

175 FERC ¶ 61,245
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Richard Glick, Chairman;
Neil Chatterjee, James P. Danly,
Allison Clements, and Mark C. Christie.

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

ORDER ACCEPTING TARIFF REVISIONS, SUBJECT TO FURTHER
COMPLIANCE

(Issued June 25, 2021)

1. On April 28, 2021, the California Independent System Operator Corporation (CAISO) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ proposed revisions to its Open Access Transmission Tariff (Tariff) to modify load, export, and wheeling priorities in the day-ahead and real-time market optimization process and establish related market rules. In this order, we accept the revisions consisting of a new defined term, “Priority Wheeling Through,” and the associated eligibility notification provision, to be effective June 28, 2021, as requested. We also accept the remaining Tariff revisions to be effective no later than July 15, 2021, as requested, subject to CAISO notifying the Commission of the actual effective date of the Tariff revisions within five business days of their implementation. We also direct CAISO to submit a compliance filing, as discussed below. We also accept the third set of Tariff revisions that removes the new wheeling through Tariff revisions from the CAISO Tariff effective June 1, 2022.

I. Background

2. In Order No. 888,² the Commission required public utilities to provide open access transmission service on a comparable basis to the transmission service they provide

¹ 16 U.S.C. § 824d.

² *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 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh’g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh’g*, Order No. 888-B, 81

themselves. The Commission's goal was to remove impediments to competition in the wholesale bulk power marketplace and to bring more efficient, lower-cost power to the nation's electricity consumers.³ In particular, Order No. 888 required all public utilities that own, control, or operate facilities used for transmitting electricity in interstate commerce to file open access non-discriminatory transmission tariffs that contain non-discriminatory service.⁴ However, the Commission also gave public utilities the right to reserve in their transmission capacity calculations existing transmission capacity needed for native load and network transmission customer load growth reasonably forecasted within the utility's current planning horizon.⁵

3. On February 16, 2007, the Commission issued Order No. 890⁶ in order to strengthen the open access protections embodied in Order No. 888 and reduce opportunities for undue discrimination. In rejecting arguments to eliminate native load protections, the Commission emphasized the need to balance open access principles with native load obligations:

We conclude 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.⁷

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).

³ Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,634.

⁴ A synopsis of the Commission's efforts in this regard is found at <https://www.ferc.gov/industries-data/electric/industry-activities/open-access-transmission-Tariff-oatt-reform/history-oatt-reform>.

⁵ Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,694.

⁶ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, *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).

⁷ Order No. 890, 118 FERC ¶ 61,119 at P 107.

Reflecting this balance, the Commission required greater consistency and transparency in the methodologies used by transmission providers to set aside capacity for native and network load in calculating available transfer capability.⁸

4. Regional transmission organizations (RTO) and independent system operators (ISO) have adopted tariff provisions that reserve capacity in available transfer capability calculations consistent with the open access principles of Order Nos. 888 and 890. For example, PJM Interconnection, L.L.C (PJM) and Midcontinent Independent System Operator, Inc. (MISO) each have tariff provisions governing the assessment of available transfer capability that allows them to reserve a capacity benefit margin⁹ for imports during emergency conditions.¹⁰ Further, a number of RTOs/ISOs have tariff provisions reserving a certain amount of existing transmission commitments for native load.¹¹ These tariff provisions restrict the amount of capacity available for firm transmission service sales on a first-come, first-served basis. The right to reserve capacity for native load is not unlimited, however. To the extent capacity is not needed to serve existing transmission commitments, as determined through a tariff-defined process, the capacity must be released for sale. This includes capacity built for planned load growth for which

⁸ *Id.* PP 4, 193-417.

⁹ Capacity benefit margin is a term used to describe import capacity at interties of neighboring systems that is set aside to access generation reserves during contingencies. *Midwest Indep. Transmission Sys. Operator, Inc.*, 98 FERC ¶ 61,075, at 61,215 (2002).

¹⁰ Attachment C to the PJM Open Access Transmission Tariff (OATT) states that “Firm [available transfer capability] on any path will be limited to assure that emergency import capability will be available to Network Customers when needed through the reservation of capacity benefit margin, equivalent to a firm point-to-point transmission service reservation for delivery from systems outside of the PJM Region to serve the load serving entities within such region.” Attachment C to the MISO Tariff (at section 4.1) states that “MISO will utilize [capacity benefit margin] that is needed only when experiencing a declared NERC Energy Emergency Alert (“EEA”) 2 or higher.”

¹¹ For example, Attachment C to the PJM OATT defines existing transmission commitments as “committed use of the transmission system,” including “native load commitments.” Attachment C to the SPP OATT (at section 4.5) references existing transmission commitments as the “transmission capability utilized in serving native load commitments, to include native load growth, load forecast error and losses not otherwise included in [transmission reserve margin] or [capacity benefit margin].”

the load has not yet materialized. Use of the capacity benefit margin is restricted to meeting generation reliability criteria.¹²

5. Unlike other RTOs/ISOs, the CAISO Tariff contains none of these traditional mechanisms to set aside transmission capacity to serve native load. Specifically, CAISO does not include native load requirements in the transmission commitments component used to calculate the available transfer capability.¹³ Further, the capacity benefit margin value of the calculation is set to zero because CAISO does not use capacity benefit margins.¹⁴ Moreover, CAISO chose not to offer different types of transmission service (e.g., network, firm point-to-point, and non-firm point-to-point) but instead offers only one category of new transmission service, called “new firm service,” that is not associated with existing rights (such as existing transmission contracts¹⁵ and transmission ownership rights¹⁶). The Commission found CAISO’s alternative framework for accommodating transmission service requests and market bids to be just and reasonable and compliant with Order No. 890.¹⁷

6. In this filing, CAISO explains that it is reconsidering its existing approach. CAISO states that it does not utilize a transmission reservation system that would protect CAISO native load when the system is constrained and that its Tariff does not specify the scheduling priorities associated with wheeling through transactions. Instead, when there is insufficient transmission capacity to support all intertie transactions, CAISO’s market software determines the priority order in which self-schedules¹⁸ will be curtailed using

¹² Order No. 890, 118 FERC ¶ 61,119 at P 259.

¹³ CAISO Tariff, appendix L, § L.1.3.

¹⁴ *Id.*, § L.1.6.

¹⁵ Existing transmission contracts are “[t]he contracts which grant transmission service rights in existence on the CAISO Operations Date (including any contracts entered into pursuant to such contracts) as may be amended in accordance with their terms or any agreement between the parties thereto from time to time.” CAISO Tariff, Appendix A.

¹⁶ A transmission ownership right is “[t]he ownership or joint ownership right to transmission facilities within the CAISO Balancing Authority Area of a Non-Participating TO that has not executed the Transmission Control Agreement, which transmission facilities are not incorporated into the CAISO Controlled Grid.” *Id.*

¹⁷ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,180 (2008), *order on further compliance*, 126 FERC ¶ 61,316 (2009).

¹⁸ A self-schedule is a market bid a scheduling coordinator submits to CAISO that

market parameters known as penalty prices that are set forth in a business practice manual.¹⁹ CAISO also notes that its transmission planning process does not account or plan for wheeling through transactions other than some pre-existing firm entitlements that are not affected by this filing.²⁰

7. CAISO asserts that its current Tariff framework – with only a single classification of transmission service and with no reservation of capacity to serve native load – worked in the past. CAISO highlights that, historically, it has rarely needed to curtail schedules. However, in August 2020, California and most of the Western United States experienced an extreme heat wave that significantly affected demand for and supply of generation and resulted in CAISO instituting rolling electricity outages on August 14 and 15. CAISO states that on August 14, it ordered two phases of controlled load shed of 500 MW each, based on *pro rata* share across the CAISO footprint for distribution utility companies. On August 15, CAISO states that it ordered distribution utility operators to execute about 500 MW of controlled load shed. CAISO states that the forecast for extreme heat continued through August 19, with the most critical days being August 17 and 18, and that it declared Stage 2 emergencies for both days but avoided load shed through, among other actions, conservation efforts.²¹

8. CAISO states that, following these events, CAISO, the California Public Utilities Commission (CPUC), and the California Energy Commission (CEC) undertook a root cause analysis to determine the factors contributing to the outages. The Final Root Cause Analysis²² identified three major causal factors contributing to the August outages – extreme weather, resource adequacy and planning processes, and market practices. The CAISO Department of Market Monitoring (DMM) also issued a report on issues that contributed to the August 14 and 15 load shedding.²³ The DMM Report found that one

indicates a MWh quantity but does not specify a price, which indicates that the scheduling coordinator is a price-taker.

¹⁹ CAISO states that these penalty prices are set to specific values for different types of transactions to (1) determine the conditions under which the market may relax a constraint or curtail a self-schedule, and (2) establish the market price when these events happen. CAISO Transmittal at 24.

²⁰ *Id.* at 7, 23-24, 55-56.

²¹ *Id.* at 11, 56.

²² CAISO, CPUC, and CEC, *Final Root Cause Analysis Mid-August 2020 Extreme Heat Wave*, January 13, 2021, <http://www.caiso.com/Documents/Final-Root-Cause-Analysis-Mid-August-2020-Extreme-Heat-Wave.pdf>.

²³ DMM, *System and Market Conditions, Issues and Performance: August and*

of the contributing factors to the August load shedding was the self-scheduling of relatively large volumes of exports in the day-ahead market that were not part of wheeling through transactions, or exports with contracts for capacity with internal CAISO resources. The DMM Report noted that the current scheduling priority policies expose the CAISO balancing authority area to the risk of cutting native load during stressed system conditions. The Final Root Cause Analysis identified a problem with the market processes erroneously signaling that more exports were physically supportable than actually were. It also recommended that CAISO consider Tariff and business practice manual changes to the rules for scheduling priorities to modify the priorities the CAISO market places on serving CAISO native load relative to self-scheduled exports from, and wheeling through schedules across, the CAISO balancing authority area. Thus, CAISO asserts that the August 2020 heat events highlight the need to establish appropriate prioritization of export and wheeling schedules.²⁴

9. In response to the August 2020 heat events, CAISO states that it undertook an expedited stakeholder process to consider Tariff revisions to the load, export, and wheeling through priorities in the day-ahead and real-time optimization processes that will better position CAISO to maintain reliable grid operations and avoid load shedding this summer if CAISO experiences severely constrained conditions and that are feasible for CAISO to implement by summer 2021.²⁵

II. CAISO Proposal

10. In this filing, CAISO proposes two sets of Tariff revisions that it asserts balance the reliability of serving CAISO native load²⁶ with the reliability of export and wheeling through transactions, while providing open access to the CAISO system.²⁷

September 2020,
<http://www.caiso.com/Documents/ReportonMarketConditionsIssuesandPerformanceAugustandSeptember2020-Nov242020.pdf> (DMM Report).

²⁴ CAISO Transmittal at 12-13, 27-29, 56.

²⁵ *Id.* at 1, 15.

²⁶ CAISO uses the term native load to refer to load served by load serving entities in the CAISO balancing authority area.

²⁷ Throughout this order, all references to load, exports, and wheeling through transactions are self-schedules. Economically bid load, exports, and wheeling through transactions will continue to clear based on their bids.

11. *First*, CAISO proposes revisions to address the scheduling priority for exports. CAISO explains that it aims to thus address the risk of cutting schedules for native load when conditions change between the day-ahead time frame and real-time, and to preserve CAISO's access to resource adequacy capacity under stressed system conditions. *Second*, CAISO proposes a set of Tariff revisions to address the effects wheeling through transactions can have on CAISO's ability to serve native load. CAISO proposes to establish two categories of wheeling through self-schedule transactions: (1) a priority wheeling through, which will receive the same priority as CAISO load, and (2) a non-priority wheeling through, which will have a lower priority than priority wheeling through transactions and CAISO load. This set of proposed revisions also includes requirements to be eligible as a priority wheeling through transaction that, according to CAISO, will demonstrate that an external entity wheeling through CAISO depends on and is committed to using CAISO's transmission system regularly to serve its load, similar to CAISO load serving entities' dependence on the system to meet their customers' needs.²⁸ CAISO also proposes to establish a new procedure that would apply after the hour-ahead scheduling process (HASP) runs to allocate transmission over constrained transmission capacity between priority wheeling through transactions and serving CAISO load on a *pro rata* basis under constrained conditions.²⁹ These two sets of Tariff revisions are discussed in detail below.

12. CAISO states that the first proposed Tariff revisions regarding export priorities are discrete and severable from the second proposed Tariff revisions pertaining to wheeling through transactions and, therefore, requests that the Commission evaluate the justness and reasonableness of the export and wheeling through transactions separately on their individual merits. CAISO requests an effective date of June 28, 2021 for the Tariff revisions that create the new defined term "priority wheeling through" and the related eligibility provisions. CAISO requests an effective date of no later than July 15, 2021 for the remainder of the proposed revisions. Because CAISO intends all wheeling through Tariff revisions to be interim only, CAISO has also submitted Tariff sheets that remove the new wheeling through provisions from the Tariff and requests an effective date of June 1, 2022 for those Tariff records.³⁰

²⁸ CAISO Transmittal at 6-9.

²⁹ *Id.* at 59.

³⁰ *Id.* at 2-3. CAISO also requests waiver of the Commission's 120-day advance notice requirement to allow the June 1, 2022 effective date. We grant CAISO's request for waiver of the Commission's prior notice filing requirement, 18 C.F.R. § 35.3(a)(1) (2020), to permit the proposed Tariff revisions to be tendered more than 120 days in advance of the requested effective date.

III. Notice and Responsive Pleadings

13. Notice of CAISO's filing was published in the *Federal Register*, 86 Fed. Reg. 23,720 (May 4, 2021), with interventions and protests due on or before April 19, 2021.

14. Timely motions to intervene were filed by Calpine Corporation; American Clean Power Association; California Municipal Utilities Association; Alliance for Retail Energy Markets; Oregon Public Utility Commission; Morgan Stanley Capital Group; Imperial Irrigation District; Public Generating Pool; the City of Santa Clara, California; Colorado River Energy Distributors Association; Northern California Power Agency; and Xcel Energy Services Inc.

15. Timely motions to intervene and comments or protests were filed by NV Energy;³¹ the Arizona Utilities;³² Irrigation & Electrical Districts' Association of Arizona (IEDA);³³ Sacramento Municipal Utility District (SMUD);³⁴ Brookfield Renewable Trading and Marketing LP (Brookfield); Western Area Power Administrator (WAPA); Arizona Power Authority (Arizona Power);³⁵ El Paso Electric Company (El Paso);³⁶ Southwest Public Power Agency, Inc. (Southwest Public Power);³⁷ Arizona Municipal Power Users' Association (Arizona Municipal);³⁸ Modesto Irrigation District (Modesto);³⁹ DMM; Public Power Council; Large Public Power Council; San Diego Gas & Electric Company (SDG&E);⁴⁰ Public Service Company of New Mexico (PNM); Leeward Renewable

³¹ NV Energy is the Nevada Power Company and the Sierra Pacific Power Company.

³² The Arizona Utilities are Arizona Public Service Company; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; UNS Electric, Inc.; and Arizona Electric Power Cooperative, Inc.

³³ IDEA adopts and supports the Arizona Utilities' protest.

³⁴ SMUD adopts the comments filed by BANC.

³⁵ Arizona Power states that it concurs with the Arizona Utilities protest.

³⁶ El Paso supports the Arizona Utilities' protest.

³⁷ Southwest Public Power adopts and supports the Arizona Utilities' protest.

³⁸ Arizona Municipal adopts and supports the Arizona Utilities' protest.

³⁹ Modesto joins in the BANC comments.

⁴⁰ SDG&E supports CAISO's proposal but urges CAISO to work with

Energy Development, LLC (Leeward); Idaho Power Company and Portland General Electric Company (jointly) (Idaho/Portland General); Balancing Authority of Northern California (BANC); the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities); California Department of Water Resources State Water Project (SWP);⁴¹ Pacific Gas and Electric Company (PG&E); Southern California Edison Company (SoCal Edison); Vistra Corp. (Vistra); Middle River Power, LLC (Middle River); Powerex Corp. (Powerex); Bonneville Power Administration (Bonneville). Public Utilities Commission of Nevada (Nevada PUC) and Arizona Corporation Commission (ACC) filed notices of intervention and protests. CPUC filed a notice of intervention and limited protest.

16. The City and County of San Francisco, California and California Community Choice Association filed out-of-time motions to intervene. Western Resource Advocates⁴² filed an out-of-time motion to intervene and comments.

17. On June 2, 2021, CAISO filed an answer. On June 4, 2021, Joint LSEs⁴³ filed an answer. On June 17, 2021, Arizona Utilities filed an answer. On June 18, 2021, Powerex filed an answer.

IV. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2020), the timely, unopposed motions to intervene and notices of intervention serve to make the entities that filed them parties to this proceeding.

19. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant Western Resource Advocates', City and County of San Francisco's, and California Community Choice Association's late-filed motions to

stakeholders for more equitable reform.

⁴¹ SWP supports CAISO's proposal.

⁴² Western Resource Advocates represents the joint comments of Western Grid Group, Renewable Northwest, Center for Energy Efficiency and Renewable Energy Technologies, and Northwest Energy Coalition.

