points are unchanged. This is comparable to a point-to-point transmission service reservation under the *pro forma* OATT.

If protesters are objecting that they cannot obtain a scheduling priority for the spot wheeling through transactions they might engage in on short-notice, the CAISO

¹³⁶ Proposed tariff section 30.5.1 (z) and tariff Appendix A, proposed definition of Priority Wheeling Through transaction.

¹³⁷ *Id.*

explained above why such short-term transactions should not have a priority equal to native load and Priority Wheeling Throughs.¹³⁸ External LSEs can obtain Priority Wheeling Through service from the CAISO, and they will have greater flexibility to respond to emergencies consistent with the CAISO's clarifications herein. Regardless of whether external LSEs obtain Priority Wheeling Through service or use some other method to plan for the risk of a contingency there is no basis to deny CAISO native load any native load priority or make it harder to serve CAISO load reliably by undermining the deliverability of RA imports and internal RA generation in northern California.

The CAISO again emphasizes that the proposed tariff change does not prevent external LSEs from wheeling through the CAISO system to respond to these types of events; the CAISO merely is not treating such wheeling through self-schedules as Priority Wheeling Through transactions. This is appropriate for the reasons discussed above. If emergency conditions arise, these LSEs can request emergency assistance from the CAISO. However, they should not be not be entitled to priority access to the CAISO transmission system.

M. The Commission Should Reject Proposals to Eliminate the Sunset Date

The Six Cites and the CPUC request that the Commission eliminate the proposed May 31, 2022 sunset date for the tariff revisions. As discussed in the next sub-section of this Answer, the CPUC requests the Commission reject the sunset date and instead require the CAISO to make a supplemental tariff amendment filing by

¹³⁸ See *supra* Section III.C of this Answer.

August 2021 that contains certain tariff revisions. The Six Cities simply request the Commission eliminate the sunset date.¹³⁹ The Six Cities argue there is no legitimate reason to withdraw the proposed wheeling through tariff revisions on May 31, 2022. They state that the “tariff amendments are needed to ensure reliability within the CAISO BAA this summer and, moreover, they are essential to correcting flawed service priorities for CAISO native load customers.”¹⁴⁰

As the CAISO explained in the April 28 filing, the proposed sunset date is just and reasonable for the same reasons the Commission has previously approved tariff revisions addressing near-term reliability challenges on an interim basis pending consideration of longer-term alternatives in subsequent stakeholder processes.¹⁴¹ The CAISO had to undertake an expedited stakeholder process given the critical and immediate need to have measures in place this summer to protect native load and maintain reliability. The CAISO acknowledges it needs to consider longer-term solutions regarding the treatment of wheeling through transactions, and it has commenced a dedicated stakeholder process to consider them.¹⁴² The CAISO never

¹³⁹ Six Cities at 10-12.

¹⁴⁰ *Id.* at 12.

¹⁴¹ Transmittal letter for April 28 Filing at 61-62. *See also Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 1 (2016) (accepting the Aliso Canyon-related tariff revisions with an express sunset date, subject to the requirement the CAISO seek Commission authorization to extend their effectiveness); *ISO New Eng. Inc., et al.*, 144 FERC ¶ 61,204, at P 42 (2013) (stating that “given the importance of ensuring reliability in New England this coming winter . . . we accept the [proposed Winter Reliability] Program for the limited period requested,” subject to “consider[ation of] market-based solutions” in future stakeholder process); *ISO New Eng. Inc.*, 171 FERC ¶ 61,235, at PP 1, 57 (2020) (finding that implementation of proposed tariff revisions on an interim basis for winter months over upcoming two-year period “is a reasonable short-term solution to compensating in a technology-neutral manner resources that provide fuel security”).

