

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

Nevada Power Company)	
Sierra Pacific Power Company)	
)	
v.)	Docket No. EL21-74-000
)	
California Independent System Operator Corporation)	

**ANSWER OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

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The California Independent System Operator Corporation (CAISO) submits this answer in response to the complaint filed by Nevada Power Company and Sierra Pacific Power Company (collectively NV Energy) on May 17, 2021 (Complaint).¹ For the reasons explained below, the Commission should reject the Complaint.

I. Executive Summary

The CAISO utilizes a security-constrained unit commitment and security constrained economic dispatch in its markets to clear feasible schedules for users of the CAISO grid. The CAISO provides comparable transmission service to all grid users on a daily basis based on a volumetric transmission rate assessed on metered load and exports.² There is no mechanism to reserve transmission for future use. If the CAISO market processes cannot reach a feasible solution using economic bids to match supply with demand, while respecting transmission constraints, the market software utilizes administratively determined parameters or “penalty prices” to assess which transmission schedules to prioritize and schedule.

During the summer 2020 heat events, the CAISO observed issues with how the market prioritized export self-schedules relative to schedules to meet CAISO load in the residual unit commitment (RUC) process. In the subsequent Market Enhancements for

¹ The CAISO submits its answer pursuant to Rules 206(f) and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.206(f), 385.213, and the Notice of Complaint issued in this proceeding on May 18, 2021. The CAISO submits its motion to dismiss pursuant to Rule 212 of the Rules of Practice and Procedure, 18 C.F.R. § 385.212.

² The CAISO tariff refers to new firm use as any use of CAISO transmission service, except for uses associated with existing rights or transmission ownership rights. See, e.g., CAISO tariff section 23. New firm use does not mean firm transmission service under a *pro forma* open access transmission tariff.

Summer 2021 Readiness stakeholder initiative, the CAISO and stakeholders also identified that the CAISO's application of penalty prices in the Business Practice Manual for Market Operations (Market Operations BPM) to wheeling through transactions created a priority for those schedules relative to CAISO load in real-time. This occurs because wheeling through transactions consist of a paired import bid and export bid, and the market optimization uses a higher penalty price for the export leg of a wheeling through self-schedule relative to CAISO load. The CAISO market optimization sums the penalty prices of the import and export segments of wheeling transactions to determine the total penalty price for adjusting wheeling through self-schedules. The Market Operations BPM currently provides an import segment of a wheeling through self-schedule with the same scheduling priority as an import self-schedule to serve CAISO load. However, because the Market Operations BPM currently provides a higher penalty price for export self-schedules, which the optimization also applies to the export leg of wheeling transactions, it effectively provides a scheduling priority to wheeling through self-schedules relative to self-scheduled imports serving CAISO load. There is no basis for this higher scheduling priority in the CAISO tariff.

On April 21, 2021, the CAISO proposed to revise its Market Operations BPM to provide the same penalty prices for self-scheduled exports of non-Resource Adequacy (RA) Capacity, the export leg of self-scheduled wheeling through transactions,³ and

³ Under the CAISO tariff, a wheeling through transaction consists of an export bid and an import bid with the same wheeling reference. See CAISO tariff section 30.5.4.

CAISO load in the real-time market.⁴ The CAISO tariff specifically authorizes the CAISO to include penalty prices for scheduling priorities in the CAISO's business practice manuals.⁵ The CAISO has not yet implemented the changes contemplated by PRR 1345 and does not intend to do so until July 1, 2021, at the earliest. Based on additional review, the CAISO is currently revising PRR 1345 to ensure it will achieve its intended purpose of treating the priority of self-scheduled exports supported by non-RA capacity, the export leg of wheeling through transactions, and CAISO load in the real-time market comparably.⁶

Through its Complaint, NV Energy seeks to maintain the scheduling priority for short-term wheeling through transactions that clear the CAISO's day-ahead market. Neither Commission policy nor the CAISO tariff justifies such a scheduling priority above real-time CAISO load, and the Complaint cites no tariff reference or rationale to justify it. The CAISO tariff, however, expressly establishes a scheduling priority for CAISO load equal to self-scheduled exports supported by non-RA Capacity.⁷ The CAISO's proposed revision to its Market Operations BPM is consistent with this tariff provision. Also, it is consistent with the CAISO's existing transmission paradigm – a

⁴ CAISO Proposed Revision Request (PRR) 1345 is available at the following link: https://bpmcm.caiso.com/Lists/PRR%20Details/Attachments/1345/MO%20BPM_%20Penalty%20price%20update_20210421.docx.