⁴³ For purposes of this proceeding, Joint LSEs are SoCal Edison, SDG&E, PG&E, and Six Cities.

intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

20. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2020), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We accept the answers submitted by CAISO, Joint LSEs, Arizona Utilities, and Powerex because they have provided information that assisted us in our decision-making process.

B. Modifications to Export Scheduling Priorities

1. CAISO Proposal

21. CAISO states the scheduling priority of exports relative to load currently depends on whether the exporting scheduling coordinator designates a resource with non-resource adequacy capacity as supporting the export. CAISO explains that exports supported by non-resource adequacy capacity, which it refers to as "high-priority non-recallable exports," have a scheduling priority equal to CAISO load in the day-ahead market. Exports that do not identify non-resource adequacy capacity supporting the export, which CAISO refers to as "low priority recallable exports," have a lower scheduling priority than CAISO load or forecast demand. Thus, according to CAISO, the low-priority recallable exports will only clear if there is sufficient supply to first serve CAISO load. However, under the current real-time market parameters, once cleared in the day-ahead market, a low-priority recallable export automatically has a priority higher in the real-time market than serving CAISO load based on the export quantity deemed feasible in the residual unit commitment (RUC) process.⁴⁴ CAISO explains that this can happen because the RUC schedules resources from the entire pool of resources available to meet overall demand, which includes forecasted CAISO load and exports. Thus, CAISO asserts that the current market processes create the possibility that the market will use resource adequacy capacity intended to serve CAISO load to instead support the export.⁴⁵

22. To help ensure that resource adequacy capacity contracted by CAISO load serving entities is available to meet CAISO needs and that market processes appropriately curtail lower-priority exports, CAISO proposes several changes to the scheduling priorities for

⁴⁴ The integrated forward market is the pricing run conducted by CAISO in the day-ahead market unit commitment ancillary service procurement, congestion management, and energy procurement based on supply and demand bids. RUC is the process conducted by CAISO in the day-ahead market after the integrated forward market has been executed to ensure sufficient resources are committed to meet forecasted CAISO demand. CAISO Tariff, Appendix A.

⁴⁵ CAISO Transmittal at 23-27, 32.

exports in the real-time market optimization. First, CAISO proposes revisions to ensure that low-priority recallable exports cleared in the day-ahead market will have a lower real-time market priority than serving CAISO load.⁴⁶ Second, CAISO proposes Tariff revisions to clarify that low-priority recallable exports deemed feasible in RUC and self-scheduled into the real-time market will continue to receive higher priority than other low-priority recallable exports submitted in the real-time market.⁴⁷ CAISO asserts that these revisions encourage forward scheduling of low-priority recallable exports, which allows the market more flexibility to ensure there is sufficient on-line supply.⁴⁸

23. CAISO proposes several new behavioral rules and requirements⁴⁹ regarding the capacity that can support high-priority non-recallable exports. CAISO states that the proposed rules will help ensure that when there is insufficient supply to meet both CAISO load and exports, resources intended to serve CAISO load are not used to support exports unsupported by designated capacity. First, CAISO proposes that a scheduling coordinator confirm that its resource backing a high-priority non-recallable export has sold capacity only to an external load serving entity and no CAISO load serving entity has a right to such capacity.⁵⁰ CAISO explains that CAISO load serving entities have made capacity payments for such capacity and external load serving entities should not have priority use of it. CAISO states that its proposal will help ensure that capacity sold and dedicated to CAISO load serving entities is not used to support a high-priority non-recallable export, even though it is not (and cannot be) shown on a resource adequacy plan in a particular month.⁵¹

24. Second, CAISO proposes that a scheduling coordinator for a resource supporting a high-priority non-recallable export and the scheduling coordinator for the export ensure that there is sufficient available capacity to support the export quantity throughout the

⁴⁶ CAISO Tariff, Proposed § 34.12.1.

⁴⁷ *Id.*, Proposed §§ 34.12.1 (b) and (c).

⁴⁸ CAISO Transmittal at 32-34.

⁴⁹ CAISO states that it cannot implement processes to validate, prior to the market clearing process, that non-resource adequacy capacity is supporting high-priority non-recallable exports in time for summer 2021. Thus, CAISO proposes to enforce these requirements through after-the-fact referrals of Tariff violations to the Commission under section 37 of CAISO Tariff. CAISO Transmittal at 34.

⁵⁰ CAISO Tariff, Proposed § 30.5.1(aa).

⁵¹ CAISO Transmittal at 35-38.

hour.⁵² CAISO explains that resources unable to sustain their scheduled MW quantity for the entire hourly block should not be supporting a high-priority non-recallable export because CAISO will be forced to support the export from system supply to the detriment of CAISO load if the designated resource fails to sustain an hourly block schedule.⁵³

25. Third, CAISO proposes that designated capacity supporting a high-priority non-recallable export must be deemed deliverable pursuant to the deliverability assessment performed by CAISO during the interconnection process.⁵⁴ CAISO asserts that deliverability is a fundamental requirement to provide resource adequacy capacity because there must be sufficient transmission capacity to deliver generators' energy to load during peak conditions. CAISO asserts that if an export resource cannot deliver, then CAISO must serve the export self-schedule using capacity intended to serve CAISO internal load. Thus, CAISO contends that undeliverable capacity should be ineligible to support a high-priority non-recallable export.⁵⁵

26. Fourth, CAISO proposes that high-priority non-recallable exports must be supported by a resource internal to CAISO and not an import.⁵⁶ CAISO asserts that a scheduling coordinator seeking to support an export with an import should schedule such a transaction as a wheeling through transaction. CAISO notes that this proposed revision codifies existing CAISO practice.⁵⁷

27. Fifth, CAISO proposes that a scheduling coordinator for a resource supporting a high-priority non-recallable export submit a \$0/MWh RUC availability bid for a quantity at least equal to the export's self-schedule quantity.⁵⁸ CAISO explains that requiring the designated resource to participate in the RUC process ensures that the RUC will have sufficient resource adequacy capacity and designated resources to clear the CAISO load forecast and high-priority non-recallable exports. Further, CAISO asserts that requiring the designated resource to submit a \$0/MWh RUC bid aligns with the existing requirement for resource adequacy capacity to submit \$0/MWh RUC bids, and enables

⁵² CAISO Tariff, Proposed § 30.5.1(aa).

⁵³ CAISO Transmittal at 40.

⁵⁴ CAISO Tariff, Proposed § 30.5.1(aa).

⁵⁵ CAISO Transmittal at 41-42.

⁵⁶ CAISO Tariff, Proposed § 30.5.1(ee).

⁵⁷ CAISO Transmittal at 43.

⁵⁸ CAISO Tariff, Proposed § 30.5.1(bb).

the RUC to equally consider resources backing high-priority exports and resource adequacy capacity supporting CAISO load when evaluating the resources needed to meet overall demand.⁵⁹

28. Sixth, CAISO proposes two real-time market rules for high-priority non-recallable exports to ensure the resources supporting them are available to the real-time market: (1) scheduling coordinators for resources supporting high-priority non-recallable exports must submit real-time bids for a quantity equal to or greater than the MW quantity of the corresponding high-priority non-recallable export; and (2) if a resource supporting a high-priority non-recallable export clears the RUC for more than the export quantity, the cleared quantity above that amount cannot support a high-priority non-recallable export in real-time.⁶⁰ CAISO asserts that absent these rules it might have to use resource adequacy capacity to support the high-priority non-recallable export.⁶¹

29. CAISO also proposes Tariff revisions to facilitate the allocation of derated capacity when only a portion of a resource's capacity is CAISO resource adequacy capacity. CAISO explains that under the existing Tariff, CAISO only knows the general allocation of a resource's capacity as resource adequacy or non-resource adequacy. CAISO states that the non-resource adequacy portion of a partial resource adequacy resource can be capacity that the resource: (1) did not sell to any load serving entity; (2) sold to a CAISO load serving entity but was not shown to meet that load serving entity's resource adequacy requirements for a particular month; or (3) sold to an external load serving entity that needs to be exported. CAISO states that, without more specific information about which of the three categories the non-resource adequacy portion falls into, it cannot determine if the non-resource adequacy portion of a derated partial resource adequacy resource can support a high-priority non-recallable export.⁶²

30. To obtain the information necessary to perform a more granular allocation of derated capacity, CAISO proposes that scheduling coordinators requesting planned outages for their resources notify CAISO at the time of the outage request whether and to what extent the outage affects resource adequacy capacity and any contracted non-resource adequacy capacity.⁶³ CAISO also proposes that scheduling coordinators reporting a derate as a forced outage inform CAISO how the derated capacity should be

⁵⁹ CAISO Transmittal at 43-44.

⁶⁰ CAISO Tariff, Proposed §§ 30.5.1(cc) and (dd), respectively.

⁶¹ CAISO Transmittal at 45-46.

⁶² *Id.* at 47.

⁶³ CAISO Tariff, Proposed §§ 9.3.1.3.1 and 9.3.1.3.2.

allocated between resource adequacy capacity and the non-resource adequacy capacity it has sold.⁶⁴ CAISO explains that the proposal will allow it to obtain the information necessary to allocate capacity derates properly and effectively among the types of capacity and to facilitate prorated high-priority non-recallable exports following partial outages and derates on units.⁶⁵

2. Comments and Protests

31. Brookfield states that it does not oppose CAISO's proposal to delineate between low- and high-priority exports but expresses concern that CAISO's proposal will inappropriately disadvantage low-priority exports that were appropriately scheduled in the day-ahead market. Specifically, Brookfield is concerned that internal CAISO load may under-schedule in the day-ahead market yet still have a priority over day-ahead self-scheduled exports in the RUC process and in the real-time market. Further, Brookfield asserts that CAISO's proposal to effectively grant itself an option to curtail, through the RUC process, such exports scheduled in the day-ahead market, will only further encourage such under-scheduling and increase rather than decrease the risk of reliability issues and market disruption in CAISO and surrounding markets, taken as a whole. Brookfield recommends that the Commission accept CAISO's proposed scheduling priorities for exports conditioned upon CAISO developing appropriate market rules to encourage load forward scheduling.⁶⁶

32. Vistra argues that the rules and requirements proposed by CAISO to qualify as a high-priority non-recallable export are unduly burdensome and inconsistent with the open access principles embodied in the *pro forma* OATT processes for obtaining point-to-point transmission service. First, Vistra highlights that, under the *pro forma* OATT, an entity obtaining point-to-point service does not need to identify a specific resource, but only a point of receipt where the energy will be injected. Second, Vistra states that the *pro forma* OATT imposes no requirement on the transmission customer prior to real-time beyond scheduling the use of the transmission service and then injecting the correct amount of energy. Vistra contends that these proposed requirements create adverse consequences and untenable risks for market participants considering selling their capacity located within the CAISO system to external load serving entities. Further, Vistra asserts that these proposed requirements create significant barriers for exports in the event of constrained conditions. For example, Vistra asserts that CAISO's proposal could expose a seller to two penalty structures – both CAISO's and the external counterparty's – for non-performance. Finally, Vistra contends that these revisions are

⁶⁴ *Id.*, Proposed § 9.3.10.3.2.

⁶⁵ CAISO Transmittal at 47-48.

⁶⁶ Brookfield Comments at 6-8.

unnecessary because CAISO already made changes to its export processes in the business practice manual in response to the August 2020 heat events.⁶⁷

33. Leeward requests that the Commission direct CAISO to confirm that generation resources that interconnect to the CAISO balancing authority area but are dedicated to serving non-CAISO loads with firm transmission service will not be subject to CAISO's proposed Tariff revisions related to export scheduling priorities. Leeward contends that resources that are pseudo-tied, dynamically transferred, or otherwise merely passing through the CAISO balancing authority area and are fully committed to a non-CAISO load serving entity, but not committed to any internal CAISO load, should not be subject to these revisions.⁶⁸

34. DMM supports CAISO's proposed rule change to prioritize CAISO load over all low-priority recallable exports, without regard to the market in which the export is first scheduled, as a measure for ensuring that resource adequacy capacity that may be needed to support CAISO load does not instead support low-priority exports out of the CAISO balancing authority area. DMM also asserts that CAISO's proposal to prioritize real-time self-scheduled low-priority exports first scheduled in the day-ahead and deemed feasible in the RUC process, over those first submitted in the real-time market, is likely to incentivize day-ahead scheduling of low-priority export transactions, decreasing the level of uncertainty between day-ahead and real-time market conditions. Further, DMM supports CAISO's proposed criteria to qualify as a high-priority non-recallable export because these criteria should help avoid the use of resource adequacy capacity being used to support exports. Finally, DMM contends that the proposed revisions pertaining to derates of capacity provide important clarity on the amount of non-resource adequacy capacity from a derated partial resource adequacy resource that may be used to support high-priority exports.⁶⁹

35. BANC and Middle River express support for CAISO's proposed revisions pertaining to export priorities and the allocation of capacity between resource adequacy and non-resource adequacy capacity for resources on outages.⁷⁰

⁶⁷ Vistra Protest at 3-7.

⁶⁸ Leeward Comments at 4-8.

⁶⁹ DMM Comments at 3-6.

⁷⁰ BANC Comments at 3-7; Middle River Comments at 4-6.

3. Answers

36. CAISO argues that the Commission should not adopt Brookfield's recommendations because: (1) the CAISO Tariff already distinguishes high-priority non-recallable exports from low-priority recallable exports;⁷¹ (2) the CAISO Tariff already allows CAISO, at its sole discretion, to curtail exports from resource adequacy capacity to prevent or alleviate a system emergency;⁷² and (3) the proposed Tariff revisions simply apply the previous two 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. CAISO explains that its proposal appropriately recognizes that conditions may change in real-time, and CAISO may need the resource adequacy capacity to meet internal load in the real-time, even though it did not need the capacity in the day-ahead market.⁷³

37. CAISO further explains that when a supplier has sold resource adequacy capacity to a CAISO load serving entity and received a capacity payment for it, the supplier has no legitimate expectation that it can resell this resource adequacy capacity to an external entity without it potentially being recalled. CAISO states that the Commission has rejected the concept that exports of resource adequacy capacity are firm and has found that these exports constitute "non-firm opportunity sales" that are curtailable.⁷⁴ Thus, CAISO contends that its proposal fully aligns with Commission precedent and the principles underlying section 40.6.11 of its Tariff.⁷⁵

38. In addition, CAISO contends that Brookfield's request that the Commission condition acceptance of CAISO's proposal on an obligation to develop further market rule changes is beyond the scope of CAISO's proposal and would result in a materially

⁷¹ CAISO Answer at 82 (citing CAISO Tariff, §§ 31.4 and 34.12.2).

⁷² *Id.* (citing CAISO Tariff, § 40.6.11).

⁷³ *Id.* at 82.

⁷⁴ *Id.* at 83 (citing *Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,076, at P 619 (2007) (finding that "[t]o the extent that Imperial argues that exports of energy provided by RA capacity are firm, we disagree. Such exports are non-firm opportunity sales that should be subject to curtailment to prevent or alleviate a system emergency, as is consistent with NERC and WECC guidelines. Curtailment in this situation is appropriate because the resource providing exports has already received a capacity payment in return for making itself available when needed by the CAISO.") (MRTU Rehearing Order)).

⁷⁵ *Id.* at 83.

different rate design than CAISO's proposal, in violation of *NRG*.⁷⁶ According to CAISO, scarcity pricing and forward scheduling requirements are significant market design changes with far-reaching implications that require consideration in an open and robust stakeholder process. CAISO asserts that these changes should not be "tacked on" to its instant proposal.⁷⁷

39. CAISO contends that Vistra's objection that CAISO's proposed rules regarding high-priority non-recallable exports are inconsistent with open access principles for obtaining point-to-point transmission service is misplaced. CAISO argues that its proposed rules for high-priority exports have nothing to do with point-to-point transmission service, which CAISO does not even offer. Further, CAISO asserts that, contrary to Vistra's assertions, the proposed revisions do not require exporters to identify the resource supporting the export; rather, this requirement already exists in sections 31.4 and 34.12.2 of the CAISO Tariff. CAISO reiterates that the proposed rules ensure that CAISO will not have to support the export with resource adequacy capacity.⁷⁸

40. In addition, CAISO disputes Vistra's contentions related to participation in the RUC process. CAISO explains that the requirement for exports to participate in the RUC does not compel market participants to sell the same capacity to two different counterparties. CAISO asserts that, under the proposed rules, exports must submit a \$0/MWh RUC bid up to the amount of the export quantity but may submit a higher bid for MW quantities greater than the quantity of the high-priority non-recallable export. However, CAISO explains that RUC can only use bids above the quantity of the high-priority non-recallable export to meet CAISO's forecasted load requirement. Thus, CAISO contends that RUC cannot use the same capacity both to support the export and to serve CAISO load. Further, CAISO disagrees that the high-priority non-recallable export rules could expose sellers to two penalty structures for non-performance, because the same MW of capacity cannot be committed both to CAISO and to support the export. Further, CAISO states that non-resource adequacy export capacity is not subject to CAISO's availability penalties under its Resource Adequacy Availability Incentive Mechanism (RAAIM).⁷⁹

⁷⁶ *NRG Power Marketing LLC v. FERC*, 862 F.3d 108, 114-115 (D.C. Cir. 2017) (NRG) (finding that the Commission cannot propose modifications to a utility's FPA section 205 proposal if those changes would result in an entirely different rate design).

⁷⁷ CAISO Answer at 83.

⁷⁸ *Id.* at 74-77.

