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

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| **California Independent System Operator Corporation** | **)** **)** | **Docket No. ER23-2510-000** |

# MOTION FOR LEAVE TO FILE ANSWER, AND ANSWER, OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO REPLY COMMENTS OF POWEREX CORP AND SOUTHERN CALIFORNIA EDISON COMPANY

The California Independent System Operator Corporation (CAISO)[1] submits this motion for leave to file answer, and answer, to the reply comments filed by Powerex Corp. (Powerex) and Southern California Edison Company (SCE) in this proceeding on the CAISO's July 28, 2023 tariff amendment (July 28 Filing).[2]

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

[2] 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. As discussed below, this answer addresses new arguments regarding the CAISO's proposal that Powerex and SCE raise in their reply comments but did not raise in their initial filings in this proceeding. On September 5, 2023, the CAISO submitted in this proceeding an answer to then-submitted comments and protests regarding the July 28 Filing (September 5 CAISO Answer). At that time, Powerex had filed a protest and comments and SCE had only filed a motion to intervene. *See* September 5 CAISO Answer at 2, n.2. SCE's recently submitted reply comments are thus its first comments the CAISO has an opportunity to answer. If the Commission were to deem the instant CAISO filing to be not an answer to reply comments, but instead an answer to an answer submitted by SCE (though SCE and Powerex did not style their submittals as an answer), the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to submit an answer to SCE and Powerex. Good cause for a waiver exists here because the instant CAISO filing will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. *See, e.g.*, *Astoria Generating Co. L.P.*, 139 FERC ¶ 61,244, at P 22 (2012); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008); *ANR Pipeline Co.*, 94 FERC ¶ 61,074, at 61,344 (2001).

Powerex claims it needed to respond with additional facts to address the "additional" statement in the CAISO September 5 Answer that the CAISO's proposal "minimizes seams between the [OATT] framework that is prevalent across the Western Interconnection and the CAISO's organized market."[3] However, this statement in the September 5 CAISO Answer was neither new nor "additional." The CAISO made the same statement on page 3 of its Transmittal Letter for the July 28 Filing.[4] Thus, if Powerex had issues with that statement, it should have raised them in its initial protest, not in subsequent reply comments. In any event, Powerex's reply comments go far beyond addressing this mere statement; they address the basic elements of the CAISO's proposal for setting aside capacity for native load. Thus, Powerex should have raised these arguments in its initial protest as they do not constitute a response to new proposals or new arguments the CAISO raised in its answer to Powerex's protest. Accordingly, the Commission should deny Powerex's request to submit reply comments on these native load set-aside matters.

To the extent the Commission accepts Powerex's additional comments regarding the native load set-aside proposal, the Commission should allow the CAISO the opportunity to address Powerex's new arguments so the Commission has a full record on this issue. The CAISO's answer demonstrates why Powerex's additional arguments against the CAISO's native load set aside

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[3] Powerex at 2 (quoting the September 5 CAISO Answer at 6).

[4] The Transmittal Letter for the July 28 Filing also stated that one of the important principles underlying the CAISO's proposed design was to "Minimize seams issues between the CAISO organized market and the pro forma OATT framework across the west, while recognizing differences between the two frameworks exist." Transmittal Letter at 30. Thus, the CAISO's Transmittal Letter present two opportunities for Powerex to respond to this specific statement.

proposal lack merit. The Commission should also ignore Powerex's purported and conclusory "concern" with the CAISO's proposal that allows capacity associated with transmission ownership rights (TORs) to support a Wheeling Through Priority. Powerex identifies no specific issues or problems with the proposal that would prevent its implementation in a timely manner.

SCE generally supports the July 28 Filing.[5] However, SCE agrees with the limited protest submitted by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the Six Cities) that the Commission should direct the CAISO to alter its proposal so load serving entities (LSEs) in the CAISO balancing authority area can also obtain Available Transfer Capability (ATC) in the monthly (*i.e.*, rolling 13-month) request window process in addition to the amount the CAISO has already set aside for aggregate native load needs.[6]

The September 5 CAISO Answer explained why the Commission should reject the Six Cities' arguments. In its reply comments, SCE raises some new arguments in support of the suggested modification. Like Powerex, SCE could have -- and should have -- presented its proposed modification to the CAISO's proposal in its initial filing in this proceeding but did not. If the Commission does not deny SCE leave to file its reply comments, the Commission should accept the

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[5] SCE at 2 (stating that "SCE supports the [July 28 Filing], and with the exceptions described below . . . SCE considers it a good alternative to the current wheeling framework").

[6] *Id.* at 1-2, 4-5. SCE notes that San Diego Gas & Electric Company (SDG&E) submitted similar comments on this issue. *Id.* at 5 n.15. In addition to replying to the Six Cities, SCE's filing includes replies to comments submitted by the California Public Utilities Commission (CPUC) and external non-CAISO entities. *See id.* at 1-2, 3-4, 6-8. The instant CAISO filing does not answer SCE's replies to those latter parties' comments, which were sufficiently addressed in the September 5 CAISO Answer.

CAISO's answer to SCE's new arguments so it has a full record. The Commission should reject SCE's limited alteration to the CAISO design and accept the CAISO's full just and reasonable design contained in the July 28 Filing. SCE's suggested modification is unnecessary, fails to take into account that the tariff revisions proposed in the July 28 Filing already provide sufficient protection for native load, and could result in the double-counting of capacity set aside for native load making such capacity unavailable for Wheeling Through Priority requests until 30 days before the start of the month.

## I. ANSWER

### A. Powerex's Reply Comments Are Unfounded and Should Be Summarily Rejected

#### 1. The Protections Accorded CAISO Native Load Do Not Constitute an Unjust and Unreasonable Barrier to Open Access

Powerex alleges that the CAISO's proposal will distort competitive outcomes. Powerex objects that setting aside capacity for one group of entities for their use will unreasonably deny access to other entities.[7] Powerex argues that entities will be shut out from competing in bilateral markets knowing high priority transmission service will not be made available or will be restricted.[8] Powerex claims that forward price differentials between the Palo Verde and SP-

[7] Powerex at 6. Powerex argues that by setting aside capacity for native load the CAISO is placing restrictions on the total quantity of Priority Wheeling Through service that may be available. Powerex at 4.