¹⁴² *See California ISO - External load forward scheduling rights process at <https://stakeholdercenter.caiso.com/StakeholderInitiatives/External-load-forward-scheduling-rights-process>.*

intended the wheeling through tariff revisions to be a long-term solution and, as this filing clearly notes, most stakeholders do not support them as long-term measures. Under these circumstances, the sunset date is appropriate. The proposal enables the CAISO to provide reliable service to native load in emergency-type conditions this summer – protections that are non-existent today, while providing the CAISO time to work with stakeholders to develop a longer-term solution. If the CAISO needs to extend the provisions beyond May 31, 2020 because it cannot implement the longer-term solution by that date, the CAISO can make a further FPA Section 205 filing and justify the continued effectiveness of the Priority Wheeling Through provisions just as it did with the Aliso Canyon tariff provisions that were due to sunset.

N. The Commission Should Not Direct the CAISO to File Another Tariff Amendment by August 2021

PG&E and the CPUC support the two sets of tariff provisions the CAISO proposes to be effective June 28, 2021 and no later than July 15, 2021.¹⁴³ However, they request the Commission direct the CAISO to submit a supplemental tariff amendment filing by August 2021 to (1) limit new Priority Wheeling Through transactions only to those executed by a specified date,¹⁴⁴ and (2) give the CAISO the right to curtail exports supported by resources that are producing less energy than scheduled during emergency conditions.¹⁴⁵ The CPUC further requests the

¹⁴³ CPUC at 17-18; PG&E at 1, 4-5.

¹⁴⁴ PG&E would “freeze” Priority Wheeling Through transactions to those executed before April 28, 2021, *i.e.*, the date the CAISO filed this tariff amendment. PG&E at 13. The CPUC would “freeze” Priority Wheeling Through transactions to those executed before the CAISO files any August tariff amendment. CPUC at 22.

¹⁴⁵ CPUC at 19-22; PG&E at 16-17.

Commission require any August 2021 tariff amendment to (1) include imports cleared through the RUC process in the post-HASP Adjustment process and limit wheeling through transactions to the maximum import capability of each intertie, and (2) set the upper economic limit in the post-HASP process based on the higher of a resource's real-time energy bid quantity or its net qualifying capacity.¹⁴⁶ PG&E requests the Commission direct the CAISO to include in the August tariff filing revised tariff language that uses the maximum of a resource's real-time energy bid quantity or its shown RA capacity in the post-HASP process *pro rata* allocation.¹⁴⁷

These requests go beyond the scope of the CAISO's proposed tariff revisions, and they would result in a materially different rate design than the CAISO's original proposal.¹⁴⁸ As such, the Commission should reject them. Further, they involve important matters with broad implications that the CAISO should consider and vet in a stakeholder process. The wheeling through related tariff revisions PG&E and the CPUC recommend affect the balance the CAISO attempted to achieve with its interim proposal.

Regarding the requested export curtailment authority, the CAISO notes it does not have the capability to undertake such actions. It would require significant software and process changes. The recommend revisions are more appropriately subjects the CAISO should consider in developing a longer-term solution to the reliability issues posed by wheeling through transactions. As indicated above, the CAISO has already

¹⁴⁶ CPUC at 22-23.

¹⁴⁷ PG&E at 14-15.

¹⁴⁸ See *supra* section III.A.2 of this Answer (discussing requirements for requested changes under the *NRG* standard).

commenced a stakeholder initiative to address such issues. Accordingly, the Commission should decline to require the CAISO to make a tariff filing with the requested provisions by August 2021.

O. The CAISO’s Proposed Rules Regarding Exports Are Just and Reasonable

1. Vistra’s Protest Is Legally and Factually Flawed

Vistra argues the CAISO’s proposed rules regarding high-priority non-recallable exports¹⁴⁹ are inconsistent with open access principles embodied in the *pro forma* OATT process for obtaining point-to-point transmission service.¹⁵⁰ Vistra claims these added rules create adverse consequences and “untenable risks” for sellers of capacity and significant barriers for exports.¹⁵¹

Although numerous parties protest the CAISO’s April 28 Filing, Vistra is the only party that protests the proposed export rules in tariff section 30.5.1. Another supplier – MRP – supports the CAISO’s proposal and states that

The proposed export provisions help ensure that the CAISO’s markets do not inadvertently use RA capacity dedicated to load within the CAISO BAA to support export. The provisions also provide a rational and workable way to integrate Supporting Resources into the CAISO’s market optimization to ensure that high-priority exports are backed by non-RA capacity.¹⁵²

Vistra’s protest is flawed both factually and legally.