⁷⁹ *Id.* at 77-79. RAIM is a process by which CAISO determines the extent to which resources providing resource adequacy capacity have fulfilled their availability obligations and assesses incentive payments or non-availability charges based on

41. Finally, CAISO argues that Vistra's claim that the proposed Tariff revisions are unnecessary due to a September 5, 2020 business process manual revision are without merit. CAISO contends that the previous business process manual change addressed one issue related to the August 2020 load shedding events but emphasizes that both the Final Root Cause Analysis and DMM Report recommended additional changes to address the appropriate prioritization of export schedules. CAISO also notes that, during the underlying stakeholder process that resulted in this proposal, additional issues arising from CAISO's treatment of exports were identified.⁸⁰ Joint LSEs likewise contend that it would be inappropriate to dismiss the issue of the relative priority of native load due to the existence of other issues, such as load under-scheduling, that have already been identified and addressed.⁸¹

42. In response to Leeward's request for additional clarification regarding the applicability of the proposed changes to scheduling priorities, CAISO explains that Leeward is correct that resources pseudo-tied out of the CAISO balancing authority area are external resources under the CAISO Tariff and would not be subject to the proposed rules. However, resources not pseudo-tied to an external balancing authority area are considered CAISO balancing authority area resources. Thus, CAISO states that if Leeward resources are not pseudo-tied to an external balancing authority area but have sold all of their capacity only to an external balancing authority area, they would be providing only non-resource adequacy capacity and could support a high-priority non-recallable export.⁸²

4. Commission Determination

43. We accept CAISO's proposed Tariff revisions regarding export scheduling priorities and find that these revisions are just and reasonable and not unduly discriminatory or preferential. With respect to the proposed revisions pertaining to low-priority recallable exports, CAISO's proposed revisions will help ensure that low-priority recallable exports receiving a day-ahead schedule have a lower real-time market priority than schedules needed to serve CAISO load. These changes will help ensure that resource adequacy capacity intended to support CAISO load is available when needed and not used instead to support low-priority exports. Further, although Brookfield contends that low-priority recallable exports will be disadvantaged by CAISO's proposal because low-priority recallable exports scheduled in the day-ahead market can be

resources' performance. CAISO Tariff, § 40.9.

⁸⁰ *Id.* at 79-81.

⁸¹ Joint LSEs Answer at 36-37.

⁸² CAISO Answer at 83-84.

displaced by load in the real-time market, market participants have the option to use the high-priority non-recallable export Tariff provisions to achieve the same priority as CAISO's load.

44. We further find that the issue of under-scheduling of load has already been addressed. Under-scheduling of load caused reliability issues in the summer of 2020 because of a flaw in the RUC process that led to unsupportable exports being scheduled. CAISO reports that it changed its business practice manual to better address underscheduling.⁸³ The Tariff provisions in this filing help ensure that resource adequacy resources are available in real-time to meet CAISO load and are not diverted to support exports. Further, CAISO's proposed revisions pertaining to low-priority recallable exports should incentivize day-ahead scheduling of low-priority export transactions and thus decrease the level of uncertainty between day-ahead and real-time market conditions. Because we find that CAISO's proposed revisions are just and reasonable, as explained above, we need not further consider alternative rate designs.⁸⁴

45. We accept the proposed rules and requirements regarding the capacity that can support high-priority non-recallable exports. We find that the requirements will ensure that capacity supporting high-priority non-recallable exports is contracted exclusively to an external load-serving entity, is physically available in real time, and that the capacity is bid into the CAISO markets. These requirements will help to avoid a situation where resource adequacy capacity needed to serve CAISO load is, instead, used to back exports. We find that Vistra has not adequately supported its argument that the proposed rules regarding high-priority non-recallable exports are inconsistent with open access principles embodied in the *pro forma* OATT process for obtaining point-to-point transmission service. CAISO does not offer point-to-point transmission service and, as CAISO explains, the requirement for an exporter to identify the resource supporting its export schedule already exists in the CAISO Tariff.

⁸³ CAISO states that, during the August 2020 heat events, the scheduling and tagging processes in the business practice manual did not appropriately account for the CAISO load forecast relative to integrated forward market schedules. CAISO states that it implemented an emergency business practice manual change on September 5, 2020 to give high scheduling priority only to day-ahead exports deemed feasible in the RUC process. *Id.*; see also CAISO Business Practice Manual for Market Operations at 3.

⁸⁴ See, e.g., *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (*City of Bethany*) (finding that, when determining whether a proposed rate was “just and reasonable”, as required by the FPA, the Commission properly did not consider “whether a proposed rate schedule is more or less reasonable than the alternative rate designs.”).

46. We also disagree with Vistra's claim that requiring a scheduling coordinator for a resource supporting a high-priority non-recallable export to submit a \$0/MWh RUC availability bid for a quantity at least equal to the export's self-scheduled quantity is not justified as consistent with or superior to the *pro forma* OATT. We find that the proposed rule will help CAISO ensure that the capacity designated to serve a high-priority non-recallable export is committed in the RUC process, if necessary, to support that export. We also accept CAISO's clarification that resources not pseudo-tied to an external balancing authority area but having sold all of their capacity only to an external balancing authority area would be providing non-resource adequacy capacity and could support a high-priority non-recallable export.

47. Finally, we find that the proposed revisions that facilitate the allocation of derated capacity are just and reasonable measures that will help ensure that CAISO has the information necessary to effectively allocate capacity derates among CAISO resource adequacy capacity and different uses of non-resource adequacy capacity. Additionally, these revisions will clarify how non-resource adequacy capacity from a derated partial resource adequacy resource can be used to support high-priority non-recallable exports.

C. Revisions to Wheeling Through Scheduling Priorities

1. CAISO Proposal

48. CAISO states the Tariff does not currently specify the scheduling priorities for wheeling through transactions and therefore relies on the market software's penalty prices, in combination with the wheeling through constraint that ensures the import side and export side of the wheeling through transaction remain equal, to manage scheduling priorities for wheeling through transactions. Because wheeling through transactions consist of both an import leg and an export leg, the penalty prices associated with the import side and the export side are additive. Under CAISO's current prioritization, the two penalty prices effectively afford wheeling through transactions a higher scheduling priority in the market than both high-priority non-recallable exports and serving internal CAISO load. CAISO notes that it did not observe consequential wheeling through transactions during the August 2020 load shed events, but expects increased wheeling through transactions this summer because summer 2021 power future prices in the Southwest significantly exceed prices in the Northwest and because of a change CAISO made to its business practice manual after the August 2020 heat events that will make it more difficult for neighboring load serving entities to rely on the ability to export power from the CAISO grid.⁸⁵

49. CAISO also explains that increased wheeling through transactions could exacerbate the reliability challenges experienced last August inside CAISO because the

⁸⁵ CAISO Transmittal at 7, 26, 56.

current Tariff does not distinguish among different types of wheeling through transactions. CAISO states that it is therefore possible that, during critical hours, the CAISO markets could prioritize very short-term wheeling through schedules over serving CAISO load, making it more challenging for CAISO to avoid shedding load. CAISO notes that in other regions, such short-term wheeling through transactions might be scheduled with non-firm transmission service and appropriately receive a lower scheduling priority, but the CAISO Tariff contains no such mechanism. Further, CAISO states that any wheeling through transaction, no matter how firm, receives priority service not only on the interties but also on the internal CAISO transmission system due to the additive nature of the penalty price parameters. CAISO argues that, if left unaddressed, the current framework could jeopardize CAISO's ability to serve native load reliably during emergency conditions this summer.⁸⁶

50. To address the deficiencies in the current framework, CAISO proposes to establish a new "priority wheeling through" transaction, which means a wheeling through self-schedule that meets three specified Tariff criteria.⁸⁷ First, CAISO proposes to require that a priority wheeling through transaction must be supported by a firm power supply contract to serve the load of an external load serving entity for the entire calendar month. According to CAISO, this criterion is analogous to the existing Tariff requirement that scheduling coordinators for load serving entities must procure a specified amount of resource adequacy capacity and show that capacity in a monthly resource adequacy plan.⁸⁸

51. Second, CAISO proposes to require that monthly firm transmission from the source to the CAISO boundary, for the hours ending 07:00 through 22:00, Monday through Saturday, must support the priority wheeling through transaction. CAISO notes that CAISO load serving entities depend entirely on the CAISO transmission system and pay the embedded costs of the system through a transmission access charge. CAISO states that it intends the monthly firm transmission requirement as a proxy for CAISO load serving entities' dependence on the CAISO grid. CAISO asserts that external load serving entities procurement of monthly firm transmission to the CAISO border for the peak period indicates their commitment to rely on using the CAISO system (and paying CAISO wheeling access charges) to deliver power to their own loads, similar to the grid use of CAISO native load. Further, CAISO contends that a monthly firm transmission requirement for a priority wheeling through transaction is comparable to the existing

⁸⁶ *Id.* at 56-57.

⁸⁷ CAISO Tariff, Appendix A, Proposed Definition of "Priority Wheeling Through."

⁸⁸ CAISO Transmittal at 62-63.

situation where CAISO allocates congestion revenue rights⁸⁹ to CAISO load serving entities that pay transmission access charges, but external load serving entities are allocated congestion revenue rights only if they pre-pay a transmission service charge and demonstrate a legitimate need to use the CAISO system.⁹⁰ CAISO notes, however, that the proposed monthly firm transmission requirement is not a transmission reservation requirement, but is a proxy to determine whether external load serving entities are relying on the CAISO system somewhat comparably to CAISO load serving entities.⁹¹

52. Third, in order to qualify as a priority wheeling transaction, a scheduling coordinator must confirm that it meets the above firm power supply contract and monthly firm transmission requirements sufficiently in advance of the month in which the priority wheeling through will start. For a priority wheeling through transaction that will start in July or August 2021, CAISO proposes a notification date of June 29, 2021. For priority wheeling through transactions beginning in September 2021 and beyond, CAISO proposes a notification date of 45 days before the month. CAISO asserts that the proposed 45-day notification requirement is analogous to the existing obligation for CAISO load serving entities to provide a monthly resource adequacy plan to CAISO at least 45 days before the start of the month.⁹²

53. CAISO states that its proposed revisions will create two types of wheeling through transactions, the priority wheeling through transactions, which satisfy the above criteria and will have the same scheduling priority as CAISO load, and non-priority wheeling through transactions, which will have a lower priority. To provide priority wheeling through transactions the same priority as CAISO load in the market optimization, CAISO proposes to set the priority of the export leg of the transaction equal to self-schedules of CAISO demand in the integrated forward market and equal to meeting the CAISO load forecast in the RUC process and real-time market. CAISO proposes a scheduling priority equal to self-scheduled imports for the import leg of the transaction. CAISO states that the combined effect of these scheduling priorities of the export and import legs will give priority wheeling through transactions a priority in the market equal to self-scheduled

⁸⁹ A congestion revenue right is a financial instrument that entitles the holder to payments or charges based on congestion on pre-defined transmission constraints. CAISO Tariff, Appendix A.

⁹⁰ *Id.*, § 36.9.2.

⁹¹ CAISO Transmittal at 63-64.

⁹² *Id.* at 64-65 (citing CAISO Tariff, §§ 40.2.1(a), 40.2.2.4(b), 40.4.7.1(b), and 40.10.5.2(c)(3)).

import to meet CAISO load.⁹³ In addition, CAISO proposes to set the import leg of a non-priority wheeling through transaction to zero dollars through a parameter in the business practice manual, which should ensure a lower scheduling priority than serving CAISO load.⁹⁴

54. CAISO also proposes a new process for proportionate allocation of available transmission capacity when the market comes to a solution where CAISO load receives an insufficient share of the transmission capacity needed to serve native load. CAISO states that Tariff section 34.12.2, which specifies the scheduling priorities for the real-time market, includes a provision noting that the real-time market optimization may “be superseded by operator actions and procedures as necessary to ensure reliable operations.”⁹⁵ CAISO proposes to supplement this existing Tariff language to include a new post-HASP process to allocate constrained import and internal transmission between priority wheeling through transactions and supply needed to serve internal load. CAISO asserts that the new process is necessary to ensure a proportionate allocation because the market solution using penalty prices alone may not produce such an allocation.⁹⁶

55. To ensure a proportional allocation, CAISO proposes to revise its Tariff to specify that, if an intertie scheduling point is constrained in the import direction or Path 26 is congested in the north-south direction, and the HASP cannot meet CAISO forecast demand or fully accommodate a priority wheeling through transaction, CAISO will perform a post-HASP process to allocate available transmission capacity between supply needed to meet CAISO load and priority wheeling through transactions on a *pro rata* basis.⁹⁷ CAISO explains that, under this proposal, the CAISO load share will be the lower of each applicable resource adequacy’s real-time energy bid quantity or its shown resource adequacy capacity. CAISO states that the priority wheeling through *pro rata* share for each self-schedule will be based on the lowest of: (1) 110% of the submitted day-ahead market schedule of the priority wheeling through transaction, (2) the submitted real-time market self-schedule of the priority wheeling through transaction, or (3) the priority wheeling through quantity requested 45 days in advance of the month. CAISO proposes to settle energy scheduled via the post-HASP process as exceptional dispatch

⁹³ *Id.* at 65-67.

⁹⁴ *Id.* at 67. CAISO notes that its proposed post-HASP process (discussed *infra*) will address any non-priority wheeling through transactions that clear HASP if CAISO cannot serve its load. *Id.*

⁹⁵ CAISO Tariff, § 34.12.2.

⁹⁶ CAISO Transmittal at 67-68.

⁹⁷ CAISO Tariff, Proposed § 34.12.3.

energy in recognition that this process may have to increase schedules by accepting out-of-economic-merit-order bids.⁹⁸

56. CAISO proposes to implement the proposed Tariff revisions pertaining to wheeling through transactions on an interim basis through May 31, 2022.⁹⁹ CAISO contends that its wheeling through proposal is consistent with the Commission's recognition that terms of service under an OATT should "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."¹⁰⁰ CAISO argues that, although it does not use the traditional mechanisms contemplated by Order No. 888 and 890 to reserve transmission capacity for reliable service to native load, its proposal achieves the same goal through different methods. Notably, CAISO highlights that its proposal does not reserve capacity but merely assigns native load a priority higher than lower-priority wheeling through schedules in circumstances where transmission capacity is constrained. CAISO asserts that, during typical system conditions, it anticipates the proposed changes in wheeling through self-schedule priorities will not change operations. As such, CAISO asserts that its proposal is more favorable to external entities than the frameworks of other transmission providers who reserve firm transmission capacity for native load prior to identifying the amount of transmission available to use for other transactions.¹⁰¹

2. Responsive Pleadings

a. Consistency with Open Access Principles

i. Comments and Protests

57. NV Energy and Idaho Power/Portland General argue that CAISO's wheeling through proposal is inconsistent with Order No. 888's requirements for reserving transmission for native load. NV Energy and Idaho Power/Portland General contend that, under the *pro forma* OATT, a reservation of transmission capacity for native load requires the designation of a network resource,¹⁰² and the requirements for a network

⁹⁸ CAISO Transmittal at 68-70.

⁹⁹ *Id.* at 7, 9, 49, 61-62, 65,

¹⁰⁰ *Id.* at 59 (quoting Order No. 890, 118 FERC ¶ 61,119 at P 107).

¹⁰¹ *Id.* at 59-60.

¹⁰² A designated network resource is the *pro forma* OATT terminology for a resource adequacy resource.

resource includes, among other things, that the resource must be delivered to the transmission provider's border on firm transmission.¹⁰³ NV Energy claims that CAISO's concern about the potential displacement of imports by wheeling through transactions comes about because resource adequacy imports are permitted to use non-firm transmission to the CAISO border.¹⁰⁴

58. NV Energy contends that PJM, SPP, ISO-NE, and NYISO all require that firm capacity resources have firm or firm-equivalent transmission priority in delivering the capacity to the border and are still able to ensure reliable service to native load. In addition, NV Energy notes that CAISO has recommended that the CPUC require firm transmission service to the CAISO boundary for resource adequacy resources has begun considering imposing its own requirement to the effect on resource adequacy resources.¹⁰⁵

59. NV Energy argues that there is a distinction between transmission curtailment and resource insufficiency. NV Energy states that if a California load serving entity has contracted with a resource in Nevada and has secured firm transmission to the CAISO border, NV Energy would not cut that transmission contract, even if that resource was short on supply. NV Energy states that if there is a supply deficiency, that customer is directed to implement their load reduction plan. Further, NV Energy asserts that no other RTO, ISO, or transmission provider uses their control over the transmission system to support the economic decision of load serving entities not to reserve firm transmission on external networks for critical resource adequacy supply.¹⁰⁶

60. NV Energy contends that the Commission previously addressed the issue of California load serving entities seeking a priority claim to Northwest resources in 2004. NV Energy notes that the Commission stated that it was "reasonable to find that, if the California Utilities want to be able to fully use the 4800 MW COI [California-Oregon Intertie], they need to ensure that they have the right to use the full 4800 MW of the Northwest Intertie, and that, if they fail to secure the latter, they would be unable to use the former...."¹⁰⁷

¹⁰³ Idaho Power/Portland General Protest at 9-11; NV Energy Protest at 27-28.

¹⁰⁴ NV Energy Protest at 28, 31.

¹⁰⁵ *Id.* at 32-36.

¹⁰⁶ *Id.* at 31-32.