[8] *Id.*

15 trading hubs for the summer of 2021 and afterwards are contrary to the underlying fundamentals of the two sub-regions and provide "compelling evidence" that the native load protections the CAISO implemented in summer 2021 have undermined competition in the wholesale markets.[9] Powerex further claims these barriers to the procurement of supplies from the Northwest have forced Southwest LSEs to incur higher costs by either procuring supply from high-cost local resources or building new local resources to meet their needs.[10] Ironically, three pages before it makes this claim Powerex acknowledges that developments unrelated to native load provisions could be driving this trend by stating:

> While entities in the Northwest could once have been assumed to collectively have abundant available hydro-electric surplus supply in the summer season, this is no longer the case. In recent years, the hydro surplus supply that has historically been relied upon to be available in the summer from the Northwest has become increasingly limited."[11]

Powerex suggests the barriers the CAISO has erected will strand capacity that will not be committed to Southwest LSEs.[12]

Powerex's arguments fail to show that the CAISO's proposal is unjust and unreasonable. Powerex appears to prefer the interim measures that "do not permit the CAISO to set aside any transmission capability on a forward-looking

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9 *Id* at 8-9.

10 *Id.* at 9.

11 *Id*. at 6, n. 10. Powerex does not discuss how the increasingly limited availability of Northwest supply has affected the bilateral prices of Northwest energy sold to Southwest LSEs.

12 *Id.* at 9.

basis for any potential load serving purpose, and they do not place any restrictions on the total quantity of Priority Wheeling Through service that the CAISO will make available."[13] However, these are fundamental elements of the native load priority policies long established by the Commission, and most every transmission provider in the U.S. sets aside capacity for native load, thus limiting the transmission available for other uses based on ATC calculations. The Commission has made clear that native load protections are a fundamental right under Order Nos. 888 and 890, and the CAISO is entitled to have native load protections.[14] In its Transmittal Letter to the July 28 Filing and in the September 5 CAISO Answer, the CAISO fully explained why its proposed native load protections are just and reasonable, not unduly discriminatory, and appropriate given its unique market service and resource adequacy framework. Powerex provides no legitimate reason why the Commission should reject them or demonstrates they constitute an impermissible barrier to open access.

Powerex's attempt to explain the price separation between Palo Verde and SP-15 for the summer of 2021 and subsequent summers is belied by its own data. Powerex's argument is based on monthly forward prices for SP-15 and Palo Verde (on-peak) during the summer months. Powerex's data shows prices

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13 *Id.* at 4.

14 *Calif. Indep. Sys. Operator Corp.,* 175 FERC ¶61,245 at PP 143-45 (2021) (June 21 Order), *order on reh'g,* 178 FERC 61,180 at PP 28-30 (March 20 Rehearing Order), citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities & Transmitting Utilities,* Order No. 888, FERC Stats. & Regs., ¶ 31,036 at 31, 74 (cross-referenced at 75 FERC ¶ 61,080) and *Preventing Undue Discrimination & Preference in Transmission Service,* Order No. 890 118 FERC ¶ 61,119 at P 107 (2007).

at Palo Verde for the months of July-September 2021 are approximately twice as high as in SP-15. Powerex's data is based on monthly forward prices as of October 31, 2020.[15] A fatal flaw in Powerex's argument is that the CAISO did not implement its interim Wheeling Through measures until August 4, 2021. Indeed, it was only in January 2021 that the CAISO even commenced the Market Enhancements for Summer 2021 stakeholder process that ultimately led to its April 28, 2021 tariff amendment to implement the interim Wheeling Through measures (as well as an earlier tariff amendment).[16] Thus, the October 31, 2020 forward swap prices on which Powerex relies could not possibly be based on, or reflect, the CAISO's interim Wheeling Through measures. Further, Powerex's financial swap data shows that price separation between Palo Verde and SP-15 started occurring in the summer of 2020, well before the CAISO implemented its interim Wheeling Through measures.[17] Similarly, Powerex's argument is belied by pricing data from the CAISO's Department of Market Monitoring's (DMM) Annual Reports on Market Issues & Performance (each a DMM Annual Report) that show noticeable price separation between Palo Verde and the Southern California Edison (SCE) load aggregation point beginning in summer 2020. In particular, the 2021 DMM Annual Report shows monthly average day-ahead and bilateral prices at Palo Verde for summer 2020 exceeded prices at the SCE load

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15 Powerex at 8.

16 *See* http://www.caiso.com/InitiativeDocuments/Presentation-MarketEnhancements-Summer2021Readiness-Jan6-2021.pdf.

17 That same data shows Palo Verde index prices in July 2021 were about twice the SP-15 index price.

aggregation point and, in August 2020, prices at Palo Verde were almost double the prices at the SCE load aggregation point.[18] Further, the 2021 DMM Annual Report shows prices at Palo Verde were noticeably higher than at the SCE load aggregation point during the summer of 2021 before the CAISO implemented the interim Wheeling Through measures.[19] Indeed, the prices between Palo Verde and the SCE load aggregation point were comparable in August and September 2021, *i.e.*, after the CAISO implemented the interim Wheeling Through measures.[20] Thus, Powerex fails to demonstrate that the CAISO's interim Wheeling Through measures caused the price separation between Palo Verde and SP-15.

Tight supplies throughout the West were already appearing in 2020, as indicated by the August 2020 heat wave events that led to some load shed on the CAISO grid. Many actions have occurred since that time that have improved the market and supply fundamentals in the CAISO and disprove Powerex's claim that "prices for the summer months (June-September) in the CAISO's southern SP-15 zone would be expected to be equal or higher than in the Southwest."[21] Following the August 2020 heat wave events, the California Public Utilities Commission (CPUC) initiated its extreme weather event proceeding that resulted in tangible, immediate actions to address the tight supply conditions, increase procurement, and make the CAISO system more resilient to heat wave events

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18 2021 DMM Annual Report at 101, Figure 2.7, available at http://www.caiso.com/Documents/2021-Annual-Report-on-Market-Issues-Performance.pdf.