⁵ CAISO tariff sections 31.4 and 34.12.2.

⁶ PRR 1345, as revised, proposes several changes to the CAISO's Markets Operations BPM. The primary purpose of the revised PRR is to clarify that RUC cleared self-scheduled exports supported by non-RA Capacity, the RUC cleared export leg of wheeling through self-schedule, and CAISO demand have equal scheduling priority in the CAISO's real-time market. Real-time self-scheduled exports using identified non-RA Capacity and real-time export legs of wheel through self-schedules will continue to have equal priority with CAISO demand in real-time market, as they do under the current Market Operations BPM.

⁷ CAISO tariff sections 31.4(e) and 34.12.1(a).

single transmission service with no capacity reservations, no gradations of “firmness,” and a volumetric rate. Accordingly, the Commission should reject NV Energy’s request to prevent the CAISO from implementing the proposed revision.

Although the Commission should reject the Complaint, the CAISO agrees with NV Energy that the CAISO should explicitly specify the scheduling priority for wheeling through self-schedules in its tariff. The CAISO has proposed to do so in a tariff amendment in Docket No. ER21-1790. That tariff amendment establishes on an interim basis a category of high priority wheeling through transactions that will have the same scheduling priority as CAISO load. The proposal recognizes that load serving entities (LSEs) outside of the CAISO balancing authority area may regularly rely on wheeling through schedules to serve their load this summer. It also provides a bridge so the CAISO and its stakeholders can develop a more durable approach to address the scheduling of wheeling through transactions. The Commission need not consolidate the Complaint and the tariff amendment proceedings, but instead should address the CAISO’s tariff amendment separately.

The CAISO emphasizes that the proposed Market Operations BPM changes merely provide all wheeling through transactions the same scheduling priority as CAISO load. Given the tight supply conditions and expected increase in short-term wheeling through transactions (*e.g.*, daily or hourly) this summer, the proposed Market Operation BPM changes do not eliminate the critical need for the tariff revisions the CAISO has proposed. Approval of the tariff revisions is necessary to ensure reliable service this

summer to CAISO load, *and* to wheeling through customers that demonstrate the need to use the CAISO grid regularly.

If the Commission rejects the CAISO's tariff amendment, the CAISO agrees to amend its tariff to state explicitly the relative scheduling priority of wheeling through schedules relative to CAISO load in its market processes. The CAISO opposes NV Energy's request that, if the Commission rejects the CAISO's tariff amendment, it direct the CAISO to make a section 205 tariff filing or a compliance filing to establish an equal scheduling priority for wheeling through transactions and imports from RA resources backed by firm transmission from the external balancing authority area. NV Energy's proposed scheduling priority for these transactions would be higher than the priority for RA imports backed by non-firm transmission on external transmission systems. The Commission should reject this request. It contravenes the native load principles adopted in Order Nos. 888 and 890. NV Energy does not explain how the scheduling priorities in the CAISO tariff, the *pro forma* Open Access Transmission Tariff (OATT), or other transmission provider tariffs depend on the nature of transmission service obtained under external transmission providers' tariffs. Approving NV Energy's proposal also would unduly disrupt the annual RA program mid-year, further jeopardizing reliability this summer. Finally, the Complaint constitutes a collateral attack on the Commission-approved RA program, as reflected in the CAISO tariff. Although the CAISO is working with stakeholders to explore whether to adopt a firm transmission requirement for RA imports that would apply in future RA years, the Commission should not impose such a requirement in complaint proceeding regarding BPM changes to scheduling priorities used in the CAISO's market optimization. A CAISO stakeholder

process, in conjunction with proceedings before local regulatory authorities overseeing RA programs for their LSEs, is the appropriate forum to consider whether to adopt such a requirement.

II. Background

A. The CAISO's Market Optimization Utilizes Penalty Prices to Implement Scheduling Priorities Set Forth in its Tariff

The CAISO market processes include both day-ahead and real-time wholesale electricity markets that clear economic supply and demand bids. The CAISO's market optimization software also utilizes configurable scheduling parameters or penalty prices to reach a solution. These penalty prices guide the market clearing software through the adjustment of certain inputs or constraints that have no specified economic value, *i.e.*, non-priced quantities.⁸ Non-priced quantities include self-schedules, in contrast to economic supply or demand bids that are priced quantities. These penalty prices signal to the market optimization when and in what order to adjust non-priced quantities. The CAISO tariff specifies the relative priority of self-schedules. The CAISO implements these scheduling priorities by applying different penalty prices specified in the Market Operations BPM when it must adjust such non-priced quantities. The CAISO tariff expressly recognizes that these penalty price parameters are in the BPMs.⁹ The CAISO

⁸ Tariff section 27.4.3, *et seq.* See also Market Operations BPM, section 6.6.5 (listing market parameter values calibrated based on values set in the tariff). The Security Constrained Unit Commitment and Security Constrained Economic Dispatch software constitute the real-time dispatch the CAISO uses to determine which resources to dispatch and to calculate LMPs. See Appendix A to the CAISO Tariff, existing definition of "Real-Time Dispatch."