¹⁰⁷ *Id.* at 30 (citing *Sierra Pacific Power Co.*, Opinion No. 465-A, 106 FERC ¶ 61,155, at P 15 (2004)).

61. NV Energy states that it agrees that balanced self-scheduled wheel through transaction on firm transmission should not have a greater priority than other imports into California also on firm transmission, but that this is not accomplished by CAISO's proposal. NV Energy notes that requirements placed on load serving entities in CAISO to reserve intertie capacity are weaker than the requirements in the criteria for wheeling transactions to receive priority status under CAISO's proposal and those that NV Energy places on itself in its own OATT. NV Energy argues that wheeling customers are not provided comparable treatment and, in fact, that it prioritizes non-firm transmission from CAISO resource adequacy imports over firm transmission from wheeling customers.¹⁰⁸

62. NV Energy and PNM emphasize the Commission's requirement that short-term firm transmission service should have the same priority as long-term firm service. PNM also highlights that Order No. 888 provides for short-term transmission products, including monthly, weekly, and daily transmission service, but argues that CAISO's proposed requirements for priority wheeling through status will substantially limit the incentives for customers to secure short-term or even long-term service if there is no assurance of deliverability through CAISO.¹⁰⁹ NV Energy makes a similar argument and states that CAISO is using its control over its transmission system to prioritize non-firm imports over short-term firm transmission products in contravention of the open access principles.¹¹⁰

63. Arizona Utilities and Powerex argue that CAISO's proposal is inconsistent with Commission policy for how firm transmission should be curtailed relative to native load. Arizona Utilities assert that the Commission requires that network, native load, and firm point-to-point transmission service must be curtailed on a *pro rata* basis except in the limited circumstance when such curtailment would require the shedding of bundled retail load. Powerex likewise explains that a key aspect of the open access policies adopted in Order Nos. 888 and 890 is the requirement that network and firm point-to-point transmission customers be curtailed on a basis comparable to the curtailment of service to native load customers.¹¹¹

64. Arizona Utilities assert that CAISO's proposal improperly favors transactions serving CAISO load over wheeling through transactions serving Arizona load, even when the transactions to Arizona use firm transmission to the CAISO border and those serving CAISO load do not. Arizona Utilities contend that the CAISO Tariff already contains a

¹⁰⁸ *Id.* at 13-16.

¹⁰⁹ PNM Protest at 9-11.

¹¹⁰ NV Energy Protest at 25.

¹¹¹ Arizona Utilities Protest at 46-47; Powerex Protest at 25-28.

mechanism for CAISO load serving entities to ensure their resource adequacy resources can serve their load, which is self-scheduling sufficient load and imports in the day-ahead market.¹¹²

65. Arizona Utilities argue that CAISO's proposal violates the Commission's open access principle that each transmission provider manage congestion on its own system because CAISO's proposal has the effect of CAISO using transmission priorities on its own system to manage the flows of external systems. Arizona Utilities explain that because the transmission capacity on both sides of an intertie are identical, when CAISO changes what can flow from the intertie into the CAISO system, it also changes what will flow up to the intertie from the external system. Arizona Utilities assert that this has the effect of using CAISO market curtailments to preempt the transmission firmness on the external system.¹¹³

66. Public Power Council and Bonneville contend that the native load protection principle set forth in Order Nos. 888 and 890 is irrelevant here because CAISO's transmission service structure does not account for native load, long-term firm transmission commitments, or wheeling through transactions in the calculation of available transfer capability.¹¹⁴ Moreover, Bonneville contends that native load priority is a concept associated with network load service and requests for long-term firm transmission rights, something the CAISO transmission paradigm does not recognize and which has no basis in its Tariff.¹¹⁵

67. Idaho Power/Portland General and Powerex assert that the Commission has never found that the right to account for native load when calculating available transfer capability means that a transmission provider can rescind transmission rights that have been awarded or deny access to transmission capacity in order to make additional capacity available to serve native load. Idaho Power/Portland General argue that if a transmission provider has not properly exercised the native load priority, it has not reserved the transmission capacity and has no rights to it.¹¹⁶ Further, Powerex argues that the Commission has declined to permit transmission providers to set aside intertie

¹¹² Arizona Utilities Protest at 30-31.

¹¹³ *Id.* at 40-45.

¹¹⁴ Public Power Council Protest at 15-16; Bonneville Protest at 5.

¹¹⁵ Bonneville Protest at 5-6.

¹¹⁶ Idaho Power/Portland General Protest at 11.

capability to serve native load based on generalized claims about the need to preserve reliability.¹¹⁷

68. Vistra contends that CAISO has not demonstrated that its proposal is consistent with or superior to the *pro forma* OATT. Vistra notes CAISO's acknowledgement that its proposal differs from long-standing practices of other RTOs/ISOs,¹¹⁸ but argues that the Commission has previously rejected proposals that seek to place higher curtailment priority on native load and has prevented internal transfers to serve native load to receive a higher priority than for third party users. Vistra disputes CAISO's claim that its proposal leaves the CAISO transmission system open to all market participants, arguing that the proposal places significant barriers for external load serving entities to access the CAISO grid in constrained system conditions. Vistra maintains that mere opportunity to seek access to the CAISO grid is insufficient to satisfy the Commission's open access requirements.¹¹⁹

69. DMM supports CAISO's proposal. DMM opines that the proposed Tariff revisions do not appear to reserve any portion of transmission for CAISO native load. DMM characterizes CAISO's proposal as a moderate approach to prioritize the needs of CAISO native load under the tightest supply conditions that may otherwise lead to load curtailment, while continuing to allow high priority transmission access. DMM asserts that, under CAISO's proposal, curtailment would occur on a pro-rata basis among import transactions to serve CAISO load and high priority wheeling through transactions only when there is insufficient capacity available to meet all firm uses. DMM argues that this curtailment practice is similar to those employed for firm transmission by other transmission providers. DMM argues that there is significant precedent for making transmission available to meet the needs of native load. DMM contends that the purpose of the proposed requirements on priority wheeling transactions is only to identify wheeling transactions on which load serving entities outside CAISO are relying on the meet resource sufficiency needs.¹²⁰

ii. Answers

70. In response to claims that CAISO inappropriately relies on the concept of native load priority, CAISO repeats its previous argument that its proposal allows customers to benefit from native load protections analogous to those available under the *pro forma*

¹¹⁷ Powerex Protest at 28-31.

¹¹⁸ Vistra Protest at 12 (citing CAISO Transmittal at 59).

¹¹⁹ *Id.* at 12-13.

¹²⁰ DMM at 8-9.

OATT. CAISO again highlights the ways in which its transmission framework differs from more traditional approaches, such as absence of any advance reservations for transmission service but asserts that these differences do not mean that CAISO has foregone any right to implement native load protections. CAISO contends that nothing in Order Nos. 888 or 890 limits the right to protect native load obligations to only the period of time for Order Nos. 888 and 890 compliance filings. CAISO also points out that wheeling through transactions can impact service over internal transmission paths as well as at the interties. CAISO argues that the Commission should consider these impacts and recognize that its proposal is consistent with the Commission's open access rules providing that capacity reserved for native load should be available to third parties except for when the transmission provider actually needs the capacity to serve native load.¹²¹

71. CAISO argues that, just because its proposed native load protections differ from more traditional *pro forma* OATT native load protections, that is not a justifiable reason to reject the proposal. Further, because of the differences between CAISO's transmission framework and that of neighboring transmission systems, protestors' attempts to oppose the proposal on the basis of those differences are misplaced. For example, CAISO notes that NV Energy opposes the proposal based on an analogy to requirements for designated network resources. CAISO contends that this analogy is unsustainable because the CAISO Tariff does not provide for network integration transmission service or designated loads on the system and, therefore, there is no need for CAISO to designate network resources to serve those loads.¹²²

72. Joint LSEs likewise contend that priority of service for native load on the CAISO system is consistent with the Commission's open access transmission policies. Joint LSEs assert that the Commission has repeatedly acknowledged that priority of service for native load customers is a core element of open access transmission service, which likewise provides for access priorities in favor of customers who have contributed to the long-term fixed costs of the transmission system.¹²³

73. CAISO contends that Powerex's claims that the Commission has already addressed this issue¹²⁴ fail because the cases cited by Powerex involve violations of requirements under the *pro forma* OATT. According to CAISO, because the CAISO Tariff does not follow the *pro forma* OATT, the specific findings in those orders are not

¹²¹ CAISO Answer at 25-29.

¹²² *Id.* at 30-31.

¹²³ Joint LSEs Answer at 11-14.

¹²⁴ Powerex Protest at 30-31.

relevant to the CAISO Tariff provisions.¹²⁵ Joint LSEs also argue that the Commission precedent provides no basis for rejecting CAISO's proposal and, instead, supports the opposite conclusion. Specifically, Joint LSEs contend that in *Sierra Pacific*, the Commission held that native load protections are not discriminatory against non-native loads and expressly recognized the underlying rights of the transmission provider to use its network resources to serve its native loads.¹²⁶ Further, Joint LSEs point to *Duke Energy Corp.*,¹²⁷ where the Commission again concluded that the disparate treatment of native and non-native load customers is not unduly discriminatory because such customers are not similarly situated.¹²⁸ In addition, Joint LSEs argue that Opinion No. 465-A refutes protestors' contentions that firm transmission reservations on systems outside of CAISO create rights to priority use of the CAISO system.¹²⁹

74. CAISO disputes NV Energy's contention that CAISO is attempting to use the CAISO transmission system to support the economic decision of load serving entities not to reserve firm transmission service on external networks. CAISO asserts that this assertion mischaracterizes the proposal, which, according to CAISO, has nothing to do with the decisions made by load serving entities regarding transmission services on external systems. Rather, CAISO emphasizes that its proposal is premised on the goal of providing reasonable protections to native load when tight system conditions require CAISO to allocate scarce transmission capability on its own system. Further, CAISO notes that, if a CAISO load serving entity elects non-firm service on an external system, that load serving entity faces the same risk as any other non-firm customer on that system of having its service curtailed. CAISO states that it is not aware of any transmission provider that provides wheeling through transactions a priority over native load based on the firmness of service obtained from a neighboring balancing authority area. CAISO also argues that firm transmission requirements adopted by other RTOs/ISOs for external resource adequacy resources, and CAISO's advocacy for such requirements, have nothing to do with the scheduling priority afforded to transactions in the CAISO markets.¹³⁰

¹²⁵ CAISO Answer at 32.

¹²⁶ Joint LSEs Answer at 14-15 (citing *Sierra Pacific Power Co.*, 143 FERC ¶ 61,144, at P 112 (2013)).

¹²⁷ 166 FERC ¶ 61,112 (2019).

¹²⁸ Joint LSEs Answer at 15-17.

¹²⁹ *Id.* (citing Opinion No. 465-A, 106 FERC ¶ 61,155 at P 15).

¹³⁰ CAISO Answer at 42-44.

75. Further, CAISO contends that the question of whether a firm transmission requirement should exist for resource adequacy resources speaks solely to whether a particular resource should be eligible to provide resource adequacy capacity and not to what scheduling priority it should have. CAISO and Joint LSEs argue that matters related to resource adequacy eligibility are beyond the scope of this proceeding.¹³¹

76. CAISO disputes Powerex's claim that the proposal violates the *pro forma* OATT requirement for the transmission provider to curtail service to customers taking firm service on a basis comparable to the curtailment of service the transmission providers native load. CAISO asserts that Powerex's position assumes that all wheeling through transactions that clear the day-ahead market constitute firm use of the CAISO system and, as such, must be curtailed on the same basis of native load regardless of whether these wheeling through transactions otherwise qualify for priority wheeling through status. CAISO argues that treating day-ahead rewards as firm transmission with a priority comparable to firm point-to-point service under the *pro forma* OATT is problematic in a transmission service paradigm like CAISO's that contains none of traditional approaches to reserving capacity for native load. CAISO asserts that under transmission paradigms that utilize the traditional calculation of available transfer capability approach, a transmission provider would only allow short-term wheeling through transactions to be reserved in advance to the extent capacity is available. According to CAISO, because it does not reserve capacity for native load, the very concept of advance reservations of "excess" capacity is not applicable.¹³²

77. CAISO disputes arguments that short-term wheeling through transactions that use firm transmission to the CAISO border should have priority equal to native load that uses non-firm transmission to the border. CAISO asserts that the quality of transmission on a neighboring system does not dictate the transmission service received on another system; according to CAISO, that would be a particularly unreasonable result given that resource adequacy imports are paired with maximum import capability allocations¹³³ provided by CAISO for the express purpose of ensuring that these imports are deliverable over the interties. CAISO asserts that it is inequitable and would unduly jeopardize CAISO reliability to allow short-term wheeling through transactions to displace planned-for delivery of imported resource adequacy capacity. Moreover, CAISO emphasizes that the proposed priority wheeling through status is comparable to a monthly transmission service reservation priority under the *pro forma* OATT and aligns with the monthly

¹³¹ CAISO Answer at 46-47; Joint LSEs Answer at 34-36.

¹³² CAISO Answer at 65-68.

¹³³ Maximum import capability is a quantity in MW determined by CAISO for each intertie into the CAISO balancing authority area. CAISO Tariff, Appendix A.

nature of resource adequacy showings. Thus, CAISO argues that it would be unreasonable to allow spot weekly, daily, and hourly wheeling through transactions to displace more forwardly procured resource adequacy supply that is necessary to serve native load. Further, CAISO asserts that native load must use the CAISO system every day, and priority wheeling through customers have demonstrated their dependence of using the CAISO system for the month. Therefore, CAISO contends that native load and wheeling through schedules that satisfy the priority criteria should have priority over market participants that seek to use the CAISO system only for opportunistic weekly, daily, and hourly transmission.¹³⁴

78. Joint LSEs argue that CAISO's proposal does not inappropriately prioritize resource adequacy imports with non-firm transmission rights on external systems while discounting wheeling through transactions with firm external transmission. Joint LSEs also dispute claims that CAISO is attempting to reset priorities and manage congestion on external systems. Joint LSEs emphasize that CAISO is only allocating capacity on its own transmission system and is, therefore, well within its rights to curtail transactions based on its own prioritization. According to Joint LSEs, well-established curtailment procedures promulgated by the North American Reliability Corporation (NERC) specify that the constrained transmission element determines the firmness of an entire transaction. Joint LSEs contend that, in the case of a transaction seeking to wheel through CAISO, the CAISO-controlled transmission system is the constraining element and, therefore, that transaction's priority on the CAISO's system would determine the firmness of the entire transaction.¹³⁵

79. Joint LSEs argue that native loads in organized markets such as CAISO's are entitled to the same transmission system priority as would be applicable in external or non-organized markets. Joint LSEs contend that there is no evidence that, by approving a transmission framework based on financial rather than physical transmission rights, the Commission intended to create policies or endorse rules that provide only inferior access and usage for native load compared to utilities where physical transmission rights remain the norm under a traditional OATT structure. Joint LSEs assert that arguments that the Commission's native load priority policy is somehow less applicable within CAISO due to the corresponding market design amounts to a collateral attack on the Commission's orders authorizing the structure and rules for CAISO's markets.¹³⁶

¹³⁴ CAISO Answer at 33-37.

¹³⁵ Joint LSEs Answer at 22-26.

¹³⁶ *Id.* at 17-21.

iii. Replies to Answers

80. Arizona Utilities state that while transmission providers may set aside transmission capacity for native load under limited and specific circumstances, the transmission provider must provide customers with the data necessary to fully analyze the claimed native load priority, specifically including the amount of transmission capacity that it seeks to reserve over its system.¹³⁷ Arizona Utilities state that this is inapplicable to usage rights on CAISO's system where physical transmission rights cannot be reserved in advance and where CAISO has not provided the data necessary to facilitate at review of the claimed priority. Arizona Utilities state that CAISO should have addressed this when CAISO established its Tariff or when it modified its Tariff to comply with Order Nos. 888 and 890.¹³⁸ Arizona Utilities state that CAISO failed to do so and is attempting to add a new native load preference on open access users of its system without meaningful prior notice.

81. Arizona Utilities state that CAISO's proposal would never be accepted in the context of the *pro forma* OATT.¹³⁹ Arizona Utilities argue that CAISO's proposal allows it to reach outside the CAISO system and manage transactions on external systems. Arizona Utilities state that the Commission would not accept this approach by a utility.

82. Powerex argues that CAISO mischaracterizes existing native load priority. Powerex claims that, under CAISO's current scheduling priorities, resource adequacy imports that are self-scheduled in the day-ahead market will not have lower priority wheeling through transactions and, therefore, CAISO load serving entities can already avail themselves of native load priority. According to Powerex, CAISO's proposal is not about ensuring that resource adequacy imports have priority equivalent to wheeling through transactions, but instead about creating what Powerex refers to as a "super priority" for virtually all imports serving CAISO load. Further, Powerex contends that CAISO's proposal would give CAISO authority to unwind the results of the day-ahead market by curtailing wheeling through transactions to create additional transmission capacity to support additional real-time imports into CAISO. Powerex asserts that not only does CAISO's proposal give CAISO the authority to involuntarily curtail a day-ahead award, but it would do so without relieving the affected market participant from its financial obligations associated with the day-ahead award.¹⁴⁰

¹³⁷ Arizona Utilities Reply at 5-6.

¹³⁸ *Id.* at 6.

¹³⁹ *Id.* at 12.