19 *Id.*

20 *Id.*

21 Powerex at 7.

beginning in the summer of 2021. Among other actions, the CPUC directed the investor-owned utilities in California to procure additional non-Resource Adequacy supplies above-and beyond the planning reserve margin (PRM) -- the so called "effective PRM" -- and then the CPUC subsequently increased the PRM for 2023 and 2024.[22]

The DMM Annual Reports for 2021 and 2022 paint a much different picture than Powerex's representation of financial swaps. The 2021 DMM Annual Report indicates that market design changes and the integration of more than three GW of new capacity added for the summer of 2021 and more than 4.5 GW of new capacity added before the summer of 2022 (3.5 GW of which was storage capacity) bolstered CAISO supply margins.[23] Further, more than four

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[22] CPUC Decision D.21-03-056, Decision Directing Pacific Gas and Electric company, Southern California Edison Company, and San Diego Gas & Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2021 and 2022 (March 26, 2021)(maintaining the existing 15 percent PRM but directing minimum additional procurement of 2.5 percent -- 1000 MW -- for 2021 and allocating the additional procurement among the investor owned utilities in California), available at https://docs.cpuc.ca.gov/publisheddocs/published/g000/m373/k745/373745051.pdf; CPUC Decision D/21-12-015, Phase 2 Decision Directing Pacific Gas & Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company to Take Actions to Prepare for Potential Extreme Weather in the Summers of 2022 and 2023 (Dec. 2, 2021)(adopting an effective PRM of 20-22.5 percent -- an additional 2,000-3,000 MW -- for summers of 2022 and 2023), available at https://docs.cpuc.ca.gov/SearchRes.aspx?docformat=ALL&docid=428821475; CPUC Decision D.22-06-050, Decision Adopting Local Capacity Obligations for 2022-2023, Flexible Capacity Obligations for 2023, and Reform Track Framework (June 24, 2022) (increasing the PRM to 16 percent for 2023 and 17 percent for 2024), available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M488/K540/488540633.PDF; CPUC Decision D.23-06-029, Decision Adopting Local Capacity Obligations for 2024-2026, Flexible Capacity Obligations for 2024, and Program Refinements (June 29, 2023) (directing additional non-Resource Adequacy procurement of 1,700- 3,200 MW above and beyond the 17 percent PRM and allocating the additional procurement among the three investor owned utilities in California), available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M513/K132/513132432.PDF.

[23] DMM 2021 Annual Report at 1, 31.

GW of planned retirements were postponed before the summer of 2020.[24] DMM's 2021 Annual Report also notes CAISO load decreased in 2021 due in part to increases in behind-the-meter solar generation and CAISO load peaked at 43,982 MW, lower than forecasted and the lowest peak load since 2003.[25] The 2021 DMM Annual Report also noted that drought conditions persisted across the West, decreasing available hydroelectric supply and increasing fire risk. Net imports from the Northwest and Southwest decreased from 2020 levels.[26] Finally, for 2021, overall prices in the CAISO were competitive, averaging close to what DMM estimated would result under highly efficient and competitive conditions, with most supply offered at or near marginal operating cost.[27]

The DMM Annual Report for 2022 shows similar trends and further demonstrates the flaws in Powerex's representation of forward financial swap data. Bolstering summer supply margins, the CAISO added about 4.5 GW of capacity between June 2021 and June 2022 and added 5.6 GW of additional capacity since June 2022.[28] Most of the capacity was solar or battery storage.

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[24] *Id.* Renewable resources replaced retiring natural gas capacity. This new capacity, along with demand response capacity additions, exceeded the reductions in natural gas capacity. As CAISO load fell, utility scale wind and solar generation increased and led to an increased ability for the market to export during the peak solar hours. *Id.* Non-hydro renewable resources constituted a greater portion of total supply.

[25] *Id.* Relatively mild weather conditions led to lower loads in peak hours, and the mark-up of prices during peak hours compared to off-peak hours decreased from 2020-2021. *Id.* at 3.

[26] *Id.* at 31.

[27] *Id.* at 1, 6. The 2021 DMM Annual Report cited the CPUC's March 2021 decision directing additional procurement as helping ensure additional capacity is available during net-load peak hours. *Id.* at 3.

[28] 2022 DMM Annual Report at 1, available at http://www.caiso.com/Documents/2022-Annual-Report-on-Market-Issues-and-Performance-Jul-11-2023.pdf. Retiring gas capacity was largely replaced by solar and battery power. *Id.* at 3.

Hydroelectric production increased 24 percent from 2021 levels.[29] The California strategic reserve also supplemented CAISO supply.[30] DMM again found that prices in the CAISO were competitive with most supply offered at or near marginal operating cost.[31] The report noted that because of higher costs for electricity outside of California, net imports decreased on average in each hour, and exports increased.[32] The report stated that prices at major hubs outside of California were higher in peak months reflecting both demand growth and resource retirements. [33]

The 2022 DMM Annual Report concluded that the market changes implemented following the load curtailment of 2020 and the stressed conditions in 2021, along with the State of California's action to procure additional capacity, allowed the market to meet extraordinarily high peak load in the CAISO and the extended period of high demand across the Western Energy Imbalance Market.[34] The value of the aforementioned changes since the August 2020 blackouts has been recognized elsewhere.[35] Although in September 2022 there was a 10-day heat wave across the Western U.S. that broke temperature records across the

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29 *Id.* at 3.

30 *Id. at 7.*

31 *Id*. at 3. There were significantly fewer structurally non-competitive hours, and DMM stated that the downward trend in uncompetitive hours was due in part to the significant additions of battery storage in recent years. *Id.* at 2.

32 *Id.* at 1-3. Net imports accounted for 14 percent of generation, down from 17 percent in 2021. *Id.* at 29.

33 *Id. at 2.*

34 *Id.* at 7.

35 *Utility Dive,* Nov. 22, 2022, available at https://www.utilitydive.com/. This article also recognized that the 2021 blackouts in the Pacific Northwest were a wake-up call that the Pacific Northwest needed to be better prepared for future heat waves.

region, the CAISO did not have to implement rolling outages due largely to the increased battery storage and expanded use of demand response.