¹⁴⁹ These rules are found in proposed tariff sections 30.5.1(aa)-(ee).

¹⁵⁰ Vistra at 3.

¹⁵¹ *Id.*

¹⁵² MRP at 5.

The proposed export rules have nothing to do with point-to-point transmission service, which the CAISO does not even offer. They address the types of supply that clear the market optimization to support export self-schedules. The CAISO tariff identifies two types of capacity that can support exports – RA Capacity and non-RA Capacity.¹⁵³ Different scheduling priorities apply depending on whether RA Capacity or non-RA Capacity supports the export.¹⁵⁴ Only non-RA Capacity can back a high-priority non-recallable export. As the CAISO explained in the April 28 Filing, and as MRP notes in its comments, the proposed rules ensure (1) RA Capacity is not supporting high-priority non-recallable exports, and (2) the generation capacity backing a high-priority non-recallable export (a) has not been sold to a CAISO LSE and (b) is available and capable of supporting an hourly block export schedule so the CAISO is not forced to use RA Capacity to support the export self-schedule.¹⁵⁵

Vistra states that an entity obtaining point-to-point service under the *pro forma* OATT need not identify a specific resource supporting the transaction.¹⁵⁶ Vistra also states that there is no requirement under the *pro forma* OATT that the generator meet contractual or operational requirements. Vistra claims the CAISO's requirement that a generator be contracted with a resource or be able to perform deviate from the *pro forma* OATT.¹⁵⁷

¹⁵³ CAISO tariff section 31.4 and 24.12. See also CAISO tariff section 40.6.11.

¹⁵⁴ *Id.*

¹⁵⁵ Transmittal letter for April 28 filing at 35-41.

¹⁵⁶ Vistra at 4.

¹⁵⁷ *Id.*

Vistra ignores that the proposed tariff revisions do not create the requirement (or need) for an exporter to identify the resource supporting its export self-schedule. The requirement already exists in tariff sections 31.4 and 34.12.2, which accords different scheduling priorities depending on whether RA Capacity or non-RA Capacity is supporting the export. Resource identification is necessary because the market software needs to know whether the capacity backing the export is RA Capacity or non-RA Capacity. Exports supported by RA Capacity have a lower scheduling priority and are recallable.¹⁵⁸ On the other hand, exports supported by non-RA capacity have a higher scheduling priority and are not recallable. Without knowing the identity of the resource backing the export, the market software would be unable to implement these priorities.

Further, the Commission has recognized exports of capacity CAISO LSEs have paid for are opportunity sales that should be subject to curtailment.¹⁵⁹ The proposed rules ensure suppliers have not double-sold the capacity supporting high-priority non-recallable exports.¹⁶⁰ The proposed rules requiring the non-RA Capacity be available and capable of supporting the high-priority non-recallable export self-schedule for the entire hourly block are necessary because otherwise the CAISO will potentially have to support the export with RA Capacity, to the detriment of internal load.¹⁶¹

¹⁵⁸ Existing CAISO tariff section 40.6.11.

¹⁵⁹ *Calif. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 at P 1285 (2006), *order on reh'g*, 119 FERC ¶ 61,076 at P 619 (2007).

¹⁶⁰ Transmittal letter for April 28 Filing at 37-38.

¹⁶¹ *Id.* at 40-41.

The only specific rule Vistra discusses in detail in its protest is the requirement that if a resource backing a high-priority non-recallable export does not receive a schedule in the IFM, it must submit a \$0/MWH RUC availability bid for at least the quantity of the export self-schedule. Vistra claims this rule deviates from the *pro forma* OATT requirements of a point-to-point transmission customer and states the CAISO has not justified it as consistent with or superior to the *pro forma* OATT.¹⁶²

As discussed above generally, this rule is wholly unrelated to the provision of point-to-point transmission service. The CAISO explained in the April 28 Filing that this rule is necessary to ensure the resources non-RA Capacity exporters have identified as supporting their high-priority non-recallable export participate in RUC on an equal footing with RA Capacity. This ensures the market will not use RA Capacity to support the high-priority non-recallable export, rather than the resource designated to support it.¹⁶³ The rule ensures the capacity designated to serve such export is committed in RUC if necessary to meet that export.