¹⁴⁰ Powerex Answer at 3-5.

83. Powerex contends that CAISO's proposal does not merely ensure that load and wheeling through transactions have equal scheduling priority, but effectively grants preferential treatment to non-resource adequacy imports serving CAISO load in circumstances where those imports are offered less economically than wheeling through transactions into the CAISO markets. Powerex asserts that CAISO acknowledges in its answer that "the proposed tariff changes would result in economic imports bid anywhere below \$300/MWh having a higher scheduling priority" than non-priority wheeling through transactions.¹⁴¹ Powerex argues that CAISO has not justified this preferential treatment. In particular, Powerex argues that CAISO's comparison of this aspect of its proposal to a capacity benefit margin is inapt because the transmission capacity set aside as a capacity benefit margin may only be used to facilitate imports when the balancing authority area in question is experiencing emergency conditions.¹⁴²

84. Powerex also claims that CAISO's proposal inappropriately gives CAISO the authority to preemptively curtail wheeling through schedules awarded in the day-ahead market in favor of potentially speculative resource adequacy imports. According to Powerex, under the *pro forma* OATT, a schedule using a lower-priority reservation is not interrupted or displaced until and unless the transmission provider receives and implements a schedule, supported by an e-Tag, that uses the higher-priority reservation. Powerex asserts that, in contrast, under CAISO's proposal, the mere receipt of an offer of a real-time import needed to serve CAISO load is sufficient for CAISO to reduce or curtail wheeling through transactions that received a day-ahead award.¹⁴³

b. Undue Discrimination Arguments

i. Comments and Protests

85. Arizona Utilities, Brookfield, Idaho Power/Portland General, Vistra, and Powerex argue that CAISO's proposed requirements for priority wheeling through status are unduly discriminatory because CAISO's proposal seeks to impose far more stringent requirements on wheeling through transactions than on imports to serve internal CAISO load.¹⁴⁴ Idaho Power/Portland General assert that Order No. 888 prohibits a transmission provider from requiring third-party transmission customers to meet extra hurdles to be considered equal priority with native load, yet that it precisely what CAISO's proposal

¹⁴¹ *Id.* at 6 (quoting CAISO Answer at 7).

¹⁴² *Id.* at 5-7.

¹⁴³ *Id.* at 9-12.

¹⁴⁴ Arizona Utilities Protest at 37-39, 44-48; Brookfield Comments at 8-9; Powerex Protest at 16-18; Bonneville Protest at 6-9.

would do.¹⁴⁵ Similarly, Vistra contends that CAISO's proposed requirements for priority wheeling through status are unduly discriminatory because the new eligibility criteria seek to add multiple layers of requirements to one class of customers for no reason other than to ensure native load priority. Vistra asserts that CAISO's proposal also discriminates between similarly situated external load serving entities through the additional contractual and firm transmission requirements because external load serving entities that are unwilling or unable to meet all of the criteria will receive lower wheeling through priority even though there are no other material differences between that external load serving entity and an external load serving entity that meets the requirements for priority wheeling through status.¹⁴⁶

86. ACC, Brookfield, Bonneville, NV Energy, PNM, WAPA, and Arizona Utilities assert that the requirement for priority wheel throughs to obtain monthly firm transmission from the source to the CAISO boundary, when CAISO resource adequacy imports are not required to do so, is unduly discriminatory and non-competitive.¹⁴⁷ WAPA contends that this requirement effectively forces external load serving entities to transact at higher costs and limits the ability to transact on a day-ahead basis. WAPA states that it would support a proposal that requires both priority wheeling through transactions and resource adequacy imports to obtain day-ahead firm transmission to the CAISO boundary.¹⁴⁸ PNM contends that CAISO's proposed revisions to wheeling through scheduling priority are unduly discriminatory because wheel through customers with firm transmission reservations have a lower priority than resource adequacy imports that have non-firm transmission. PNM asserts that, although the CAISO system will technically be open to wheeling through transactions, customers wheeling through would not be provided comparable service to CAISO load serving entities.¹⁴⁹

87. Several protestors contend that the proposed firm monthly power supply and 45-day notice requirements will have several adverse impacts on external load serving entities' ability to reliably serve their load. NV Energy, PNM, and Bonneville argue that these proposed criteria impair the ability of non-CAISO entities to respond to outages or make additional purchases and plan for their reliability needs. NV Energy, PNM, and Bonneville point out that entities serving load within CAISO have the flexibility to

¹⁴⁵ Idaho Power/PGE Protest at 14-16.

¹⁴⁶ Vistra Protest at 8-10, 13-15.

¹⁴⁷ ACC Protest at 8, 11-12; Brookfield Comments at 8-9; Bonneville Protest at 4, 7; Arizona Utilities Protest at 46-48.

¹⁴⁸ WAPA Comments at 4-5.

¹⁴⁹ PNM Protest at 8-9.

procure additional or substitute power supply within the 45-day window and still receive high priority transmission, while those serving load outside CAISO and relying on wheels cannot do the same.¹⁵⁰ PNM contends that these proposed requirements will adversely affect day-ahead bilateral transactions both from a firmness and pricing perspective at hubs throughout the West.¹⁵¹

88. Powerex contends that these proposed requirements will improperly exclude a range of expected forward supply arrangements entered into between Northwest suppliers and load serving entities in the Southwest. Powerex disagrees with CAISO's assertion that the proposed criteria demonstrate the same dependence on the CAISO grid as native load customers because resource adequacy import contracts are not required to identify any physical capacity and are not required to be delivered on firm transmission to the CAISO border.¹⁵² Arizona Utilities argue that there is no justification for CAISO imposing the requirements established for CAISO load serving entities on resources serving external balancing authority areas.¹⁵³

89. Brookfield also argues that the proposed requirements to contract for monthly firm power supply and notify CAISO 45 days in advance are inappropriate because they link the terms and conditions of CAISO transmission service to California resource adequacy requirements. Further, Brookfield notes that external load serving entities frequently fill their needs on a shorter-term basis, particularly if load turns out to be higher or lower than anticipated or certain resources are unavailable.¹⁵⁴

90. NV Energy contends that the proposed requirements for priority wheeling transactions are inconsistent with those placed on designated network resources in the *pro forma* OATT. NV Energy asserts that there is no requirement that an external designated network resource be imported on a monthly firm basis. NV Energy also claims that there is no requirement that a designated network resource identify a specific source. NV Energy argues that, in Order No. 890-A, the Commission clarified that the verification requirement in section 29.2(v) of the *pro forma* OATT to identify firm

¹⁵⁰ NV Energy Protest at 18-21; PNM Protest at 9-11; Bonneville Protest at 8-9.

¹⁵¹ PNM Protest at 9-11.

¹⁵² Powerex Protest at 33-35.

¹⁵³ Arizona Utilities Protest at 37-39.

¹⁵⁴ Brookfield Comments at 8-9.

transmission arrangements on external systems only applies to the transmission leg from the resource being designated to the transmission provider's transmission system.¹⁵⁵

91. Arizona Utilities contend that CAISO's proffered justifications for the proposed priority wheeling through requirements do not mitigate the unduly discriminatory and preferential nature of the proposal. Arizona Utilities dispute CAISO's position that the proposed requirement is necessary to demonstrate external load serving entities' dependence on using CAISO's transmission system to serve their load, somewhat similar to CAISO load serving entities' dependence on the system. Arizona Utilities argue that CAISO's reasoning ignores that Arizona Utilities have been purchasing transmission on the CAISO system for decades and that CAISO load is not required to pay for firm transmission service on external systems for its own resource adequacy imports.¹⁵⁶

92. Public Power Council disputes CAISO's position that native load should have priority because it bears the embedded cost of firm transmission service and that external load does not. According to Public Power Council, all transmission customers, including those serving load internal and external to the CAISO's balancing authority area, pay the same transmission access charges on a per MWh basis. Public Power Council asserts that, in the absence of a rate differential, disparate treatment is plainly discriminatory. Public Power Council states that the Commission has previously found that the transmission provider's competing obligations provided no basis for discriminating between transmission customers taking service under the same rate schedule and the same rates.¹⁵⁷ Public Power Council acknowledges that the Commission has previously determined that internal load is situated differently from external load,¹⁵⁸ but argues that the Commission's previous finding is not relevant here because that decision concerned eligibility to secure congestion revenue rights and cannot be read to suggest that CAISO can curtail external load in preference to internal load.¹⁵⁹

¹⁵⁵ NV Energy Protest at 17-18 (citing Order No. 890-A, 121 FERC ¶ 61,297 at P 867).

¹⁵⁶ Arizona Utilities Protest at 48-50.

¹⁵⁷ Public Power Council Protest at 17 (citing *Iberdrola Renewable, Inc., v. Bonneville Power Admin.*, 137 FERC ¶ 61,185, at PP 62-66 (2011), *order on reh'g*, 141 FERC ¶ 61,233 (2012)).

¹⁵⁸ *Id.* at 18 (citing *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at PP 766 (2006) (MRTU Order)).

¹⁵⁹ *Id.* at 16-18.

93. Powerex argues that wheeling through transactions that obtain priority status will not truly have the priority equal to CAISO load because CAISO proposes to retain the ability in the post-HASP allocation process to curtail priority wheel throughs in order to accept more imports in real-time – imports that did not successfully compete for CAISO transmission service in the day-ahead market. Powerex asserts that this result is discriminatory and that the post-HASP allocation process is unduly preferential to resource adequacy imports.¹⁶⁰

94. Bonneville contends that CAISO's proposal is unduly discriminatory because it affords resource adequacy imports the ability to be displaced by economic imports yet still receive the high priority transmission position, while wheeling through transactions will not receive comparable treatment. Further, Bonneville notes that CAISO can procure additional external capacity through its Capacity Procurement Mechanism (CPM) within the 45-day notice timeframe and then these resources will be classified as resource adequacy resources and will be entitled to priority wheeling through treatment. Bonneville argues that this result is unduly discriminatory because there is no comparable ability for external load serving entities to gain access to high priority transmission.¹⁶¹

95. PG&E argues that the requirement for wheeling transactions to purchase firm transmission in order to obtain priority status is just and reasonable, and that it should not be misconstrued to mean that the firmness of the external transmission dictates the firmness at the intertie. PG&E emphasizes that the proposal only allocates capacity over which CAISO has controlling rights. PG&E argues that the firm transmission requirement does not also apply to resource adequacy imports because CAISO load serving entities with resource adequacy requirements are not similarly situated to non-CAISO load serving entities that may be wheeling through CAISO.¹⁶²

96. PG&E disagrees with the assertions that external resource adequacy capacity must have firm transmission on an external system to be designated as a network resource. PG&E notes that the Commission stated in Order No. 890-A that "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."¹⁶³

¹⁶⁰ Powerex Protest at 18-20.

¹⁶¹ Bonneville at 8-9.

¹⁶² PG&E Comments at 7-8.

¹⁶³ *Id.* at 8-9 (citing Order No. 890-A, 121 FERC ¶ 61,297 at P 867).

97. PG&E asserts that it is just and reasonable for CAISO to impose different requirements on wheeling through transactions seeking priority status than resource adequacy imports because CAISO load has historically paid for the transmission system on a long-term basis while wheeling transactions are not liable for any transmission payments above the wheeling access charge when they schedule a wheel. PG&E also argues that CAISO's proposal is just and reasonable as a temporary solution, as it is in line with the NERC standards for curtailment of network service and those that have paid for firm point-to-point transmission service, but argues that the proposal is unjust and unreasonable as a permanent solution because of the current method by which CAISO makes firm transmission available.¹⁶⁴

98. SoCal Edison urges the Commission to reject protestors' suggestions that resource adequacy imports should be required to have firm transmission to the CAISO border. SoCal Edison argues that such a requirement could create material reliability issues for California and market dysfunction.¹⁶⁵

ii. Answers

99. In its answer, CAISO disputes claims that the proposed criteria to qualify for priority wheeling through status are unduly discriminatory. In response to objections to the proposed firm transmission requirement, CAISO emphasizes that its proposal is not based on the premise that a load serving entity's acquisition of firm transmission from a neighboring balancing authority area to the CAISO boundary grants that load serving entity transmission rights on the CAISO system. Instead, CAISO reiterates that the intention is to provide 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 emphasizes that CAISO load serving entities depend entirely on the CAISO system to serve their load and, therefore, it proposes the priority wheeling through criteria as a proxy that allows external load serving entities to demonstrate that they plan to use the CAISO system in a manner comparable to CAISO load serving entities.¹⁶⁶

100. CAISO acknowledges that the proposed firm transmission requirement is not identical to the transmission requirements for transactions serving CAISO load, but highlights that the Commission has found that external load serving entities are not similarly situated to CAISO load serving entities with reference to their use of the CAISO system. Indeed, CAISO asserts that it based this proposal on similar principles to those

¹⁶⁴ *Id.* at 12.

¹⁶⁵ SoCal Edison Comments at 4-5.

¹⁶⁶ CAISO Answer at 16-17.

underlying the method for allocating congestion revenue rights to external load serving entities, which the Commission found to be just and reasonable, and not unduly discriminatory. Specifically, the Commission found that it is not unduly discriminatory for CAISO to allocate congestion revenue rights directly to CAISO load serving entities, but to require external load serving entities to prepay transmission access charges and meet other requirements (e.g., advance contractual commitments) to show a legitimate need for such congestion revenue rights.¹⁶⁷

101. CAISO contends that, in accepting CAISO's congestion revenue rights allocation proposal, the Commission rejected arguments similar to those made here that the proposal violated Order No. 888. Specifically, CAISO asserts that the Commission found that CAISO was not required to treat external load serving entities identically to CAISO load serving entities because internal CAISO load cannot avoid CAISO transmission charges, whereas external load can elect to use or not use the CAISO system.¹⁶⁸ In addition, CAISO states that the Commission found that requiring external load serving entities to prepay transmission charges ensures that CAISO allocates congestion revenue rights to the entities that will actually use the system to serve their load and pay the embedded costs of the transmission system.¹⁶⁹ Further, CAISO states that the Commission rejected claims that the congestion revenue rights allocation requirements violated Order No. 888 because, under the proposal, all transmission customers would still receive the same open access transmission service and, once external load serving entities qualified for an allocation of congestion revenue rights, they were eligible to receive them on the same basis as CAISO load serving entities.¹⁷⁰ CAISO argues that the proposed firm transmission requirement correlates to the transmission charge prepayment and demonstration of legitimate need requirements for external load serving entities to receive an allocation of congestion revenue rights.¹⁷¹

102. Joint LSEs assert that the proposed criteria for priority wheeling through status are not unduly discriminatory due, in part to the differential rate structure between CAISO's transmission access charge and the wheeling access charge. Joint LSEs contend that CAISO load serving entities depend on the CAISO transmission system for every MWh

¹⁶⁷ *Id.* at 17-19 (citing MRTU Order, 116 FERC ¶ 61,274 at PP 766-69; MRTU Rehearing Order, 119 FERC ¶ 61,076 at PP 251-63).

¹⁶⁸ *Id.* at 19 (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at PP 368-77).

¹⁶⁹ *Id.* at 19-20 (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 370).

¹⁷⁰ *Id.* at 20-21 (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at PP 373, 377).

¹⁷¹ *Id.* at 21.

of power that is delivered to their customer and, as such, that dependence is reflected in the rate design of the transmission access charge, which is designed to ensure cost recovery irrespective of any wheeling transactions that may materialize. Joint LSEs explain that, on the other hand, the wheeling access charge is a volumetric rate that applies only when a customer actually takes wheeling service from CAISO and is not designed to provide revenues that represent sustained, ongoing financial support of the CAISO transmission system. Joint LSEs highlight that the Commission's open access policies link sustained cost support for the transmission system and curtailment and access priorities.¹⁷²

103. CAISO also contends that the proposed monthly power contract requirement is just and reasonable. In response to arguments that this requirement unduly limits external load serving entities' flexibility to manage outages or other shorter-term needs, CAISO clarifies that this proposed requirement does not require energy to be scheduled 24 x 7 every day of the month, but can be monthly contracts that are limited to delivery to a subset of hours each day or upon notice by the load serving entity. Further, CAISO clarifies that nothing in its proposal requires a priority wheeling through transaction to use energy from the originally contracted source. Rather, CAISO states that once a scheduling coordinator satisfies the priority wheeling through eligibility requirements for a given month, it can use substitute resources to support the wheeling through transaction.¹⁷³

104. CAISO asserts that Powerex's argument that the monthly power supply contract is unduly discriminatory because it requires scheduling coordinators to identify specific physical resources, but CAISO imposes no such requirement on resource adequacy imports, is incorrect. CAISO avers that its proposal imposes no such requirement to identify a physical resource supporting the transaction and, therefore, aligns with the requirements for monthly resource adequacy showings for resource adequacy imports.¹⁷⁴

105. CAISO argues that the Commission should reject requests seeking material changes to the proposed power supply contract requirement because doing so would contravene the standard set forth in *NRG*.¹⁷⁵ Not only does CAISO aver that it does not

¹⁷² Joint LSEs Answer at 27-34 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,748).

¹⁷³ CAISO Answer at 23, 68-70.

¹⁷⁴ *Id.* at 51.