The supply and demand pattern changes in California and across the West are what seem to be driving up prices at Palo Verde more than they are at SP-15, not the implementation of the CAISO's interim Wheeling Through measures. The pricing data provided by DMM for the summer months in 2021 and 2022 further supports tis conclusion. For example, the DMM data shows that summer month prices at the Mid-Columbia trading hub – in the Pacific Northwest – have increased significantly since 2020, and as prices at Mid-Columbia rose, Palo Verde prices also rose.[36] The 2021 DMM Annual Report also shows notably higher monthly day-ahead average prices at Palo Verde than the SCE load aggregation point in June and July (before the CAISO implemented its interim Wheeling Through measures) and comparable prices in August and September (after the CAISO implemented it interim Wheeling Through measures).[37]

Furthermore, DMM Annual Report for 2022 shows differentials in monthly day-ahead and bilateral market peak prices at Palo Verde and the SCE load aggregation point consistent with supply and demand patterns. The DMM Annual Report for 2022 shows monthly average peak day-ahead and bilateral prices at Palo Verde were only slightly higher than at the SCE load aggregation

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[36] 2021 DMM Annual Report at 101, Figure 2.7; 2022 DMM Annual Report at 84, Figure 2.8. The prices at Mid-Columbia in summer 2021 exceeded prices at the SCE load aggregation point; although, in summer 2020 they were lower.

[37] *Id.* at 101.

point for the months of June-August, 2022.[38] The report shows significantly higher peak day-ahead and bilateral prices at Palo Verde than the SCE load aggregation point in September, *i.e.*, during the West-wide heat wave. Likewise, prices at Palo Verde increased as prices at Mid-Columbia increased, with prices at Mid-Columbia exceeding prices at the SCE load aggregation point in late summer. As indicated above, the supply additions (particularly the significant amounts of new battery storage), market design changes, and expansion of demand response in the CAISO following the August 2020 blackout helped the CAISO meet the extraordinarily high peak load in 2022.[39] Powerex's analysis omits any mention of the increasing prices at Mid-Columbia during the summer months (starting in 2021). This further indicates the higher summer prices at Palo Verde are the result of regional supply and demand fundamentals not the CAISO's interim Wheeling Through measures.

Powerex's claim that the price differentials between Palo Verde and SP-15 are consistent with transmission barriers that limit the ability of LSEs in the Southwest to secure supply from the Northwest fail for other reasons. Powerex claims that the barriers force Southwest LSEs to incur higher costs whether by procuring local supply from higher cost resources and/or building new local resource to meet their reliability needs. If the barriers the CAISO has purportedly created have precluded Southwest LSEs from accessing supply from the Northwest and forced them to rely on local capacity, then how does Powerex

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38 *Id.* at 84.

39 DMM 2022 Annual Report at 7.

explain the fact that Priority Wheeling Throughs from the Northwest to the Southwest have increased since 2021 and that, during this same period, CAISO LSE Resource Adequacy imports showings from Malin and Nevada-Oregon Border (NOB) trading hubs have decreased? Under the interim Wheeling Through measures, Priority Wheeling Throughs are not limited by ATC, and the CAISO has placed no quantitative limits on the quantity of Priority Wheeling Throughs; thus, entities could easily have registered even more Priority Wheeling Through transactions, but they did not.[40] The fact Southwest LSEs have not forward registered additional Priority Wheeling Though volumes even though they were able to can only be attributable to three reasons: (1) there is insufficient Northwest supply to support the forward registration of additional Priority Wheeling Through (see footnote 10 of Powerex's reply comments); (2) there was no demand for additional Priority Wheeling Throughs; or (3) the prices of the Northwest supply available to support additional Priority Wheeling Throughs is not competitive, especially after accounting for the cost of transmission on multiple external transmission systems. These factors show why Powerex's arguments as to the other purported reason for the lack of forward scheduling by Southwestern LSEs are without merit.

[40] After accounting for shown Resource Adequacy imports, registered Priority Wheeling Throughs, and TORs/Existing Transmission Contracts, there was still unused ATC at Malin and NOB in the month-ahead timeframe for July and August 2023.

### 2. There Is No Evidence the CAISO's Proposal Will Discourage Efficient Transmission Investment

Powerex argues the tariff revisions in the July 28 Filing will discourage efficient investment in transmission facilities in the West, and that under the CAISO's wheeling through rules, "such investment will likely need to avoid traversing the CAISO-controlled grid even if certain cost savings or other efficiencies could be gained."[41] Powerex fails to provide even a single scrap of evidence for this argument.

Powerex bases it argument on the false premise that affording protections for native load under the CAISO's transmission service model is somehow inconsistent with open access principles. The Commission has repeatedly found the CAISO's transmission service model to be consistent with or superior to the *pro forma* Open Access Transmission Tariff (OATT). [42]

In fact, the evidence indicates the CAISO leads the West in supporting efficient transmission investment and will continue to do so. Pursuant to its Transmission Planning Process,[43] the CAISO "is proactively building regional and interregional lines as the region realizes it must achieve geographic diversity in its clean energy portfolio."[44] The Transmission Development Report Card issued

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41 Powerex at 10.

42 *See, e.g., Cal. Indep. Sys. Operator Corp*., 112 FERC ¶ 61,009, at PP 39-40 (2005).

43 *See* existing tariff section 24, *et seq.*; CAISO Governing Board-Approved 2022-2023 Transmission Plan (May 18, 2023) (2022-2023 Transmission Plan), available at http://www.caiso.com/planning/Pages/TransmissionPlanning/Default.aspx.

44 Transmission Planning and Development Regional Report Card at 76 (issued by Americans for a Clean Energy Grid in June 2023 and available at https://www.cleanenergygrid.org/wp-

by Americans for a Clean Energy Grid assigned the CAISO the highest grades, by far, of any region in the West based on various transmission planning metrics.[45] The CAISO has promoted the development of inter-region transmission in recent years through approval of the Harry Allen-El Dorado Project, (from Nevada) and the Ten West Link Project (from Arizona). In December 2022, the CAISO Board of Governors approved TransWest Express LLC as a new Participating Transmission Owner. TransWest Express has started construction on a new transmission project to access and deliver wind power from Wyoming to California and points in-between, using a subscriber-funded transmission model.