⁹ CAISO tariff sections 31.4 and 34.12.

sets these penalty prices relative to the applicable energy bid caps to ensure the CAISO utilizes all effective economic bids before adjusting non-priced quantities. The penalty prices used in the CAISO's market software appear in the CAISO's Market Operations BPM.¹⁰

The CAISO market optimization seeks to minimize the overall costs of its solution. Self-scheduled supply indicates the supplier is willing to produce at any price, and the market assigns it a negative price below the bid floor (*i.e.*, the lowest economic bids a supplier can submit). Therefore, the market will always select self-scheduled supply over an economic supply bid. Similarly, a demand self-schedule indicates the market participant is willing to consume at any price, and the market assigns it a penalty price higher than the bid cap (*i.e.*, the highest bid that can be submitted). Therefore, the market will always select self-scheduled demand over an economic demand bid. The CAISO day-ahead and real-time markets produce schedules and prices using two separate runs: the "scheduling run" and the "pricing run." The scheduling run operates first to determine which schedules are dispatched, and then the pricing run produces prices for the schedules dispatched in the scheduling run. The issue presented in the Complaint involves the penalty prices utilized in the scheduling run.

In the context of this Complaint, the CAISO's penalty prices implement relative scheduling priorities for wheeling through self-schedules, export self-schedules, and CAISO load. The penalty prices the CAISO seeks to modify through the BPM change are in the Market Operations BPM, not the tariff, and the proposed modifications are

¹⁰ The penalty prices used for relaxing internal and intertie transmission constraints in each market optimization process also appear in tariff section 27.4.3.1.

consistent with the relative scheduling priorities set forth in the tariff and the CAISO's transmission service paradigm.

B. The CAISO Tariff Identifies Scheduling Priorities in the Real-time Market for Export Self-Schedules Backed by Non-RA Capacity and CAISO Load.

The CAISO tariff describes the scheduling priority for export schedules and CAISO load in the real-time market. These tariff provisions treat export schedules backed by non-RA Capacity and CAISO load on a comparable basis.¹¹

The current CAISO tariff and business practice manuals specifying scheduling priorities do not explicitly mention wheeling through transactions. The CAISO treats the export and import legs of wheeling through transactions like similarly situated exports and imports, respectively.¹² This treatment reflects that wheeling through transactions consist of paired import bids and export bids.¹³ Because a wheeling through self-schedule consists of a paired import and export, the CAISO has applied the scheduling priority for export self-schedules supported by non-RA Capacity to the export leg of wheeling through self-schedules. The CAISO currently applies a penalty price to export

¹¹ CAISO tariff section 34.12.1.

In relevant part, section 34.12.1(a) provides equal scheduling priority in the real-time market to the following schedules:

Non-Participating Load reduction, exports explicitly identified in a Resource Adequacy Plan to be served by Resource Adequacy Capacity explicitly identified and linked in a Supply Plan to the exports, or Self-Schedules for exports at Scheduling Points in the RTM served by Generation from non-Resource Adequacy Capacity or from non-RUC Capacity;

¹² CAISO tariff sections 31.4 and 34.12, and existing Market Operations BPM section 6.6.5.

¹³ CAISO tariff section 30.5.4.

self-schedules supported by non-RA Capacity that is higher than the penalty price for CAISO load. Thus, the CAISO has been providing wheeling through self-schedules with a scheduling priority in real-time relative to CAISO load.¹⁴

NV Energy claims a scheduling priority should exist for wheeling through self-schedules relative to CAISO load when wheeling through self-schedules utilize firm transmission to the CAISO border. No CAISO tariff provision, however, authorizes this scheduling priority for a wheeling through self-schedule. Under the tariff, no self-schedule, except grandfathered Existing Transmission Contracts and Transmission Ownership Rights, has a priority higher than CAISO load in either the day-ahead or real-time market optimizations.¹⁵ A self-scheduled export of non-RA Capacity has the same priority as CAISO load.¹⁶

