

**Bonnie S. Blair**  
202 585 6905 direct  
[bblair@thompsoncoburn.com](mailto:bblair@thompsoncoburn.com)

**Margaret E. McNaul**  
202 585 6940 direct  
[mmcnaul@thompsoncoburn.com](mailto:mmcnaul@thompsoncoburn.com)

April 19, 2021

**VIA ELECTRONIC MAIL**

Ms. Angelina Galiteva, Chair  
Mr. Ashutosh Bhagwat, Vice Chair  
Board of Governors  
California Independent System Operator Corp.  
250 Outcropping Way  
Folsom, CA 95763

**Re: Market Enhancements for Summer 2021 Readiness  
Export, Load, and Wheeling Priorities – Final Proposal**

Dear Chair Galiteva, Vice Chair Bhagwat, and Governors:

We are writing on behalf of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the “Six Cities”) regarding the Final Proposal developed by ISO management in the Market Enhancements for Summer 2021 Readiness initiative. As you know, the Final Proposal that will be presented to you on Wednesday, April 21<sup>st</sup> specifically pertains to Export, Load, and Wheeling Priorities on the interties that the ISO shares with neighboring transmission service providers and on the ISO-controlled transmission system.

The Six Cities support the ISO’s proposal and respectfully urge you to approve it. The purpose of this letter is to highlight key principles of open access transmission service and cost allocation that are relevant to your evaluation of both the proposal before you and the ISO’s ongoing efforts to refine its policies for use of and access to the ISO transmission system, by both load-serving entities that are located within the ISO Balancing Authority Area and by external parties that have expressed a desire to engage in import, export, and/or wheeling activities using ISO transmission facilities. Consistent with these principles, we ask the Board to consider two limited modifications to the Final Proposal, as outlined below.

**A. The ISO Proposal Brings the Rates, Terms, and Conditions of ISO Transmission Access, Priorities, and Service into Better Alignment with Open Access Principles.**

The heat events of last August and September highlighted elements of the existing ISO market and tariff structures that should change in response to the evolving integration of external parties into ISO markets. Although the ISO has always, to some extent, relied upon external entities as a source of imported capacity and energy, both the Energy Imbalance Market and the changing resource mix within the Western Interconnection have made WECC-regional

utilities even more interdependent. Expanded participation in the ISO markets highlights the importance of the rates, terms, and conditions of ISO service, particularly as these relate to external entities. As the ISO evaluates existing market and tariff structures to respond to these changing conditions, it is critical that core principles of FERC's open access policies shape future changes. Under these principles, firm service is only available to the extent that there is available transmission capacity in excess of that needed to serve native load. The ISO's native load customers are entitled to priority access to the ISO transmission system, because it is these customers – and not external parties who use the grid episodically or when it is to their economic advantage to do so – that have funded and are obligated to continue to fund the transmission facilities necessary to serve their loads reliably and economically.<sup>1</sup> Open access principles do not support “super priority” access in favor of parties engaging in temporary or short-term wheeling and export transactions, and they do not require transmission service providers to provide free or reduced cost access to the transmission system for exports or wheels.

In Order No. 890, FERC emphasized that “the native load priority established in Order No. 888 continues to strike the appropriate balance between the transmission provider’s need to meet its native load obligations and the need of other entities to obtain service from the transmission provider to meet their own obligations,” and that “these protections for native load are appropriate.”<sup>2</sup> With respect to curtailment, Order No. 890 held that “if a reliability problem does arise, any curtailment of firm point-to-point transmission service must be on a nondiscriminatory and pro rata basis with the treatment of network service and native load customers ... this treatment meets the comparability requirements enunciated in Order No. 888.”<sup>3</sup> Notably, for curtailment priority equal to that applicable for service to native load customers, the non-network service reservation must be firm.

Certain external parties have identified what they perceive as a flaw in the ISO’s existing implementation of open access transmission service. Specifically, these entities have expressed a desire to obtain firm service over the ISO-controlled grid, which would, consistent with FERC policy, permit them to receive an equivalent curtailment priority to ISO native load. In the absence of any process to reserve firm service, these parties suggest that they should continue to enjoy the “super priority” access to the ISO transmission system that they have historically received or, at a minimum, receive a priority equal to ISO native load. In general, these parties have not committed to pay for the priority level of service that they have been receiving, and certainly they have not committed to paying for transmission service on a level that is comparable to charges paid by ISO native load for its use of and access to the ISO grid.