¹⁷⁵ *NRG*, 862 F.3d at 114-115 (finding that the Commission cannot propose modifications to a utility's FPA section 205 proposal if those changes would result in an entirely different rate design).

consent to such modifications, but CAISO also contends that any changes that erode the requirement that the power contract be for the entire month would result in a disconnect between the monthly resource adequacy showing for CAISO load serving entities and would allow wheeling through transactions to cherry pick when to use the CAISO system.¹⁷⁶

106. CAISO disputes Powerex's claim that the post-HASP allocation process is unduly preferential to resource adequacy imports. CAISO explains that it proposed to cap real-time priority wheeling through transactions at no more than 10% above the level of day-ahead awards as a proxy for the day-ahead must-offer obligation that applies to resource adequacy imports. Further, CAISO asserts that allowing priority wheeling through transactions to schedule only in real-time could create uncertainty and potential reliability challenges because they could displace generation needed to serve CAISO load.¹⁷⁷

107. CAISO asserts that Bonneville's claims of undue discrimination are based on a misunderstanding of the CAISO Tariff. First, CAISO contends that Bonneville's argument that the proposal allows economic imports to displace resource adequacy capacity and still receive a high priority but does not afford priority wheeling through transactions the same opportunity, is incorrect. CAISO states that economic bids can only displace higher-priced economic bids in the CAISO markets, but not resource adequacy self-schedules. CAISO also contends that Bonneville is incorrect that CPM resources procured to meet reliability needs are defined as resource adequacy resources. Further, CAISO states that, because the post-HASP allocation process will only consider bids from shown resource adequacy resources, the post-HASP process will not consider CPM resources.¹⁷⁸

108. Joint LSEs assert that any particularized arguments regarding the requirements for designated network resources are not directly applicable to resource adequacy resources in CAISO's transmission model because CAISO does not offer network integration transmission service. Moreover, according to Joint LSEs, protestors are incorrect that the *pro forma* OATT requires firm point-to-point service on external transmission to qualify as an off-system designated network resource.¹⁷⁹

¹⁷⁶ CAISO Answer at 23-24.

¹⁷⁷ *Id.* at 51-52.

¹⁷⁸ *Id.* at 49-51.

¹⁷⁹ Joint LSEs Answer at 22-24.

iii. Replies to Answers

109. Arizona Utilities state that CAISO mischaracterizes the Commission's decision permitting different rules allocating congestions revenues rights for external load serving entities.¹⁸⁰ Arizona Utilities note that the Commission explained that "all customers, internal or external, receive the same Open Access Transmission Tariff [(“OATT”)] service under the MRTU Tariff."¹⁸¹ Arizona Utilities state that the decision does not provide support for CAISO's proposal here, which imposes different requirements to provide worse service than wheeling through customers currently receive. Arizona Utilities state that even CAISO does not claim that wheeling through customers will receive the same service under its proposal.

110. Arizona Utilities also state that congestion revenue rights decision is also distinguishable on the grounds that congestion revenue rights are a purely financial concept and had no implications for actual operation of the system to maintain reliability.¹⁸² Arizona utilities state that purely financial rights do not present the same Federal Power Act concerns that changes in the allocation of transmission capacity in real-time present.

111. Arizona Utilities state that the acquisition of monthly firm transmission service is not a reasonable proxy for a party's commitment to rely on CAISO's transmission system.¹⁸³ Arizona Utilities state that CAISO's inability to develop and implement a prepayment scheme, such as the one it developed for external load serving entities wishing to be allocated congestion revenue rights, or alternative proposal in time for this summer is no excuse for proposing a proxy that does not appropriately demonstrate a party's legitimate need and use of the CAISO grid.

112. Arizona Utilities state that CAISO has provided no reason for why it seeks to treat priority wheeling transactions as a monthly service.¹⁸⁴ Arizona Utilities note that while CAISO load serving entities procure resource adequacy resources on a monthly basis but do not have a requirement to procure firm transmission. Arizona Utilities state that monthly firm power supply contract and monthly firm transmission requirements place non-CAISO load serving entities at a significant disadvantage, even though these non-

¹⁸⁰ Arizona Utilities at 7.

¹⁸¹ *Id.* (citing MRTU Rehearing Order, 119 FERC ¶ 61,076 at PP 377).

¹⁸² *Id.* at 8.

¹⁸³ *Id.* at 13.

¹⁸⁴ *Id.* at 14.

CAISO load serving entities intend to and make best efforts to procure the supplies needed to serve their load well in advance.

113. Arizona Utilities state that CAISO contradicts itself by stating that firm transmission service does not provide utilities with a right to transmission across CAISO's system.¹⁸⁵ However, Arizona Utilities note that, elsewhere CAISO states that it demonstrates intent to use the system.

c. Potential for Undesirable Outcomes

i. Comments and Protests

114. NV Energy and Arizona Utilities contend that CAISO's proposal will harm regional transmission planning. NV Energy argues that CAISO is an important transmission pathway for delivering power from the Northwest to load centers in the Southwest, and that there is no unsubscribed available transmission capacity into northern Nevada. NV Energy asserts that all import rights are held by third parties and not by NV Energy on behalf of native load. NV Energy argues that CAISO's proposal allows CAISO load serving entities to rely on non-firm transmission combined with the new requirements on priority wheeling transactions to retain priority access to generation resources.¹⁸⁶ Arizona Utilities assert that the effects of CAISO's policies will not be recognized on the internal CAISO system, but will adversely impact transmission systems of third parties with paths into or out of CAISO. Thus, Arizona Utilities predict that the willingness of transmission customers to pay for firm transmission service to the CAISO border will diminish, thereby disrupting price signals surrounding the value of transmission.¹⁸⁷

115. Arizona Utilities, Bonneville, Public Power Council, Powerex, and Nevada PUC argue that CAISO's proposal will upend the long-standing transmission practices and expectations regarding supply arrangements. Arizona Utilities assert that CAISO's proposal fundamentally alters the prioritization of transactions flowing over firm transmission and, therefore, impairs external balancing authority areas procurement practices.¹⁸⁸ Similarly, Bonneville argues that CAISO's proposal will disrupt markets in the Western Interconnection by reducing access to and competition for Pacific Northwest resources. Specifically, Bonneville asserts that, by reducing open access to high priority

¹⁸⁵ *Id.* at 16.

¹⁸⁶ NV Energy Protest at 39-42.

¹⁸⁷ Arizona Utilities Protest at 57-59.

¹⁸⁸ Arizona Utilities Protest at 31-38.

transmission, CAISO's proposal will negatively impact the ability of Southwest entities to access resources in the Pacific Northwest.¹⁸⁹

116. Arizona Utilities argue that CAISO's proposal provides a competitive advantage to CAISO loads. First, by making it more difficult to wheel power from northern to southern California, Arizona Utilities assert that supply and demand will be skewed by trapping power in the Northwest and enabling CAISO load serving entities to purchase power at reduced prices. Second, Arizona Utilities argue that, by impairing reliance on Pacific Northwest generation to serve load in Arizona, the scope of firm generation available to Arizona Utilities has decreased and the cost of generation has increased significantly. Further, Arizona Utilities contend that these changes come far too late in the planning process to allow for normal decision-making. Third, Arizona Utilities claim that only a fraction of wheel throughs will qualify for priority wheeling through status due to the proposed requirements. Thus, Arizona Utilities argue that CAISO's proposal attempts to enhance the reliability of service to CAISO load at the expense of other Western load.¹⁹⁰

117. Public Power Council states that CAISO's transmission tariff structure has been in place since 2006 and CAISO has never set aside transmission capacity internal to CAISO or import capability at interties with adjacent balancing authority area to protect native load. As a consequence, according to Public Power Council, the purchase and supply plans of load serving entities in the Western region would be disrupted by CAISO's effort to protect native load in this proposal.¹⁹¹ Further, Public Power Council emphasizes that, because CAISO requests an implementation date days before the start of the summer season, this proposal would leave external load serving entities and suppliers no time to adjust their purchasing practices. Public Power Council argues that this disruption in settled expectations has an unlawfully retroactive effect.¹⁹²

118. Similarly, Nevada PUC requests that the Commission reject the proposed Tariff revisions because the proposal was filed too late to be implemented and is too disruptive to resource adequacy plans filed by NV Energy and approved by Nevada PUC. Further, Nevada PUC highlights that NV Energy has attempted, but has only been able to secure one bilateral agreement for 250 MW of non-CAISO-sourced energy, thereby leaving NV Energy at the mercy of CAISO's proposed rules. Thus, Nevada PUC argues that

¹⁸⁹ Bonneville Protest at 9-11.

¹⁹⁰ Arizona Utilities Protest at 35-36, 52-57.

¹⁹¹ Public Power Council Protest at 18-20.

¹⁹² *Id.* at 10-14.

accepting these proposed revisions will increase the risk that NV Energy will be unable to reliably provide electric service to Nevada this summer.¹⁹³

119. ACC asserts that the expedited effective dates of CAISO's proposed Tariff revisions deny due process to those affected by the proposal because the proposal would alter the property rights of interested parties without notice and meaningful opportunity to be heard. For instance, ACC contends that CAISO's proposal would alter the way that energy contracts are entered into between utility companies and interferes with the utility companies' and their customers' reasonable reliance on what has already been bargained for and paid for.¹⁹⁴

120. Powerex argues that CAISO's filing omits discussion of the adverse impacts its proposal will have on CAISO's existing markets and the economic dispatch model that has long served as the cornerstone of its market. Powerex notes that, from its inception, the CAISO markets have relied on price-based competition in the day-ahead and real-time markets to ensure open access, rather than requiring customers to reserve transmission in advance of expected deliveries. Powerex contends that CAISO's proposal replaces the price competition model with a preferential allocation of transmission capacity to imports and inferior service for wheel throughs.¹⁹⁵ Moreover, Powerex contends that what it states that CAISO refers to as the "super-priority" for wheel throughs that underlies these proposed revisions is more accurately characterized as CAISO's current practice of upholding the commitment of providing transmission to all customers that successfully compete for it and receive awards in the day-ahead market.¹⁹⁶

121. Powerex characterizes CAISO's proposed revisions as a dramatic reshaping of supply and transmission allocation through the western region that will create routine uncertainty and the potential for delivery failures, which eliminates the assurances load serving entities have secured over the last six months through prudent contracting. Further, according to Powerex, this proposal will frustrate existing bilateral contractual commitments, forcing these suppliers into a position in the spot market timeframe where the CAISO balancing authority area is the only feasible destination for surplus supply.¹⁹⁷

¹⁹³ Nevada PUC Comments at 1, 6-8.

¹⁹⁴ ACC Protest at 18-19.

¹⁹⁵ Powerex Protest at 9-16.

¹⁹⁶ *Id.* at 20-21.

¹⁹⁷ Powerex Protest at 21-24.

122. Powerex asserts that CAISO's proposal will create additional reliability risk and dissolve existing OATT priority on external systems because, by curtailing wheeling through schedules of firm energy that would otherwise be delivered to CAISO's northern borders on firm point-to-point transmission service, Northwest supply that has been committed to meeting the needs of Southwest load serving entities will be stranded. WAPA expresses concern that CAISO's priority wheeling through proposal does not specifically address priority for wheel through transactions for occasional stranded load inside an adjacent balancing authority area and could, therefore, cut off load from all power sources. WAPA requests that CAISO include stranded load wheels throughs in the priority wheeling through category.¹⁹⁸

123. Vistra asserts that CAISO's proposal may create loop flow concerns as some amount of the energy that will no longer be allowed to be wheeled through CAISO may result in complex contract path arrangements to facilitate the scheduling of the supply from source to sink while avoiding the CAISO balancing authority area.¹⁹⁹

124. ACC argues that CAISO's proposal will effectively change all the wheel through transactions across the CAISO system into non-firm schedules that are subject to a lower priority than schedules intended to serve native load due to the burdensome eligibility requirements. ACC asserts that the consequence will be increased prices for transactions intended to serve Arizona customers and reliability risks.²⁰⁰

125. CPUC supports CAISO's proposal to change the status quo that prioritizes wheeling transactions over CAISO's native load. However, CPUC asserts that CAISO's proposal does not go far enough to reduce the risk of wheeling transactions crowding out imports that are needed to meet California load serving entities' resource adequacy obligations. CPUC highlights that CAISO is heavily reliant on imports to serve load reliably and questions whether any excess import capability is available for wheeling transactions at certain interties.²⁰¹

126. DMM argues that the proposed revisions are more favorable to wheeling transactions than rules in other Western balancing authority areas because holding transmission service or being party to an energy contract in another balancing authority

¹⁹⁸ WAPA Comments at 5-6.

¹⁹⁹ Vistra Protest at 11.

²⁰⁰ ACC Protest at 7-8.

²⁰¹ CPUC Limited Protest at 2-3, 10-17.

area does not automatically convey firm, network level scheduling priority across any balancing authority area other than CAISO.²⁰²

ii. Answers

127. In response to arguments that CAISO's proposal will upend expectations about reliance on the CAISO transmission system, CAISO argues that parties had no legitimate expectations that CAISO would never implement some form of native load protections or otherwise update scheduling priorities. CAISO asserts that it would be particularly unreasonable to expect that CAISO would not alter its rules, which provide no native load protections, in light of the challenges CAISO faced last summer and the potential for increased wheeling through transactions this summer. Moreover, CAISO notes that stakeholder have been on notice since issuance of the Preliminary Root Cause Analysis that CAISO would be considering changes to its existing rules for scheduling priorities.²⁰³ CAISO states that, consistent with that commitment, it issued a straw proposal on January 27, 2021 that again confirmed CAISO's intention to modify its scheduling priorities.²⁰⁴ Further, CAISO states that stakeholders were engaged in discussions with CAISO over the next several months during development of the proposal. Thus, CAISO argues that parties were aware of the nature of the proposed changes well in advance of summer 2021. In addition, CAISO argues that it cannot be disputed that CAISO has an express right under its Tariff to file amendments to it with the Commission at any time.²⁰⁵

128. CAISO disputes Public Power Council's assertion that the proposal has unlawful retroactive effects. First, CAISO asserts that its proposal will only apply prospectively. Second, CAISO argues that the cases cited by Public Power Council in support of its retroactivity argument are not relevant because they involve situations where an agency interprets a statute or announces a new rule in the course of adjudication,²⁰⁶ and the

²⁰² DMM Comments at 11-12.

²⁰³ CAISO, CPUC, CEC, *Preliminary Root Cause Analysis Mid-August 2020 Heat Storm*, at 66 (October 6, 2020); [www.caiso.com/search/Pages/WWW-Not-Archived-Results.aspx?k=preliminary root cause analysis](http://www.caiso.com/search/Pages/WWW-Not-Archived-Results.aspx?k=preliminary+root+cause+analysis).

²⁰⁴ Market Enhancements for Summer 2021 Readiness – Straw Proposal, at slide 15 (Jan. 27, 2021), <https://stakeholdercenter.caiso/StakeholderInitiatives/Market-enhancements-for-summer-2021-readiness>.

²⁰⁵ CAISO Answer at 52-55.

²⁰⁶ *Id.* at 55 (citing *Clark-Cowlitz Joint Operating Agency v. FERC*, 826 F.2d 1074 (D.C. Cir. 1987); *Williams v. Natural Gas Co. v. FERC*, 3 F.3d 1544 (D.C. Cir. 1993)).

disruption of settled expectations caused by tariff changes after a deadline had passed.²⁰⁷ CAISO contends that this case involves the routine evaluation of an FPA section 205 tariff amendment, and not a novel interpretation of a statute or new rule. Further, CAISO argues that any bilateral arrangements that have already been made are with third parties, executed outside of the CAISO markets and CAISO Tariff and, therefore, do not implicate any CAISO Tariff deadline.²⁰⁸

129. Joint LSEs also dispute that CAISO's proposed revisions will upend settled expectations or have an unlawful retroactive effect. Joint LSEs contend that market participants have been aware since as early as last fall that CAISO would be reviewing its existing scheduling priorities. Moreover, Joint LSEs highlight that the proposed revisions will only alter the compliance requirements for wheeling transactions on a prospective basis.²⁰⁹

130. CAISO contends that protestors make no specific showing of harm related to the proposed changes. According to CAISO, protestors make general allegations of disrupted expectations, but the protests contain no specific details regarding contract provisions or the dates of contracts. CAISO highlights that power supply arrangements for summer that have already been entered into would meet the notification requirement for priority wheeling through status. To the extent that external load serving entities were depending on using weekly, daily, and hourly wheeling through transactions that do not qualify for priority wheeling through status, CAISO asserts that these transactions should not have scheduling priority equal to CAISO load and priority wheeling through transactions, for reasons stated elsewhere in its answer.²¹⁰

131. CAISO disputes claims that CAISO's proposal will strand supply from other balancing authority areas that has been committed to meet needs in other parts of the West. CAISO argues that these arguments are fundamentally flawed because they rest on the assumption that, because an external load serving entity has secured firm transmission to and/or from the CAISO border, it is entitled to higher scheduling priority on CAISO's system than transactions having non-firm transmission on external systems. CAISO denies that this assumption has any basis in Commission precedent or policy.²¹¹

²⁰⁷ *Id.* at 56 (citing *ISO New England Inc.*, 170 FERC ¶ 61,187, at P 16 (2020)).

²⁰⁸ *Id.*

²⁰⁹ Joint LSEs Answer at 37-40.

²¹⁰ CAISO Answer at 54-55.

²¹¹ *Id.* at 41-42.