C. The CAISO's Business Practice Manual Changes Provide an Export Self-Schedule Backed by Non-RA Capacity and the Export Leg of a Wheeling Through Self-Schedule with the Same Scheduling Priority as CAISO Load

On April 21, 2021, the CAISO submitted proposed changes to section 6.6.5 of its Market Operations BPM through PRR 1345. This BPM section provides the specific penalty price values the CAISO market optimization uses to adjust non-priced quantities in cases where the market optimization cannot reach a solution by clearing economic

¹⁴ Contrary to NV Energy's assertion, the issue that PRR 1345 seeks to address is not that the day-ahead market grants priority awards to imports serving CAISO load and wheel through schedules over real-time offers of both imports serving CAISO load and wheel through schedules. (Complaint at 7, n. 23.). Rather, PRR 1345 seeks to remedy the fact that the CAISO's market software currently provides wheeling through self-schedules and export self-schedules supported by non-RA Capacity with a higher scheduling priority in real-time than CAISO load.

¹⁵ CAISO tariff sections 31.4 and 34.12.1.

¹⁶ *Id.*

bids. The primary purpose of PRR 1345 is to provide CAISO load the same scheduling priority as RUC cleared self-scheduled exports and RUC cleared export legs of a wheel through self-schedule.

The CAISO is currently revising the specific language of PRR 1345 to ensure the penalty prices provide wheeling through self-schedules and CAISO load an equal priority. To do so, the CAISO will set the scheduling run penalty price in the real-time market at \$1450 for RUC cleared self-scheduled exports, and RUC cleared export legs of a self-scheduled wheeling through transaction. This penalty price is equal to the existing penalty price for serving CAISO load in the real-time market. In addition, as part of revisions to PRR 1345, the CAISO intends to remove the existing \$1500 real-time penalty price parameter for an export self-schedule with RUC schedule. This existing penalty price parameter exceeds the existing \$1450 penalty price for CAISO load, thereby providing RUC cleared exports (and the export leg of wheeling through transactions) a scheduling priority above CAISO load in the real-time market.

As a result, modifications to the CAISO's Market Operations BPM are necessary to better align the relative scheduling priorities set forth in the tariff for export self-schedules, including the export leg of wheeling through schedules, and CAISO load. Pursuant to these changes, the CAISO's real-time market processes will provide equal scheduling priority to (1) CAISO load; (2) self-scheduled exports using identified non-RA resources; and (3) export legs of a wheel through self-schedule. The BPM change also is consistent with the fact the CAISO currently only offers one type of transmission service that does not have different levels of firmness. Accordingly, affording wheeling

through and export self-schedules a scheduling priority over CAISO load is inconsistent with the CAISO's existing transmission paradigm.

D. Overview of CAISO Tariff Amendment in ER21-1790

Separate and apart from its Market Operations BPM changes, the CAISO has filed a separate tariff amendment to clarify the scheduling priorities of wheeling through schedules relative to exports and CAISO load.¹⁷ As relevant to the Complaint, the CAISO's proposed tariff amendment would establish on an interim basis a category of high priority wheeling through transactions that will have the same scheduling priority as CAISO load. The proposal recognizes that LSEs outside of the CAISO balancing authority area may regularly rely on wheeling through schedules to meet their load serving obligations this summer. It also provides a bridge to allow the CAISO and its stakeholders to develop a more durable approach to address the scheduling of wheeling through transactions. The BPM revisions proposed by PRR 1345 that are at issue in this Complaint do not implement that tariff amendment.

III. The CAISO's Proposed Business Practice Manual Changes Comply Fully with the CAISO Tariff and Applicable Commission Orders

The core of NV Energy's complaint is that the BPM changes proposed in PRR 1345 violate the Commission's "rule of reason" because the penalty pricing parameters for scheduling priorities the CAISO proposes to change significantly affect rates, terms,

¹⁷ CAISO Transmittal Letter, docket number ER21-1790, dated April 28, 2021.

and conditions of service.¹⁸ For this reason, NV Energy argues the CAISO must include the parameters in the tariff and only change them through a Commission filing.

Although the CAISO does not oppose including more detail in its tariff regarding the relative priority of wheeling through transactions, exports and CAISO load, NV Energy ignores the fact the penalty prices the CAISO plans to change are already in the BPM, consistent with the CAISO tariff. The CAISO tariff expressly authorizes the CAISO to specify these penalty prices through its business practice manuals. The CAISO has notified the Commission in prior filings that the specific numeric values for the penalty parameters are in the BPM, and the Commission has not required the CAISO to include them in the tariff. These penalty prices pertain to the market scheduling run, not the pricing run, and, thus, do not actually establish market prices. They are implementation details because they merely effectuate the scheduling priorities described in the tariff.