The CAISO's high performance under these metrics will continue after the tariff revisions in the July 28 Filing go into effect. Based on this record, there is every reason to expect that the CAISO can be effective in promoting the development of inter-regional projects with neighboring regions. Powerex's claims to the contrary are speculative and unsupported.

The CAISO explained in its most recent Transmission Plan that its comprehensive analysis has identified a need for a total of 45 transmission projects. The total estimated infrastructure investment in these transmission projects is $7.3 billion.[46] This planned infrastructure investment remains in place even given market participants' years-long awareness that the CAISO and

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content/uploads/2023/06/ACEG_Transmission_Planning_and_Development_Report_Card.pdf) (Transmission Development Report Card).

[45] *See* Transmission Development Report Card at 5-7, 25, 27-29, 38-40, 45-47, 75-84, 107-14, 127-33.

[46] 2022-2023 Transmission Plan at 3.

stakeholders were developing a durable framework now embodied in the July 28 Filing. Of note, the 2022-2023Transmission Plan (page 102) indicated that the CAISO is assessing a new transmission project to access Idaho wind. The CAISO conducted an expression of interest for such a new transmission line. The Transmission Plan also noted Idaho Power Company is interested in capacity in the south-north direction. In addition, to facilitate further the development of needed regional and interregional transmission, the CAISO recently submitted a tariff amendment to implement its Subscriber Participating Transmission Owner model effective December 21, 2023. This model will provide a new opportunity under the CAISO tariff for building transmission projects in the Western Interconnection to connect with the existing CAISO controlled grid.[47]

### 3. Powerex Fails to Show the CAISO's Proposed Native Load Set-Aside Is Unjust and Unreasonable

Powerex argues that any transmission capability the CAISO sets aside for native load needs must follow the *pro forma* OATT model and "be based on transmission capacity required to deliver specific physical supply to serve specific native load by specific LSEs."[48] Powerex makes this argument despite its acknowledgement that the design of the CPUC's Resource Adequacy program often results in a substantial fraction of resource adequacy imports only being

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47 *See* the tariff amendment submitted by the CAISO on September 22, 2023, in Docket No. ER23-2917-000.

48 Powerex at 11-13.

procured and communicated in the month-ahead contract showing.[49] Although Powerex states it is not advocating in this docket that the CPUC must modify its Resource Adequacy program in order to avail itself of native load priority under Commission precedent, Powerex nevertheless argues the Commission should disregard the CAISO Resource Adequacy framework in evaluating the native load provisions in the July 28 Filing.[50]

The Commission should reject Powerex's proposed alteration to the CAISO's proposal that would require advance transmission arrangements to deliver specific physical supply to specific LSEs. The Commission has never imposed such a requirement. To the contrary, the definition of Native Load Customers in the Commission's *pro forma* OATT collectively encompasses "[t]he wholesale and retail power customers of the Transmission Provider on whose behalf the Transmission Provider, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Provider's system to meet the reliable electric needs of such customers."[51] Under the CAISO tariff, the CAISO is the transmission provider. Order No. 888-A cited this *pro forma* definition in stating that the Commission has "recognize[d] that purchases made collectively on behalf of native load customers cannot necessarily be identified as going to any particular customer."[52]

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49 *Id.* at 12.

50 *Id.*

51 Commission *pro forma* OATT, section 1.20.

52 *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities &*

The *pro forma* OATT elsewhere refers consistently to the Transmission Provider's accommodation of service to Native Load Customers as a single collective group.[53] Similarly, the Commission's open access rules permit transmission providers first to set aside capacity on their systems for native load as a whole before determining the transmission capacity that is available for point-to-point transmission services and other uses.[54] Powerex cites no Commission precedent requiring a public utility to set aside transmission capability on a basis specific to particular subsets of native load customers.

Powerex's proposed alternative also is incompatible with the design of the CAISO tariff, including the Commission-approved Resource Adequacy framework. Powerex suggests that the CAISO's native load provisions should follow the requirements for designating network resources under the *pro forma* OATT.[55] The Commission has recognized many times that the CAISO's transmission service paradigm is significantly different from the transmission service paradigm under the Commission's *pro forma* OATT. The CAISO

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*Transmitting Utilities,* Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, at 30,217 (1997) (cross-referenced at 78 FERC ¶ 61,220) (internal citation omitted) (Order No. 888-A).

53 *See* Commission *pro forma* OATT at sections 13.2(iv), 13.5, 13.6, 14.2, 22.1(a), III (Preamble), 28.2, 28.3, 33.2, and 33.7; *id.* at schedules 4 and 9; *id.* at attachment C.

54 Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,694, 31,745, *order on reh'g*, Order No. 888-A at 30,279 (finding that "the transmission provider is responsible for planning and maintaining sufficient transmission capacity to safely and reliably serve its native load. Order Nos. 888 and 889 permit the transmission provider to reserve, in its calculation of ATC, sufficient capacity to serve native load."); Order No, 890, 118 FERC ¶ 61,119 at P 107 (2007); June 2021 Order, 175 FERC ¶ 61,245, at P 143 (finding that Order Nos. 888 and 890 "require transmission providers to sell the existing transmission capacity that the transmission provider determines is not needed to serve existing transmission commitments, such as the transmission provider's native load and existing network transmission customers.").

55 Powerex at 13.

transmission service paradigm is financially based and *does not* involve the physical reservation of transmission capacity or designation of network resources by individual customers in advance of acquiring capacity and energy through the market.[56] In particular, the CAISO's service framework does not provide for separate Network Integration Transmission Service. The Commission has previously rejected arguments that the CAISO should be required to follow the provisions of the *pro forma* OATT regarding designated network resources.[57] Requiring the CAISO to set aside transmission capability for native load needs based on transmission capacity required to deliver specific physical supply, as Powerex proposes, would be inconsistent with the CAISO tariff design.