---

<sup>1</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,694 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *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). *See also*, e.g., *Utah Power & Light Co.*, 45 FERC ¶ 61,095, at 61,287, 61,291 (1988).

<sup>2</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119 at P 107, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

<sup>3</sup> *Id.*

Instead, they pay only for their actual usage of the ISO system if and when they decide to export or wheel via ISO transmission facilities.<sup>4</sup>

The Six Cities concur that open access and reciprocity principles provide that external parties should be entitled to request – and pay for – firm ISO service that would justify providing them with an equivalent curtailment priority to ISO load. And the Six Cities are encouraged that the ISO management has begun a stakeholder process to adopt tariff revisions that will enable external entities to request firm service.<sup>5</sup> It is critical that this process entail a robust discussion of cost allocation. If external parties wish to take firm service on the ISO system, they will need to participate in the ISO's transmission planning process to ensure that any upgrades required to provide them with the level of firmness they desire can be developed, and they will also need to pay charges reflecting that firmness of service. Currently, the ISO's Wheeling Access Charge structure provides for wheeling customers to pay for wheeling service when energy flows through and out of the ISO system (see, e.g., ISO Tariff at § 26.1.4 and App. F, Sch. 3 § 14.1), but it does not obligate wheeling customers to participate in funding the transmission system on an ongoing basis, and it does not include a mechanism to charge these customers for any level of reservation priority into and through the ISO system that is equal to or higher than service to native load. ISO native load, on the other hand, is responsible for paying the combined transmission revenue requirement of all ISO Participating Transmission Owners, which the ISO's Transmission Access Charge is designed to recover in full.

### **B. Two Limited Changes to the Final Proposal Should be Adopted to More Fully Reflect Open Access Principles**

The Six Cities request that the Board of Governors adopt two changes to the Final Proposal consistent with the principles outlined above.

First, the Six Cities urge the Board to consider directing ISO management to expand upon the requirement that applicants for Priority wheeling service demonstrate that they have obtained firm transmission services for the export leg of their wheel, in addition to demonstrating that they have obtained firm transmission service into the ISO. This requirement would reinforce that the purpose of the ISO wheel is to serve firm load external to the ISO.

Second, the Six Cities ask the Board to direct ISO management to revise the Final Proposal to remove the proposed “sunset” provision of May 2022. The currently-proposed revisions are

---

<sup>4</sup> The Market Surveillance Committee's opinion is instructive:

Access truly comparable to what some BAs are requesting of the CAISO would require that those BAs market all of their transmission capacity on a daily basis and treat those transactions with the same priority as their own load. This is clearly not the standard practice outside of CAISO. The CAISO, unlike other BAs, is proposing to provide high priority wheeling access without requiring a long-term commitment to pay for a higher level of firm access. Even the least “firm” of wheeling transactions, low-priority wheels scheduled in real-time could still crowd out real-time imports ...

MSC Opinion at 14.

<sup>5</sup> At this time, these issues are pending in the Maximum Import Capability Enhancements initiative. The Six Cities understand that the ISO expects to commence a separate initiative for consideration of these issues in the near future.

April 19, 2021

Page 4

needed to more appropriately re-align the priorities for the ISO's native load customers with priority for export and wheeling transactions. While the Final Proposal does not do enough to ensure that exporters and wheeling customers pay charges that are comparable to the charges paid by native load, it is more consistent with open access principles than the status quo. For this reason, there is no valid justification for sunseting these interim tariff revisions in May 2022. Instead, they should remain in effect until a more durable structure that includes appropriate methodologies to recover wheeling service charges from customers that desire firm wheeling service may be implemented.

We thank the Board for its continued attention to resolution of the difficult issues presented by last summer's heat events, and we look forward to continuing to engage with ISO management, staff, and stakeholders on these issues.

Very truly yours,

Thompson Coburn LLP

*Bonnie S. Blair*

*Margaret E. McNaul*

By

Bonnie S. Blair and Margaret E. McNaul

*Attorneys for the Cities of Anaheim,  
Azusa, Banning, Colton, Pasadena, and  
Riverside, California*