A. The CAISO’s Tariff Explicitly Allows the CAISO to Change the Penalty Prices at Issue in the Complaint through the BPMs

The CAISO tariff in several places states that the specific parameter values at issue in PRR 1345 and NV Energy’s complaint are in BPMs. For example, section 31.4 of the tariff states that the scheduling priority “functionality of the optimization software is implemented through the setting of scheduling parameters as described in Section

¹⁸ Complaint at 5 n.14, *citing City of Cleveland v. FERC*, 249 U.S. App. D.C. 162, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (finding that utilities must file “only those practices that affect rates and service significantly, that are reasonably susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous”).

27.4.3 and specified in Section 27.4.3.1 and *the Business Practice Manuals*.”¹⁹ PRR 1345 would change the penalty parameters to provide CAISO load the same scheduling priority as RUC cleared self-scheduled exports and RUC cleared export legs of a wheel through self-schedule. This parity between scheduling priorities is consistent with current tariff sections 31.4 and 34.12 and the CAISO’s transmission paradigm. The CAISO has the general authority to make this prospective change through its BPMs under the filed rate doctrine.²⁰

The Complaint seeks to overturn the CAISO’s long-standing, Commission-accepted practice of modifying the specific penalty price values that implement the tariff scheduling priorities through its BPMs. This approach of deferring the exact parameter values to the Market Operations BPM is consistent with the Commission’s rule of reason because the tariff, in sections 31.4 and 34.12, establishes the relative scheduling priorities of the various schedule types. The penalty price parameters merely reflect how the CAISO implements those relative priorities in the market optimization. Although the CAISO uses the word “price” in defining these penalty parameters, they do not reflect a rate any market participant pays, nor do they significantly affect such rates. The CAISO is only changing scheduling run parameters, not pricing run parameters. The relative scheduling priorities significantly affect conditions of service, but the CAISO tariff already specifies these, including relative

¹⁹ Two other relevant tariff sections also clearly defer parameter definition to the BPMs. Section 34.12 states the functionality to make “uneconomic adjustments based on assigned scheduling priorities . . . is implemented through the setting of scheduling parameters as described in Section 27.4.3 and specified in Section 27.4.3.1 and *the BPMs*.” Similarly, section 27.4.3 states that the “complete set of scheduling and pricing parameters used in all CAISO Markets is maintained in the Business Practice Manuals.”

²⁰ *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,180 at PP 21-27 (2011).

export and load priorities. To assert a cognizable claim, NV Energy must explain how the penalty price parameters proposed in PRR 1345 contravene the basic scheduling priorities set in sections 27.4.3, 31.4, and 34.12. NV Energy offers no such explanation. Nor can it because the planned PRR 1345 revisions are consistent with these existing tariff provisions and merely give effect to the comparable scheduling priority in the real-time market for export self-schedules backed by non-RA resources, wheeling through self-schedules, and CAISO load. Affording scheduling priorities for export self-schedules backed by non-RA Capacity and wheeling through self-schedules relative to CAISO load is also inconsistent with the CAISO's current transmission service paradigm, which does not recognize varying levels of transmission service.

B. Prior Commission Orders do not Require the CAISO to Include all Penalty Prices Respecting Scheduling Priorities in its Tariff

NV Energy argues that the Commission must specifically approve provisions that determine scheduling priorities among transmission customers. NV Energy cites the Commission's directive in Order No. 844 that each RTO/ISO include transmission constraint penalty factors in its tariff because these penalty factors have the potential to affect energy and ancillary services prices significantly.²¹ NV Energy argues that the CAISO should include in its tariff the penalty prices the market software uses to implement scheduling priorities specified in the tariff.²²

²¹ Complaint at 11-12, *citing Uplift Cost Allocation and Transparency in Markets Operated by Regional Transmission Organizations and Independent System Operators*, Order No. 844, 163 FERC ¶ 61,041, at n.250 (2018).