The Commission should reject Powerex's continued argument that capacity set aside for native load needs must be based on upstream transmission capacity required to deliver specific *physical supply*.[58] The Transmittal Letter for the July 28 Filing specifically addressed this argument,[59] and the CAISO will not repeat all that discussion here given that Powerex raises no new arguments and makes no attempt to rebut the specific discussion in the

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[56] June 2021 Order, 175 FERC ¶ 61,245, at P 144; March 2022 Rehearing Order, 178 FERC ¶ 61,180, at P 28, *citing Pac. Gas & Elec. Co., et al.*, 81 FERC ¶ 61,122, at 61,472 (1997).

[57] June 21 order at P 152. The Commission stated: "While we find it reasonable for CAISO to establish requirements as a proxy to demonstrate reliance on the CAISO grid comparable to that of CAISO load serving entities, we reject protestors attempts to draw more precise comparisons between CAISO resource adequacy requirements and requirements for designated network resources under the OATT." *Id.* This aligns with the Commission's findings in Order No. 890-B. *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Service by Public Utilities; Recovery of Stranded Costs by Public Utilities & Transmitting Utilities,* Order No. 890-B, 123 FERC ¶ 61,299 at P 175 (2008) (citing Order No. 890 at P 1584 and Order No. 890-A 121 FERC ¶ 61,297 at PP 835-37).

[58] Powerex at 12.

[59] Transmittal Letter for July 28 Filing at 70-76.

Transmittal Letter. Neither Order No. 888, Order No. 890, nor the North American Electric Reliability Corporation (NERC) Reliability Standards regarding ATC require procurement of all supply supporting native load 13 months in advance or that such supply can only consist of identified *physical* resources.[60] Further, nothing in Order No. 888, Order No. 890, or the NERC Reliability Standards regarding ATC requires securing all transmission on external transmission systems before capacity can be set aside for native load. Indeed, such requirements would be inconsistent with the concept of "forecasted" native load needs. In doing its due diligence for this filing, the CAISO spoke with other transmission providers who set aside capacity for native load based on forecasted needs 13 months in advance but do not procure 100 percent of the needed supply 13-months in advance. They typically continue to procure capacity to serve their native load up until the month-ahead timeframe. If at that time the transmission provider does not need all of the native load capacity it set aside, it releases the capacity to the market in the month-ahead timeframe--much like the CAISO proposes to do. This recognizes that no forecast is perfect, and transmission providers secure supply to serve their native load across

[60] Order No. 890's requirements for designated network resources allow firm energy purchases not backed by capacity or a specific generating facility (*e.g.*, Western Systems Power Pool Schedule C contracts and similar contracts). Order No. 890 at PP 1433-34; Order No. 890-A at PP 822, 835-37; Order 890-B at P 163. Powerex's physical supply proposal also contravenes the CAISO's Resource Adequacy Program that permits Non-Resource Specific Resources to qualify as Resource Adequacy capacity.

different horizons based on their specific circumstances and the specific conditions they face.

As the CAISO has explained, its native load set-aside proposal is balanced and just and reasonable, and it recognizes that under the Commission-approved Resource Adequacy Program all LSE contractual supply arrangements are not known 13-months in advance.[61] CAISO LSEs are not required to show 100 percent of their Resource Adequacy Capacity until 45 days before the applicable month.[62] Powerex's proposed modification would require drastic changes in the Resource Adequacy program and are unnecessary. The CAISO's proposal reasonably considers import contracts during the past two years. It relies on actual contracts LSEs have entered into, not projections, and it purposely limits consideration only to recent contracting practices (*e.g.*, as opposed to import contracts over the past five years).

Powerex also ignores that under the CAISO's proposal before the CAISO establishes ATC 13 months in advance, LSEs must (1) notify the CAISO of any new firm contracts for imports to serve their load that are not reflected in the data for the historical two year period and (2) notify the CAISO of any import contracts reflected in the historical data that will be discontinued and will not be replaced with another import at the same scheduling point. This allows the CAISO to update the historical data for more accurate projections. In particular, if at that

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[61] Transmittal Letter for the July 28 Filing at 36-40, 69-76.

[62] Under the CAISO's proposal, any capacity set aside for native load 13-months in advance that is not supported by actual contracts at T-30 will be released and available for Wheeling Through Priority requests. Thus, the CAISO is not "stranding" capacity.

time LSEs do not intend to continue a historical contract or replace it, they must notify the CAISO. Following the month-ahead actual contract showings, the CAISO will "true-up" its determination of native load set-asides and release any excess capacity, just like other transmission providers.[63] Importantly, the CAISO will not unwind any Wheeling through Priorities it has previously awarded. This provides certainty to Wheeling Through Priorities awarded in monthly and daily request windows and reduces barriers to such transactions, especially when compared to firm transmission requests for less than one-year under the *pro forma* OATT.

#### 4. Powerex's Argument Regarding the Proposed Treatment of Transmission Ownership Rights Attempts to Create an Issue Where None Exists

In its Transmittal Letter to the July 28 Filing and the September 5 CAISO Answer, the CAISO explained how it would enable capacity associated with Transmissions Ownership Rights (TORs) to support a Wheeling through Priority.[64] Powerex asserts that because "the use of a scheduling procedure has proven challenging in the past" for TORs it "is concerned" the CAISO's proposal might not be a "*fully workable approach*."[65] Powerex also states "it is unclear whether the

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63 *See* Transmittal Letter for July 28 Filing at 36-43. Given the explanation in the cited pages of the Transmittal Letter, Powerex is mistaken in arguing (at 13) that the CAISO has not sufficiently supported its proposed use of historical contract information. In any event, the CAISO proposes to update the historical contract information using the monthly true-up mechanism.

64 Transmittal Letter to July 28 Filing at 54-56; September 5 CAISO Answer at 61-65. TOR capacity is capacity that is not part of the CAISO-Controlled Grid and is owned by a third-party that is not a Participating Transmission Owner

65 Powerex at 22 (emphasis omitted).

extensive details necessary for the CAISO's proposed approach to work can be developed in time."[66] Accordingly Powerex requests that the Commission reject the CAISO's proposal.