Vistra claims that the requirement to participate in RUC “seem[s] to compel market participants to sell the same capacity to two different parties – both the CAISO and the external counterparty – creating an untenable situation for the seller” where it would be selling the same capacity twice.¹⁶⁴ This result cannot occur under the CAISO’s proposal. As the CAISO explained in the April 28 Filing, the scheduling coordinator must submit a \$0/MWh RUC availability bid up to the amount of the self-

¹⁶² Vistra at 4.

¹⁶³ Transmittal letter for April 28 Filing at 44.

¹⁶⁴ Vistra at 5.

scheduled export quantity, but can submit a bid higher than \$0/MWh for MW quantities greater than the quantity of the high-priority recallable export.¹⁶⁵ The CAISO can only use the resource's RUC availability bids above the high-priority recallable export quantity to meet the CAISO's forecasted load requirement in RUC. The CAISO cannot use RUC availability bids up to the self-scheduled export quantity to serve forecasted load.¹⁶⁶ Thus the RUC bidding requirement does not – and cannot – cause the same capacity to be sold both to the CAISO and the exporting counterparty. The CAISO provided examples in the April 28 Filing showing how process works.¹⁶⁷

Vistra further claims that the RUC bidding requirement will subject the resource supporting the high-priority non-recallable export to two penalty structures for non-performance. Specifically, Vistra alleges that if the resource is on outage, it could be subject to penalties under the contract and the CAISO's Resource Adequacy Availability Incentive Mechanism (RAAIM). This claim is incorrect. As an initial matter, this situation cannot occur because the same MW of capacity cannot be committed both to the CAISO and to a high-priority non-recallable export. Further, capacity backing a high priority non-recallable export must be non-RA Capacity. Non-RA Capacity is not subject

¹⁶⁵ Transmittal letter for April 28 Filing at 43-44.

¹⁶⁶ *Id.* at 44, fn 136, 45. See Proposed tariff sections 30.5.1 (bb) and (dd). Vistra also notes that if RUC prices clear above \$0/MWh the seller will receive capacity payments for the same capacity from the CAISO and the external counterparty. This situation exists today; the CAISO's proposal does not create it. Today, the market may clear an export self-schedule but not clear the economic bid of the supporting resource. When the supporting resource submits a bid that clears RUC, the resource will receive a RUC payment. The only difference between the existing tariff and the CAISO's proposal is that under the CAISO's proposal the supporting resource must submit a RUC availability bid of \$0/MWh. Under the existing tariff, the supporting resource can submit a non-\$0/MWh RUC availability bid. The exporting counterparty and supporting resource owner enter into a contract that provides for refund of any RUC payment.

¹⁶⁷ Transmittal letter for April 28 Filing at 43-46.

to RAAIM. Moreover, a supporting resource's capacity above the MW quantity of the high-priority non-recallable export that clears RUC is not RA Capacity because it an LSE does not show it on a monthly Resource Adequacy Plan or supply Plan. Thus, it is not subject to RAAIM, and it is not subject to any third-party contract penalty because it exceeds the quantity of the self-scheduled export.

Vistra also claims that if both the CAISO and the exporting BAA are simultaneously deficient, it will be unclear to which BAA the seller has the obligation to provide the capacity. Vistra then speculates that the CAISO will resolve the ambiguity in its favor and curtail the high-priority non-recallable export.¹⁶⁸ Again, this scenario cannot occur because the CAISO's proposal does not allow the same capacity to be sold to the CAISO and the exporter. Moreover, neither the CAISO's proposal nor the existing CAISO tariff permits the CAISO to curtail non-RA Capacity backing a high priority non-recallable export if the CAISO is energy deficient. Vistra cites no tariff language to the contrary, nor is there any. As the Commission has recognized, the CAISO cannot curtail the capacity of a resource that is not under an RA contract in the event of a supply shortage.¹⁶⁹

Finally, Vistra suggests the proposed export rules are unnecessary to maintain reliability and that the CAISO's September 5, 2020 BPM change resolved all of the CAISO's reliability issues.¹⁷⁰ The April 28 Filing clearly and compellingly explained the

¹⁶⁸ Vistra at 6.