132. Joint LSEs assert that concerns about the proposal's impact on regional planning are speculative and beyond the scope of this proceeding.²¹²

iii. Replies to Answers

133. Arizona Utilities state that CAISO has not provided any concrete evidence or demonstration that wheeling through transactions will contribute to reliability challenges.²¹³ Arizona Utilities state that CAISO relies on generic reasons for its expectation that wheeling through transactions will cause reliability issues such as the impact of the August 2020 weather event on other parts of the West.

134. Powerex argues that CAISO misunderstands concerns about the stranding of contracted supply and forward procured transmission service. Powerex clarifies that its concern about stranded capacity is not related to import transactions having non-firm transmission service on external systems, but that CAISO will preemptively curtail wheeling through transactions even when no viable import exists. Powerex contends that CAISO's proposal goes far beyond managing congestion on the CAISO system because such congestion can only be considered when the quantity of delivery schedules with committed external generation and firm transmission service to the CAISO border exceeds CAISO's transfer capability on the relevant transmission path. Powerex asserts that CAISO may perceive congestion that may never materialize because import customers seeking to serve load internal to CAISO may not yet have secured generation and/or have not yet secured external transmission service. Thus, Powerex contends that CAISO's proposal improperly and preemptively frees up external generation and transmission service that had been secured to support the wheeling through transactions serving load in the Southwest in order to make it available to support real-time imports to serve load in CAISO.²¹⁴

d. Other

i. Comments and Protests

135. Public Power Council, Idaho Power/Portland General, and Bonneville contend that the proposed changes are unnecessary for CAISO to ensure that it can reliably serve its native load. Public Power Council asserts that the actual problem is a flawed market design that would be more appropriately remedied by adjusting its bid cap and

²¹² Joint LSEs Answer at 40-41.

²¹³ Arizona Utilities Reply at 15.

²¹⁴ Powerex Answer at 12.

developing comprehensive scarcity pricing.²¹⁵ Bonneville argues that CAISO has other measures at its disposal to ensure reliable service and avoid load shedding in the summer of 2021, given the progress made on enhancing new tools and also retaining tools that were effective during the summer of 2020.”²¹⁶ Bonneville also suggests that CAISO should adjust the pricing mechanisms that CAISO expects will cause the problem rather than limit flexibility and access to high-priority transmission on its system to entities outside its balancing authority area.²¹⁷

136. Idaho Power/Portland General, ACC, and Bonneville contend that the Final Root Cause Analysis did not find that wheeling through transactions contributed to the load shedding events of August 2020. Thus, Idaho Power/PGE assert that the August 2020 heat events do not justify the proposed Tariff revisions.²¹⁸ Bonneville argues that CAISO’s actual concern is increased demand for wheeling through transactions across its transmission system due to the wide price spreads between the Pacific Northwest and the Desert Southwest. Bonneville argues that, instead of competing for resources from the Pacific Northwest by allowing prices to rise in its own balancing authority area CAISO, proposes to limit high priority transmission for wheeling through transactions.²¹⁹ In addition to arguing that CAISO’s proposal is not supported by the Final Root Cause Analysis, ACC argues that the Commission should reject these proposed revisions and consider whether all of the other substantial initiatives under way, which are responsive to the Final Root Cause Analysis, and those Tariff revisions that have already been accepted or are pending before the Commission, are sufficient at this time to protect against the load shedding events that occurred last August.²²⁰

137. Vistra contends that CAISO’s proposal constitutes an improper bundling of transmission and generation, in violation of Order Nos. 888 and 890, by tying energy procurement to priority for transmission service. Vistra highlights that Order No. 890 provides that transmission reservation priority must be independent of whether the existing customer continues to purchase capacity and energy from the transmission provider. Similarly, Vistra argues that CAISO’s proposed revisions improperly conflate elements of network integration transmission service and point-to-point service by

²¹⁵ Public Power Council Protest at 20-21.

²¹⁶ Bonneville Protest at 11.

²¹⁷ *Id.* at 4.

²¹⁸ Idaho Power/PGE Protest at 16-17.

²¹⁹ Bonneville Protest at 9-10 (citing Final Root Cause Analysis at 1).

²²⁰ ACC Protest at 12-17.

requiring energy and/or capacity procurement to secure priority access to transmission service. According to Vistra, CAISO's proposed revisions essentially use elements of traditional network integration transmission service, but access to transmission for exports and wheel throughs is akin to accessing point-to-point transmission service. Vistra argues that the Commission would never allow a transmission provider under a traditional OATT construct to deny access to firm point-to-point transmission simply because the customer did not have a specific energy and/or capacity contract.²²¹

138. Vistra asserts that the Commission's FPA section 205 burden to demonstrate that proposed tariff provisions are just and reasonable and not unduly discriminatory or preferential applies in equal force even when a proposal is interim in nature. Vistra argues that CAISO has not sufficiently justified its proposal and, therefore, the Commission should reject it. Moreover, Vistra contends that interim measures should not become substitutes for broader longer-term market reforms that may be necessary.²²² ACC likewise argues that the interim nature of CAISO's proposal cannot cure what ACC sees as the inherent defects.²²³

ii. Answers

139. In response to contentions that CAISO's proposed wheeling through Tariff revisions are not supported by the August 2020 heat events, CAISO contends that this line of argument lacks merit because the purpose of these Tariff revisions is not to address the 2020 events, but to ensure that CAISO does not face similar service interruptions in summer 2021 and beyond. According to CAISO, the relevant question is not whether wheeling through transactions contributed to the summer 2021 blackouts, but whether they could contribute to reliability challenges in the near future. CAISO argues that its concerns about increased wheeling through transactions this summer, and the associated reliability risks, are justified. Therefore, CAISO asserts that it is just and reasonable for CAISO to implement native load protections through its wheeling priority proposal.²²⁴ Joint LSEs likewise dispute objections based on an alleged mismatch between issues identified in the Final Root Cause Analysis and the issues addressed by

²²¹ Vistra Protest at 15-17. We note that Vistra's protest on these issues applies equally to CAISO's proposed revisions to export scheduling priorities.

²²² *Id.* at 17-18.

²²³ ACC Protest at 10.

²²⁴ CAISO Answer at 57-60.

CAISO's proposed revisions, asserting that this line of argument would have the perfect by the enemy of the good.²²⁵

3. Commission Determination

140. We find that CAISO's wheeling through proposal represents a just and reasonable and not unduly discriminatory or preferential prioritization of the use of CAISO's transmission system. As CAISO and several commenters note, CAISO's Tariff does not contain any provisions that allow for the reservation of transmission capacity across its system. When there are more self-schedules than available transmission capacity, CAISO uses administrative penalty prices to prioritize types of transactions across its system. CAISO's proposal adjusts its prioritization such that wheeling through transactions that meet the firm transmission requirement, the power contracting requirement, and the 45-day notification requirement receive curtailment priority on par with CAISO's imported resource adequacy resources, which serve native load. CAISO's proposal does not reserve transmission capacity for CAISO load across its system but embodies a native load priority because the requirements for wheeling through transactions to receive the same priority as native load are somewhat more stringent than those imposed on resource adequacy resources.

141. We find that this prioritization will result in a just and reasonable interim solution that will reconcile the needs of both CAISO load and external load. CAISO's proposal provides for a transparent process whereby external load serving entities can make use of CAISO's transmission on par with CAISO load serving entities. We agree with CAISO that the proposed requirements for priority wheeling through transactions to demonstrate firm power supply contracts and firm monthly transmission to the CAISO border are appropriate proxies for determining whether external load serving entities are relying on the CAISO grid in a manner comparable to how resource adequacy imports rely on the CAISO grid to serve internal CAISO load. We find that CAISO's proposal is therefore consistent with the balance described in Order No. 890 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."²²⁶

142. We agree with commenters, such as DMM, that recommend that CAISO develop a long-term solution that will clearly delineate rights across CAISO's transmission system, but we find that CAISO's proposal represents a just and reasonable approach. In light of potentially challenging summer conditions across the Western interconnection, it is particularly important that CAISO's transmission capacity is allocated in a balanced and fair manner that is not inconsistent with the principles embodied in Order Nos. 888 and

²²⁵ Joint LSEs Answer at 41.

²²⁶ Order No. 890, 118 FERC ¶ 61,119 at P 107.

890. CAISO's proposal accomplishes this for the interim period as CAISO develops a more comprehensive solution.

a. **CAISO's Proposal is Consistent with Open Access Principles**

143. We disagree with protesters who argue that CAISO's proposal violates the Commission's open access principles. As noted above, CAISO's proposal reflects a prioritization of its own load because the requirements for wheeling through transactions are more stringent than those required of resource adequacy resources. We find that this is not inconsistent with Order Nos. 888 and 890. Those orders 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.²²⁷ Further, Order No. 890 permitted transmission providers the ability to calculate transfer capability in a way that allowed the transmission providers to meet generation reliability criteria in serving native load.²²⁸

144. We agree with commenters that CAISO has not reserved transmission capacity for load in CAISO's balancing authority area in its calculations of available transmission capacity. CAISO's market operates under a different paradigm in which it is not possible to reserve transmission capacity at all. However, as noted above, we find that an analogous concept of native load priority such as the priority for internal load that CAISO seeks to establish through these revisions is nevertheless not inconsistent with Order Nos. 888 and 890.²²⁹

145. We also disagree with commenters that, because CAISO has not implemented traditional methods to reserve capacity for native load, it has somehow forfeited the ability to consider the needs of existing commitments to internal load. As CAISO notes, nothing in Order Nos. 888 or 890 limits a transmission provider's ability to adopt protections for native load obligations to their initial Order Nos. 888 and 890 compliance filings.²³⁰

²²⁷ See Order No. 888, FERC Stats. & Regs. ¶ 31,064, at 31,745; Order No. 890, 118 FERC ¶ 61,119 at P 107.

²²⁸ Order No. 890, 118 FERC ¶ 61,119 at P 259.

²²⁹ See Order No. 888, FERC Stats. & Regs. ¶ 31,064, at 31,745; Order No. 890, 118 FERC ¶ 61,119 at P 107.

²³⁰ 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) (in both cases

146. Next, we disagree with protestors that CAISO's proposal constitutes a degradation of any firm transmission products. CAISO's proposal only establishes scheduling priorities across the CAISO-controlled transmission system. Firm transmission rights to the boundary of CAISO's system do not grant firm transmission rights across CAISO's system, which, as noted above, do not exist. We therefore are not persuaded by protestors' arguments regarding the curtailment of firm point-to-point transmission.

147. Similarly, regarding precedent cited by NV Energy concerning the California-Oregon Intertie, we agree that load serving entities in CAISO are not entitled to upstream transmission capacity by virtue of their use of CAISO's transmission system, but load serving entities external to CAISO are also not automatically entitled to transmission capacity within CAISO through their reservation of transmission capacity to the CAISO border. We therefore agree with Joint LSEs that Opinion No. 465-A does not support protestors' contentions that firm transmission reservations on systems outside of CAISO create rights to priority use of the CAISO system.²³¹

b. CAISO's Proposed Priority Wheeling Through Requirements are Not Unduly Discriminatory

148. We reject protestors' arguments that CAISO's proposed wheeling through requirements are unduly discriminatory because the proposal would impose more stringent requirements on wheeling through transactions than on resource adequacy imports. In accepting CAISO's transmission framework based on financial transmission rights to manage congestion, the Commission found that it was not unduly discriminatory for CAISO to adopt different requirements for external entities to obtain congestion revenue rights because of "differences between external loads and internal loads with respect to their need to rely on the CAISO-controlled grid and the level of certainty that [load serving entities] serving load outside the CAISO Control Area will continue to pay CAISO access charges and congestion charges."²³² Further, the Commission found that "there is no undue discrimination because internal load and external load are not similarly situated with respect to either their membership in CAISO or their ongoing reliance on

acknowledging that applicants did not currently reserve any capacity benefit margin for native load, but allowing the option of including a capacity benefit margin set aside in the future).

²³¹ Opinion No. 465-A, 106 FERC ¶ 61,155 at P 15 (finding that it is reasonable to require a utility to reserve transmission capacity on upstream facilities in order to be able to make use of downstream transmission facilities, but did not address the question of relative priorities on two neighboring systems based on the firmness of transmission on the upstream facility).

²³² MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 349.

the CAISO grid.”²³³ Moreover, because the Commission found that internal and external load are not similarly situated, the Commission held that it is not unduly discriminatory for CAISO to require external load to make a showing of legitimate need to obtain congestion revenue right allocations, but not to require CAISO load serving entities to make a similar showing.²³⁴ The Commission further expressly rejected claims that the different requirements for external load serving entities violated Order No. 888 open access policies. The Commission found that entities serving external load were not being denied transmission service and, once the qualification requirements for a congestion revenue rights allocation had been met, external load serving entities could obtain them on the same basis as internal load serving entities.²³⁵

149. We find that the Commission’s reasoning in that case applies with equal force here. In particular, we find that the priority wheeling through requirements proposed by CAISO serve as a reasonable proxy that allows external load serving entities to demonstrate that they plan to use the CAISO grid to serve load in a manner that is comparable to CAISO load serving entities. As noted by CAISO and Joint LSEs in their answers, CAISO load serving entities are entirely dependent on the CAISO system and, therefore, regardless of the firmness of transmission secured to deliver power to the CAISO border, they must use the CAISO system to serve native load. Protestors have not offered any evidence or cited any Commission precedent to refute these fundamental differences between how internal and external load serving entities use the CAISO transmission system. We find that, due to this differential reliance on the transmission system, internal and external load serving entities are not similarly situated and, therefore, it is not unduly discriminatory or preferential for CAISO to require external load serving entities to meet certain eligibility criteria in order to obtain a scheduling priority equal to native load in CAISO, even if those criteria are not identical to the criteria applicable to resource adequacy imports, which serve that load. Further, as discussed elsewhere in this order, the firmness of transmission on external systems to the CAISO border does not determine priority to transmit power across the CAISO system.²³⁶

150. We find no merit in protestors’ arguments that the proposed power supply contract and 45-day notice requirements are too rigid or are unduly discriminatory or preferential because these proposed requirements deny external load serving entities the flexibility to respond to outages. As noted by CAISO, the monthly contract would not require energy

²³³ *Id.* P 369.

²³⁴ *Id.* P 371.

²³⁵ *Id.* P 373.

²³⁶ *See supra* P 137.

to be scheduled for all hours of every day of the month but can instead specify a subset of hours each day or delivery upon notice by the load serving entity. The only limitation is that the contract must cover an entire month. We find that this is a reasonable requirement that provides sufficient flexibility to external load serving entities. Further, protestors are incorrect that the proposed requirement will improperly deny flexibility to manage outages. As clarified by CAISO, nothing in the proposal requires a priority wheeling through transaction to use energy from the originally contracted resource, but instead allows a scheduling coordinator to use a substitute resource if the originally contracted resource is unavailable.²³⁷

151. We also find that Powerex's allegations regarding a requirement to identify a specific physical resource are incorrect. The proposed Tariff revisions make no mention of such a requirement and specify only that (1) the priority wheeling through transaction must be supported by "a firm power supply contract to serve an external [l]oad [s]erving [e]ntity's load throughout the calendar month,"²³⁸ and (2) a scheduling coordinator must "notify the CAISO of the MW quantity of the power supply contract" supporting the wheeling through transaction.²³⁹ Thus, we find that CAISO's proposed monthly firm power supply contract requirement is consistent with the requirement for CAISO load serving entities to make resource adequacy showings 45 days in advance of the month.

152. While we find that it is 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 *pro forma* OATT. Importantly, this line of argument ignores that the Commission has accepted CAISO's resource adequacy paradigm, which does not require resource adequacy imports to have firm transmission to the CAISO border, as just and reasonable. Further, eligibility requirements for resource adequacy resources are beyond the scope of this proceeding. The relevant question here is whether it is unduly discriminatory for priority wheeling through transactions to have different requirements to establish a scheduling priority equal to native load. For the reasons discussed above, we have determined that it is not. Similarly, we reject Brookfield's contention that the proposed requirements inappropriately link the terms and conditions of CAISO transmission service to resource adequacy requirements. We find that the proposed requirements do not relate to eligibility to provide resource adequacy capacity but instead

²³⁷ CAISO Answer at 69.

²³⁸ CAISO Tariff, Appendix A, Proposed Definition of "Priority Wheeling Through."

²³⁹ *Id.*, Proposed § 30.5.1 (z).

serve as a reasonable proxy for external load serving entities to demonstrate that their reliance on the CAISO grid to serve load is comparable to that of CAISO load serving entities.

153. We find unavailing protestors' claims that the proposed requirements will result in increased costs or have adverse impacts on external load serving entities' bilateral contracting ability. Protestors do not present evidence that these potential increased costs or harm to external load serving entities' bilateral contracting ability render CAISO's proposal unjust and unreasonable. Moreover, as discussed in greater detail below, market participants have been on notice since the inception of the underlying stakeholder initiative in January 2021 that CAISO would be seeking to modify its scheduling priority rules. Thus, market participants were on notice that they might not be able to rely on the status quo to obtain priority wheeling through status. Thus, we are unpersuaded by contentions, such as those advanced by Powerex and PNM, that proposed requirements improperly exclude any previously expected reliance on short-term contracts and transmission arrangements from priority wheeling through status.