Powerex seeks to create an issue where none exists. Powerex expresses concern the CAISO's approach might not be workable, yet it offers no specific reasons or details why it will not work. Further, there are no "extensive details" to work out that require extending the existing interim measures for another year, nor does Powerex identify any such details. The CAISO's proposal is straightforward and implementable, and it recognizes TOR rights to their fully applicable extent. Powerex's speculative and unsubstantiated "concern" constitutes nothing more than an attempt to extend the interim Wheeling Through measures for another year.

### B. SCE's Limited Modification to the CAISO's Proposal Is Unwarranted

SCE states it agrees with the Six Cities that LSEs in the CAISO balancing authority area should have the ability to obtain ATC in the monthly request window process and permit native load with maximum import capability (MIC) capacity to request native load preferences at any time during the 13-month period.[67]

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66 *Id.*

67 *Id.* at 4-5.

The Commission should reject SCE's limited alteration of the CAISO's proposal. In its orders accepting the interim Wheeling Through tariff revisions, the Commission applied court and Commission precedent indicating that so long as the CAISO's proposal is just and reasonable, the Commission need not consider alternative proposals (no matter their relative merits).[68] The same is equally true of the CAISO's proposal in this proceeding. As the CAISO has explained, it is just and reasonable to allow LSEs in the CAISO balancing authority area to obtain ATC only in the daily request window process, and conversely, SDG&E's and Six Cities' proposed alteration to allow CAISO LSEs also to obtain ATC in the monthly request window process and use it to support Resource Adequacy Capacity conflicts with existing Resource Adequacy provisions of the CAISO tariff, constitutes an inappropriate release of capacity reserved under the Transmission Reliability Margin (TRM), raises many unresolved issues, and is unwarranted at this time.[69] SCE's short comments on this issue do not show the CAISO's proposal is unjust and unreasonable without SCE's modification.

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[68] "Because we find that CAISO's proposed revisions are just and reasonable, as explained above, we need not further consider alternative rate designs." June 2021 Order, 175 FERC ¶ 61,245, at P 44 (citing *City of Bethany v. FERC*, 727 F.2d 1311, 1316 (D.C. Cir. 1984 (*City of Bethany*)). "[T]he fact that there may be more than one reasonable solution to a problem, or more than one just and reasonable set of rates, terms and conditions, does not mean that the one CAISO proposed here is unreasonable. When evaluating a proposal under FPA section 205, the Commission need not consider whether the proposal is the optimal solution, but rather only a reasonable one."). March 2022 Rehearing Order, 178 FERC ¶ 61,180, at P 77 (internal footnote omitted) (citing *Petal Gas Storage, L.L.C. v. FERC*, 496 F.3d 695, 703 (D.C. Cir. 2007), *City of Bethany*, 727 F.2d at 1316, *New Eng. Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd sub nom. Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992), and *Louisville Gas & Elec. Co*., 114 FERC ¶ 61,282, at P 29 (2006).

[69] Transmittal letter for July 28 Filing at 45-47; September 5 CAISO Answer at 9-10, 66-70.

SCE ignores that the tariff revisions proposed in the July 28 Filing already provide sufficient protection for native load by modifying the calculation of existing transmission commitments (ETComm) to use the highest contract showings of both resource adequacy capacity and non-resource adequacy capacity for the last two years, allowing LSEs to show new contracts for imports 13 months in advance, accounting for load growth, and enhancing the TRM calculation used to account for uncertainty.[70] SCE does not contest these tariff revisions or the protections they offer to native load, and in fact it supports the July 28 Filing as "a good alternative to the current wheeling framework."[71]

Allowing CAISO LSEs to participate in the monthly request window process in addition to retaining all of the other proposed native load protections would pose problems. In particular, SCE's suggested modification could result in double-counting of capacity the CAISO has already set aside for native load. Under the CAISO's proposal, capacity is set aside in the ETComm component of the ATC calculation based on the highest contract showings of both resource adequacy capacity and non-resource adequacy capacity for the last two years as well as LSE showings of new contracts for imports 13 months in advance. In addition, the CAISO is setting aside capacity for native load growth. Any additional ATC obtained by CAISO LSEs in the monthly request window process may double-count the native load transmission capacity that is already set aside in the updated ATC calculation. For example SCE could use the ATC to secure

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70 Transmittal letter for July 28 Filing at 34-45 and tariff revisions cited therein.

71 SCE at 2; *see also id.* at 6-8 (supporting the CAISO's prioritization of native load).

new supply that would replace historic supply delivered over the same intertie, but the CAISO will have already set that capacity aside.

Further, SCE's modification is "one-sided." It would allow an LSE to add capacity to the total amount of capacity set aside for native load but would not account for any definite reductions in the LSE's import supply occurring at that time. Moreover, it would not account for other LSEs' reductions in import support supply. In that regard, the native load set-aside under the CAISO's updated ETComm calculation is an aggregate, total amount for all native load based on historical data, including load growth. The CAISO is not setting aside native load capacity on the interties on an individual LSE-by-LSE basis, nor will individual CAISO LSEs have separate transmission reservations.[72] Some individual LSEs may have additional needs in any particular year, but in balance, the CAISO's ETComm approach should account for aggregate native load needs. The CAISO design accounts for the possibility that one LSE may reduce its procurement of imports while another LSE may increase its import procurement, or vice versa.