¹⁶⁹ *Calif. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076 at P 617 (directing the CAISO to strike the word "resource" from tariff section 40.6.11 to indicate the CAISO may curtail exports only from RA "Capacity" to prevent or alleviate a system emergency).

¹⁷⁰ Vistra at 7.

need for the proposed export rules.¹⁷¹ The CAISO will not repeat the discussion of why it needs these tariff revisions. Vistra’s general comments do not directly address any specific proposed rule (other than the RUC bidding requirement) and do not attempt to rebut directly any of the CAISO’s specific arguments in the April 28 Filing. Vistra instead relies on conclusory claims that lack an iota of support.

The September 5, 2020 BPM change was a targeted change to address one specific issue later discussed in the root cause analysis of the August 2020 heat events. As discussed in the April 28 Filing, the Preliminary Root Cause Analysis and Final Root Cause Analysis – both issued after September 5, 2020 – recommended the CAISO consider additional measures to minimize the export of RA Capacity during reliability events.¹⁷²

The Preliminary Root Cause Analysis recommended the CAISO:

- Continue to review and clarify through changes to its tariffs and business practice manuals the existing rules for scheduling priorities and protection of internal and external schedules.
- Ensure that market processes appropriately curtail lower-priority exports not supported by non-RA resources to minimize the export of RA Capacity during reliability events.¹⁷³

The Final Root Cause Analysis recommended the CAISO stakeholder process consider changes that incentivize “appropriate prioritization of export schedules.”¹⁷⁴

The Final Root Cause Analysis acknowledged the BPM changes the CAISO implemented on September 5, 2020 to address export-related problems with the RUC

¹⁷¹ Transmittal letter for April 28 Filing at 31-46.

¹⁷² Transmittal letter for April 28 Filing at 27-28.

¹⁷³ Preliminary Root Cause Analysis at 66.

¹⁷⁴ Final Root Cause Analysis at 70.

process, and recognized the CAISO had initiated a stakeholder process “to consider additional necessary changes to its management of export schedules.”¹⁷⁵ Both the Preliminary Root Cause Analysis and the Final Root Cause Analysis identified a problem with the market processes erroneously signaling that more exports were physically supportable than actually were.¹⁷⁶

The DMM Report also acknowledged the September 5, 2020 BPM change, but it still found that significant export issues remained and market rule changes were necessary to address them.¹⁷⁷ Finally, during the underlying stakeholder process, the CAISO and stakeholders identified other problems arising from the CAISO’s treatment of exports. Thus, Vistra’s claim that the September 5, 2020 BPM change resolved all of the CAISO’s problems regarding export self-schedules in the CAISO markets is wholly unfounded.

2. The Commission Should Reject BRTM Request that the Commission Condition Approval of the CAISO’s Tariff Revision Regarding the Scheduling Priority of Low-Priority Recallable Exports

BRTM “does not oppose the CAISO’s proposal to delineate between low and high priority exports” but “is concerned that the CAISO’s proposal will inappropriately disadvantage low-priority exports scheduled in the day-ahead market.”¹⁷⁸ BRTM is concerned about internal load under-scheduling in the day-ahead market causing the

¹⁷⁵ *Id.* at 63.

¹⁷⁶ *Id.*; Preliminary Root Cause Analysis at 57-58.

¹⁷⁷ DMM Report at 2, 4-5, 46-47, 52, 67-68, 70-71.

¹⁷⁸ BRTM at 6-7.