154. We find that Bonneville's argument that the proposed revisions would allow economic import bids to displace resource adequacy self-schedules and still receive a high scheduling priority relies on a mistaken interpretation of the CAISO Tariff. As stated by CAISO in its answer, economic import bids can only displace higher-priced economic bids but not resource adequacy self-schedules. In addition, we find that Bonneville's argument related to CAISO's CPM authority is inapposite as to the question of undue discrimination because this line of argument overlooks the fact that CAISO's proposal does not require the originally contracted resource to support the priority wheeling through transaction. Thus, the fact that CPM procurement can happen within the 45-day notification period does not demonstrate that the proposed requirement is unduly discriminatory. Moreover, because CPM resources are not shown as resource adequacy capacity, they will not be considered in the proposed post-HASP allocation process and therefore cannot unfairly obtain higher priority over priority wheeling through transactions through that process.

155. We also reject Powerex's argument that the proposed post-HASP allocation process is unduly discriminatory because the proposed allocation formula caps real-time priority wheeling through transactions at no more than 10% above the level of the day-ahead awards but places no such limit on resource adequacy imports. We find that Powerex's argument ignores that resource adequacy imports already have a must-offer obligation in the day-ahead market but wheeling through transactions do not. As noted by CAISO in its answer,²⁴⁰ priority wheeling through transactions scheduling only in real-time could create uncertainty and reliability challenges. Thus, we find that the

²⁴⁰ CAISO Answer at 51-52.

proposed formula for the post-HASP allocation process will help ensure that CAISO can meet needs in real-time by creating incentives for priority wheeling through transactions to self-schedule in the day-ahead market.

c. **CAISO's Proposal Appropriately Balances Competing Interests**

156. We disagree with Arizona Utilities, Bonneville, Public Power Council, Powerex, and Nevada PUC that CAISO's proposal will be disruptive and will inject uncertainty into Western markets. Rather, we find that CAISO's proposal will clarify CAISO's scheduling priorities heading into a challenging summer season and allocate scarce transmission capacity to those who have demonstrated the greatest reliance on that capacity for serving load.

157. We disagree that market participants have had insufficient notice of CAISO's proposed changes. CAISO has not requested waiver of the statute's 60-day prior notice requirement for an early effective date, and has conducted a substantial stakeholder process on this proposal prior to filing.²⁴¹ Market participants have therefore had notice of this potential Tariff change, which will only alter compliance requirements on a prospective basis for those external load serving entities seeking priority wheeling through status.

158. Further, we agree with CAISO that market participants should not have held the expectation that they would have the unlimited right to firm transmission capacity across CAISO's system. No market participant could have reserved firm transmission capacity because CAISO has no such product and all market participants have been subject to curtailment through CAISO's scheduling priorities. Additionally, no other balancing authority offers the high priority that all wheeling through transactions enjoy in the CAISO market and, as noted above, CAISO's proposal strikes a reasonable balance between its 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. We also reject claims that CAISO's proposal will harm regional transmission planning as unsupported and speculative. However, we encourage CAISO and other stakeholders to work together on regional transmission planning issues.

159. We are not persuaded by Powerex's assertions that CAISO's proposal replaces CAISO's current market structure that relies on price-based competition to allocate scarce transmission capacity. Under this proposal, scheduling priorities will be re-ordered to eliminate the distortive effects of adding the penalty prices of the import and export legs of a wheeling through transaction, but the market optimization will still be price-based. Although CAISO has proposed Tariff revisions to re-order the relative

²⁴¹ CAISO Transmittal at 15-19, 29-30; CAISO Answer at 53.

priorities for exports, load, and wheeling through transactions, the penalty price parameters will still ultimately determine which transactions are curtailed during tight system conditions. Moreover, Powerex's argument overlooks the fact that the only transactions affected by the proposed revisions are self-schedules and not economic bids. Therefore, the transactions that are subject to these revisions are not truly "competing" on the basis of price for access to the CAISO transmission system; rather, they are acting as price takers.

160. We find no merit in protests related to loop flows, stranded capacity, or conversion of all wheeling through transactions across CAISO's system into non-firm schedules because all such arguments erroneously rely on the assumption that firm transmission to the CAISO border should ensure firm transmission across CAISO's system. As discussed above, we find no basis for endorsing such a policy. We recognize that many load serving entities have been placed in a challenging position by changing system conditions and scarce transmission capacity across CAISO's system. However, we find that this only increases the need for a balanced allocation of transmission capacity to those who rely on that capacity. CAISO's proposal represents such a balanced solution.

d. Other Arguments

161. We find unpersuasive protestors' arguments that the proposed scheduling priority modifications are not justified by the August 2020 heat events or the findings in the Final Root Cause Analysis. Although wheeling through transactions may not have directly contributed to the load shedding events last summer, those events demonstrated the potential reliability risks related to allocating scarce transmission capacity on the CAISO system between capacity to serve internal CAISO load and external load. Moreover, the pertinent question in this inquiry is not whether wheeling transactions contributed to the August 2020 blackouts, but whether the instant proposal is a just and reasonable way for CAISO to allocate transmission capacity going forward. The August 2020 events demonstrated tight system conditions with minimal wheeling through transactions and CAISO has stated that it anticipates an increase in wheeling through transactions for summer 2021.

162. We find equally unavailing claims that CAISO has other tools at its disposal to address its reliability concerns or that other types of market reform would better address the reliability risks. We find that these issues are beyond the scope of this proceeding, which is focused solely on the question of whether CAISO has justified its proposed Tariff changes related to scheduling priorities as just and reasonable and not unduly discriminatory or preferential.

163. We also find no merit in Vistra's contention that CAISO's proposal improperly bundles transmission and generation. As noted by Vistra, Order Nos. 888 and 890 require transmission reservation priority to be independent of whether the existing

customer purchases energy from the transmission provider.²⁴² CAISO's proposed priority wheeling through status requirements do not require external load serving entities to purchase energy from CAISO but merely require them to confirm monthly power supply contracts to demonstrate a need to use CAISO's system in a manner comparable to CAISO load serving entities. The remainder of Vistra's objections also fail because they erroneously rely on inapt comparisons to the provision of network integration service and point-to-point transmission service under the *pro forma* OATT. We find that these comparisons are not dispositive because CAISO's transmission framework does not offer those two types of transmission service.

D. CAISO Is Required to Put Penalty Prices in its Tariff

1. Protest

164. Powerex argues that CAISO's proposal violates the rule of reason policy, which requires that all practices that significantly affect rates, terms, and conditions of service to be on file with the Commission. Powerex asserts that, because the penalty prices assigned to various transactions determine scheduling priorities, these prices significantly affect the rates, terms, and conditions of service because modifications that CAISO makes to these pricing parameters could have the effect of completely unwinding the priority order set out in the Tariff. Thus, Powerex contends that CAISO's decision to exclude the pricing parameters from the Tariff revisions proposed here, and instead retain them solely in the business practice manual, violates the FPA requirement that such provisions be included in a Commission-accepted tariff. Powerex emphasizes the need for transparency and Commission oversight of any changes to the pricing parameters to ensure that the prices assigned to different transactions are not unduly discriminatory or preferential and do not have adverse consequences for regions outside of CAISO.²⁴³

2. CAISO Answer

165. CAISO disputes Powerex's claim that the proposal violates the Commission's rule of reason by excluding the penalty prices in the proposed Tariff revisions. CAISO acknowledges that the scheduling priorities for wheeling through transactions, relative to other transactions, should be specified in the Tariff, and avers that such revisions have been included in the instant proposal. CAISO asserts that the penalty prices are implementation details that are appropriately located in the business practice manual because they merely effectuate a hierarchy of priorities that is already specified in the Tariff. CAISO highlights that it cannot unwind the priorities set forth in the Tariff through business practice modifications because such an action would run afoul of the

²⁴² Vistra Protest at 15-17.

²⁴³ Powerex Protest at 35-39.

filed rate doctrine. Moreover, CAISO asserts that, in the event of a conflict between the business practice manual and the Tariff, the Tariff would take precedence. CAISO notes that, in accepting the current Tariff provisions on scheduling priorities, the Commission was aware that CAISO would be including the pricing parameters in the business practice manual and did not direct CAISO to include them in the Tariff.²⁴⁴

3. Commission Determination

166. We agree with Powerex that the penalty pricing parameters that determine the relative scheduling priorities of transactions in the CAISO market optimization software must be in the Tariff. Under the Commission's rule of reason policy, provisions that "significantly affect rates, terms, and conditions of service, are readily susceptible of specification, and are not generally understood . . . must be included in the Tariff."²⁴⁵ In contrast, "items better classified as implementation details may be included only in the business practice manual[s]."²⁴⁶ Here, it is undeniable that the penalty prices significantly affect the conditions of transmission service on the CAISO grid. Indeed, as acknowledged even by CAISO, despite an absence of any reference to wheeling through transactions in the existing CAISO Tariff provisions that establish scheduling priorities, wheeling through transactions nevertheless have a higher priority than other transactions due to the additive nature of the penalty prices for the export and import legs of the transaction. In other words, the Tariff revisions reference a new relative priority order for wheeling through transactions, but the actual priority given to these transactions will depend on the penalty prices applied to these schedules. Further, the penalty prices are clearly susceptible to specification, as evidenced by the fact that the specific penalty prices for each type of transaction are already set forth in the business practice manuals. Although these values have historically been specified in the business practice manual and the Commission has not previously required CAISO to include them in the Tariff, CAISO's proposed revisions here have elucidated the significance of the penalty prices and, given this opportunity to fully consider their role in the scheduling priority framework, we find that these values must be included in the Tariff.

167. Accordingly, we direct CAISO to submit a compliance filing within 30 days of the date of this order that incorporates the penalty pricing parameters associated with the revised scheduling priorities into the relevant sections of the CAISO Tariff. The Commission will review the penalty pricing parameters pursuant to section 205 of the

²⁴⁴ CAISO Answer at 60-65 (citing *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147, at PP 57-58 (2009)).

²⁴⁵ *Energy Storage Assoc. v. PJM Interconnection, L.L.C.*, 162 FERC ¶ 61,296, at P 108 (2018).

²⁴⁶ *Id.*

Federal Power Act to ensure that they are just and reasonable and not unduly discriminatory or preferential.

E. Requests for Further Reform

1. Comments and Protests

168. Six Cities urges the Commission to accept CAISO's proposed revisions to wheeling through scheduling priorities but argues that the Commission should reject CAISO's proposal to apply an automatic sunset provision to these changes. Six Cities asserts that, while CAISO emphasizes the importance of these revisions are needed to ensure reliability this summer, it provides no justification for making the revisions an interim-only measure. Thus, Six Cities requests that the Commission reject this element of the proposal and direct CAISO to make these Tariff revisions effective until superseded by a new proposal.²⁴⁷ CPUC also requests that the Commission reject the proposed automatic sunset date provisions and direct CAISO to submit a proposal for further Tariff modifications by August 1, 2020 in order to ensure that CAISO works expeditiously to develop a proposal that remedies what CPUC perceives as the undesirable consequences inherent in the instant proposal.²⁴⁸

169. PG&E and CPUC also request that the Commission require CAISO to further modify its proposal through a compliance filing to be submitted by August 1, 2021. PG&E recommends that the Commission direct CAISO to modify its proposal to use the maximum of a resource's real-time energy bid or its shown resource adequacy capacity in the post-HASP *pro rata* allocation. PG&E argues that the CAISO's proposed methodology can significantly undervalue the capacity that CAISO load serving entities have contracted and paid for at the moment that the energy from these resources as the net qualifying capacity of these resources could be significantly below the actual performance of the resource during emergency conditions.²⁴⁹

170. PG&E also requests that the Commission direct CAISO to specify in its Tariff that it has the right to curtail exports determined to be deviating from their schedules by that deviation amount during times of system emergencies. PG&E asserts that this

²⁴⁷ Six Cities Comments at 4-12.

²⁴⁸ CPUC Limited Protest at 18-19.

²⁴⁹ PG&E Comments at 14-16.

modification is necessary to prevent variable energy resources from requiring high amounts of energy necessary to support an export.²⁵⁰

171. PG&E argues that the Commission should order CAISO to limit additional incremental wheel through contracts that can qualify for priority, thereby limiting priority treatment to only those contracts that were executed prior to the filing date of April 28, 2021. PG&E states that it does not believe it is just and reasonable to provide any incremental capacity for priority wheel through status to those contracts that were executed after the filing date. PG&E states that the transmission planning process and the maximum import capability process show there is no additional capacity available for incremental wheel through transactions. PG&E contends that, in addition to diminishing the native load service, additional wheeling transactions would also diminish the capacity for an external party who has historically contracted for power that is wheeled through the CAISO.²⁵¹

172. CPUC argues that CAISO should strengthen rules on variable energy resources supporting exports such that the high-priority non-recallable export quantity is commensurate with what the resources are actually producing. Further, requests that the Commission direct CAISO to halt all new priority wheeling transactions until there are adequate rules in place to protect native load. CPUC also contends that CAISO should be required to include non-resource adequacy imports that clear the RUC process in the post-HASP allocation process and that wheeling transactions be limited to the maximum import capability in the post-HASP process, similar to how resource adequacy imports are limited in order to avoid disproportionate allocation to wheeling transactions. Finally, CPUC argues that in allocating internal transmission capacity between internal load and exports, CAISO should use resource adequacy resources' upper economic limit rather than their potentially lower net qualifying capacity. Otherwise, asserts CPUC, the pro rata allocation of transmission capacity to load will be unnecessarily limited.²⁵²

173. PG&E argues that the Commission should also order CAISO to work toward a durable long-term solution to allocate transmission on an equitable basis. PG&E asserts that this process should include a study to set aside sufficient capacity to account for native load needs and load growth, a process to allocate excess capacity to entities looking to wheel through, and a payment from these entities for the term of the service and any necessary upgrades to the transmission system. PG&E also contends that improved export validation rules are necessary to ensure that only non-resource adequacy

²⁵⁰ *Id.* at 16-17.

²⁵¹ *Id.* at 13-14.

²⁵² CPUC Limited Protest at 19-24.

capacity can be used to support a priority export.²⁵³ SoCal Edison also emphasizes the need for CAISO to develop a long-term solution that fully recognizes CAISO's obligation to maintain reliability in its balancing authority area and allow CAISO load serving entities to honor their retain service obligations to their customers.²⁵⁴

174. Western Resource Advocates support CAISO's proposal as a short-term solution but emphasize the importance of participation in upcoming CAISO stakeholder initiatives to resolve the issues raises in this proceeding. In particular, Western Resource Advocates argue that more regional coordination will be required to manage energy transactions more economically and improve system reliability. In addition, Western Resource Advocates urge CAISO to reconvene the extended day-ahead market stakeholder initiative in tandem with the external loads initiative in order to provide the time necessary to develop durable solutions that are amendable to a consensus of stakeholders. Finally, Western Resource Advocates contend that the development of additional demand side options and load flexibility to reduce congestion during high-stress conditions are essential to help avoid the need for curtailments.²⁵⁵

2. Answers

175. CAISO contends that the Commission should reject calls to eliminate the proposed sunset date for the wheeling through Tariff provisions. CAISO acknowledges the need to consider longer-term solutions regarding the treatment of wheeling through transactions, and states that it has commenced a stakeholder process to consider them. CAISO states that it never intended the revisions proposed here to be a permanent solution, but instead as just and reasonable measures to manage reliability in the near-term. As such, CAISO argues that the sunset date is appropriate.²⁵⁶

176. CAISO argues that the Commission should not require it to make a compliance filing by August 2021, as requested by PG&E and CPUC, to make additional modifications to the proposal. CAISO contends that these requests go beyond the scope of CAISO's proposal and would result in a materially different rate design than CAISO's original proposal in violation of *NRG*.²⁵⁷

²⁵³ PG&E Comments at 18.

²⁵⁴ SoCal Edison Comments at 5-6.

²⁵⁵ Western Resource Advocates Comments at 11.

²⁵⁶ CAISO Answer at 70-72.

²⁵⁷ *Id.* at 72-74.

3. Commission Determination

177. We reject requests to eliminate CAISO's proposed sunset date for the proposed wheeling through scheduling priorities. CAISO has acknowledged the need to consider longer-term and/or more comprehensive solutions and we expect CAISO to continue to work with its stakeholders to do so. We likewise reject PG&E's and CPUC's requests to direct CAISO to implement additional modifications to its proposal. As discussed above, we find that the underlying Tariff provisions proposed in CAISO's FPA section 205 filing are just and reasonable and therefore need not further consider alternative rate designs.²⁵⁸ However, as noted by CAISO, this proposal is an interim solution and, therefore, we encourage CAISO should continue to work with stakeholders to develop a long-term solution that will clearly delineate rights across CAISO's transmission system.

The Commission orders:

(A) CAISO's proposed Tariff revisions are hereby accepted, to be effective June 28, 2021, no later than July 15, 2021, and June 1, 2022, as discussed in the body of this order.

(B) CAISO is hereby directed to notify the Commission of the actual effective date of the Tariff revisions associated with the minimum state of charge tool within five business days of their implementation, in an eTariff submittal using Type of Filing Code 150 – Report.

(C) CAISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

²⁵⁸ See, e.g., *City of Bethany*, 727 F.2d at 1136 (finding that, when determining whether a proposed rate was “just and reasonable”, as required by the FPA, the Commission properly did not consider “whether a proposed rate schedule is more or less reasonable than the alternative rate designs.”).