The CAISO's approach relies on recent usage (the higher of the past two years), new contracts LSEs identify 13 months out and a TRM to derive a reasonable forecast of native load needs that will set aside a reasonable amount of capacity. Similarly, setting aside TRM for uncertainty under the CAISO's proposal already accounts for changes in grid conditions that may support more imports and evolution in the resource adequacy program. Allowing LSEs to reserve additional ATC in the monthly request window under SCE's alternative

[72] *See* tariff appendix L-1, new section L.1.3.3; September 5 CAISO Answer at 80 n.168.

on top of that TRM set-aside may unnecessarily remove more transmission capacity from other uses, with the CAISO only realizing later – in the month-ahead timeframe when the CAISO trues-up for actual LSE contract showings -- that not all of that transmission capacity may be needed. Consistent with the Commission's directive in Order No. 890, the CAISO's proposal effectively balances native load needs and the needs of others to utilize the CAISO grid.[73]

SCE cites two examples of supposed timing issues with the CAISO's proposal to support its own alternative proposal, but neither example is persuasive. First, SCE argues that allowing CAISO LSEs to obtain ATC in the monthly request window process is appropriate because CPUC-jurisdictional LSEs do not know until September how much system resource adequacy they will be allocated by the local Central Procurement Entity (CPE), so CPUC-jurisdictional LSEs may need to acquire additional system resource adequacy capacity in late September or October for the following summer.[74] Under the CPUC's rules, the CPE is responsible for procuring local resource adequacy capacity not system resource adequacy capacity.[75] Local capacity also counts for system resource adequacy capacity, but if there is a local capacity deficiency, it can only be cured with local capacity (which also would provide system

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[73] Order No. 890, 118 FERC ¶ 61,119 at P 107.

[74] SCE at 5.

[75] *See, e.g.*, *Decision on Central Procurement of the Resource Adequacy Program*, CPUC Decision 20-06-002 (June 11, 2020), at 2 (stating "[t]his decision adopts implementation details for the central procurement of multi-year *local* Resource Adequacy procurement") (emphasis added); *id.* at 20 (expressly declining to consider expansion of multi-year requirements to system resource adequacy). The cited CPUC decision is available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M340/K671/340671902.PDF.

resource adequacy capacity attributes). In that regard, if the CPE is short in its procurement of local capacity, the CAISO may procure backstop local capacity using its Capacity Procurement Mechanism (CPM), and the CAISO will provide Resource Adequacy credits (both local and system) for the backstop local capacity it procures.[76] Logically, one would procure local capacity (not system capacity) and cure both deficiencies. If not, the LSE would incur the costs associated with procuring additional system capacity plus its *pro rata* share of the costs of the CAISO's backstop procurement of local capacity. In any event, even assuming *arguendo* the LSE was to procure system resource adequacy capacity, it is speculative such procured capacity would be import supply.

SCE's argument also ignores the fact that SCE has set up its own CPE for its area. Thus, if SCE is deficient it will result from its failure to procure sufficient local capacity in its role as CPE. Further, the CAISO notes that CPUC-jurisdictional LSEs are not required to procure 100 percent of their system resource adequacy capacity until 45-days before the applicable month (with a 15-day cure period). Thus, SCE should not need to show any residual system Resource Adequacy Capacity associated with a local capacity shortfall in October.

In addition, SCE notes the CAISO process for assigning MIC to LSEs happens in the July prior to the delivery year. SCE argues that a CAISO LSE assigned MIC that desires to import Resource Adequacy capacity for the next year using a new contract can only secure a native load preference beyond 13

[76] CAISO tariff section 43A.9.

months after the current July, putting in question if it can secure preference for months earlier in the delivery year.[77] SCE is confusing MIC, ATC, and the native load set-aside. The inability to reserve ATC in the monthly horizon, above and beyond the amount of transmission capacity the CAISO has already set aside for native load, does not impede the ability of CAISO LSEs to use their allocated MIC to procure Resource Adequacy supply, show it as support in their monthly Resource Adequacy plans, and count it toward meeting their Resource Adequacy obligations. The CAISO's proposal does not affect Resource Adequacy showings. Under the CAISO tariff, MIC is required to support Resource Adequacy import; ATC is not required and is not a substitute for MIC. In other words, SCE is not precluded from making a Resource Adequacy showing if it lacks ATC; likewise, the new process does not preclude SCE from contracting for and showing Resource Adequacy Capacity as long as it has the necessary MIC. Once an LSE has MIC, it can make a Resource Adequacy showing regardless of ATC or the ATC calculation methodology. SCE is free to schedule all Resource Adequacy supply on a day-ahead and real-time basis consistent with the must-offer obligation, and the market will identify the most efficient solution through the CAISO's security-constrained economic dispatch.[78] In more stressed system conditions, where the CAISO might rely on more import supply due to higher loads, imports serving load can be supported by the TRM

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[77] SCE at 5.

[78] Because the CAISO's proposes to set aside capacity for native load based in large part on Resource Adequacy showings, it necessarily is accounting for LSEs' demonstrated use of the MIC allocated to them, which ensures the CAISO will not setting aside an overly excessive amount of capacity for native load that will not be fully utilized.

that has been set aside for such conditions. Indeed, the purpose of TRM to account for such uncertainty is consistent with the use of TRM in stressed system conditions.

In sum, the CAISO's proposed approach is just and reasonable, and SCE's limited alteration to the CAISO's design has a number of issues that mean the Commission should not require the CAISO to implement it in place of the CAISO's approach. The CAISO does commit to monitor the implementation of the new durable framework. The CAISO remains open to considering modifications and evolving the design of the durable framework in a future stakeholder process if operational experience indicates doing so would be beneficial. To the extent experience under the new Priority Wheeling Through design and native load calculation supports a further enhancement or change, the subject would need to be considered in a new stakeholder process. At this time, however, the Commission should accept the CAISO's proposal for the reasons explained above and in the July 28 Filing and the September 5 CAISO Answer.

## II. CONCLUSION

For the foregoing reasons, the Commission should accept the CAISO's proposal in the July 28 Filing without condition or modification and reject the arguments and suggestions raised by Powerex and SCE.

Respectfully submitted,

*/s/ Anthony Ivancovich*


Roger E. Collanton
General Counsel
Anthony Ivancovich
Deputy General Counsel
California Independent System
Operator Corporation
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7222
E-mail: aivancovich@caiso.com

Sean A. Atkins
Bradley R. Miliauskas
Davis Wright Tremaine LLP
1301 K Street, NW
Suite 500 East
Washington, DC 20005
Tel: (202) 973-4200
Fax: (202) 973-4499
E-mail: seanatkins@dwt.com
bradleymiliauskas@dwt.com


Dated: October 2, 2023

## CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceeding, 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 October 2023.

/s/ Jacqueline Meredith

Jacqueline Meredith
An employee of the California ISO