CAISO to recall low-priority recallable exports.¹⁷⁹ BRTM recommends that if the Commission accepts the CAISO's proposed priority for low-priority recallable exports, the Commission should condition acceptance on the CAISO developing market rules to incentivize load to forward schedule, including possibly an explicit forward scheduling requirement.¹⁸⁰

The Commission should not adopt BRTM's recommendations. The CAISO tariff already distinguishes high-priority non-recallable exports (*i.e.*, exports backed by non-RA Capacity) from low-priority recallable exports (*i.e.*, exports backed by RA Capacity).¹⁸¹ The tariff also allows the CAISO, at its sole discretion, to curtail exports from RA Capacity to prevent or alleviate a system emergency.¹⁸² The proposed tariff revision merely applies these principles to provide that low-priority recallable exports receiving a day-ahead schedule will have a priority lower than serving CAISO load in the real-time market optimization. As explained in the April 28 Filing, this revision recognizes that conditions may change in real-time, and the CAISO may need the RA Capacity to meet internal load in the real-time, even though it did not need the capacity in the day-ahead market.¹⁸³

Under the circumstances here, the supplier has already sold the RA Capacity to a CAISO LSE and received a capacity payment for it. The supplier has no legitimate

¹⁷⁹ *Id.* at 7.

¹⁸⁰ *Id.* at 7-8.

¹⁸¹ Existing tariff sections 31.4 and 34.12.2.

¹⁸² Existing CAISO tariff section 40.6.11.

¹⁸³ Transmittal letter for April 28 Filing at 32-33.

expectation that it can sell RA Capacity it has already sold to a CAISO LSE to an external entity without it potentially being recalled. The Commission has rejected the concept that exports of RA Capacity are firm and found that they are “non-firm opportunity sales” that are curtailable.¹⁸⁴ Thus, the CAISO’s proposal fully aligns with Commission precedent and the principles underlying CAISO tariff section 40.6.11.

BRTM’s request that the Commission condition acceptance of the CAISO’s proposal on an obligation to develop further market rule changes goes well-beyond the scope of the CAISO’s FPA Section 205 proposal and would result in a materially different rate design than the CAISO’s proposal. Therefore, the Commission should reject it.¹⁸⁵ Scarcity pricing and forward scheduling requirements are significant market design changes far-reaching implications. They appropriately require consideration in an open and robust stakeholder process. They should not be “tacked on” as a condition to accepting a tariff provision that follows Commission precedent and is necessary to prevent the market from using RA Capacity to serve external load during an emergency, thus avoiding unnecessary load shedding.

3. The CAISO Addresses Clarifications Requested by Leeward

Leeward requests that the CAISO clarify that the proposed tariff provisions would not apply to pseudo-tied or dynamically scheduled resources that are scheduled to a neighboring BAA and committed serving load in that external BAA, not CAISO internal load. Leeward essentially seeks clarification that resources pseudo-tied or dynamically

¹⁸⁴ *Cal. Indep. Sys. Operator corp.*, 119 FERC ¶ 61,076 at P 619.

¹⁸⁵ See *supra* section III.A.2 of this answer (discussing requirements for requested changes under the NRG standard).

transferred out of the CAISO to a neighboring BAA are not external resources under the tariff.¹⁸⁶

Leeward is correct that resources pseudo-tied out of the CAISO are external resources under the CAISO tariff. However, dynamically transferred resources that are not pseudo-tied to an external BAA under the CAISO's pseudo-tie protocol are not external resources. They are CAISO BAA resources. Resources pseudo-tied out of the CAISO would not be subject to the proposed rules, but the rules would apply to dynamically-scheduled internal resources that are not non-pseudo-tied. If the Leeward resources are not pseudo-tied to an external BAA, but have sold all of their capacity only to an external BAA, they would not be Resource Adequacy Resources, and they would be providing non-RA Capacity. Thus, they could support a high-priority non-recallable export. The rules applicable to resources backing high-priority non-recallable exports would apply to such resources.

¹⁸⁶ Leeward at 4-8.

IV. CONCLUSION

For the foregoing reasons, the Commission should accept the tariff revisions contained in the April 28 filing, as clarified herein, without condition or modification.

Respectfully submitted,

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Dated: June 2, 2021

CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with 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 2nd day of June, 2021.

/s/ Jacqueline Meredith
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