²² Complaint at 12: "The CAISO transmission priorities as reflected in the penalty price parameters must be specified in the CAISO Tariff as the penalty price parameters establish curtailment priorities,

Transmission constraint penalty factors guide the market optimization through the adjustment of transmission constraints when economic bids and self-schedule adjustments cannot resolve the constraint. Essentially, these penalty factors signal the market optimization to adjust an internal or intertie transmission constraint when the software reaches a specified value instead of pursuing a more costly re-dispatch solution. When this adjustment occurs, there are price impacts the CAISO describes in its tariff.²³

In Order No. 844, the Commission approved a proposal to require each RTO/ISO to include in its tariff the transmission constraint penalty factor values used in its market software.²⁴ However, Order No. 844 did not require each RTO/ISO to include other penalty factors used to implement scheduling priorities in its tariff. As the CAISO explained in its comments on the notice of proposed rulemaking proceeding, Order No. 844, it already included in its tariff the transmission constraint penalty factors used in its market software.²⁵ The CAISO also submitted a filing to comply with Order No. 844 explaining that its tariff already included these penalty factors.²⁶ In that filing, the CAISO indicated that its BPMs contain a number of parameters that it uses to make uneconomic adjustments to non-priced (*i.e.*, self-scheduled) MW quantities scheduled in

which “significantly affect rates, terms and conditions of service” and, therefore, must be subject to Commission review.”

²³ CAISO tariff section 27.4.3.2.

²⁴ Order No 844 at P 121.

²⁵ CAISO Comments dated April 10, 2017 in Docket No. RM17-2, at 11-12.

²⁶ CAISO Transmittal Letter, dated September 7, 2018 in Commission Docket No. ER18-2398, at 10-13.

the CAISO's market optimization.²⁷ The CAISO noted that the BPMs explain the purposes of these parameters and their value in each of the CAISO's market processes. The CAISO also provided a link to its BPM containing these parameters. The Commission accepted the CAISO's Order No. 844 compliance filing and did not find that the CAISO's tariff contained insufficient detail, or direct the CAISO to include additional scheduling penalty parameters in its tariff.²⁸

In connection with development of the CAISO's nodal markets, the Commission directed the CAISO in 2006 to include additional details regarding parameters it proposed to use in its market software to relax transmission constraints to settle load at a default load aggregation point.²⁹ The CAISO complied with this directive by proposing tariff language establishing several rules concerning relaxing transmission constraints.³⁰ On compliance, the Commission directed the CAISO to resubmit this tariff language and provide a more in-depth explanation of the tariff provisions.³¹ As part of that subsequent filing, the CAISO provided additional background on scheduling and pricing parameters it uses in its markets as well as whether those parameters would appear in the tariff or in the CAISO's business practice manuals. The CAISO explained:

With the exception of one scheduling parameter that will be housed in the tariff [*i.e.*, the transmission constraint penalty factor] the CAISO determined that only the pricing parameters need to be included in the MRTU Tariff because they can have a direct impact on prices. The CAISO proposes to retain the complete set of the configurable parameters

²⁷ *Id.*

²⁸ Letter order dated January 8, 2019 in Commission Docket No. ER18-2398.

²⁹ *California Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 (2006) at P 618.

³⁰ CAISO compliance filing dated November 20, 2008 in ER06-615-003 *et al.* at 18.

³¹ *California Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,313 (2007) at P 163.

in its business practice manuals and the modification of any of these parameters will be subject to the change management process established for the business practices manuals.³²

The Commission accepted the CAISO proposed parameter values and directed that the CAISO include an effectiveness threshold for whether the market should consider an economic bid for relieving congestion.³³ The Commission did not direct the CAISO to include additional parameters to implement scheduling priorities in its tariff such as those NV Energy advocates in this Complaint.

NV Energy cites several Commission orders applying the “rule of reason” with respect to matters that the CAISO should include in its tariff as opposed to its BPMs. These orders stand for the proposition “that all practices that significantly affect rates, terms and conditions fall within the purview of section 205(c) of the [Federal Power Act (FPA)], and, therefore, must be included in a tariff filed with the Commission” but also that “not every manual or operating procedure should be on file with the Commission.”³⁴ “[T]he rule of reason test requires a case-by-case analysis, comparing what is included in the [tariff] against what is contained in the Business Practice Manuals.”³⁵

The Commission orders cited by NV Energy did not direct the CAISO to include in its tariff the penalty prices the CAISO uses to implement scheduling priorities in the market software. Contrary to NV Energy’s assertion, the penalty prices used to

³² CAISO Transmittal Letter dated November 4, 2008, in Commission Docket Nos. ER09-240 and ER06-615, at 8.

³³ *California Indep. Sys. Operator Corp.*, 126 FERC ¶¶ 61,147 (2009) at P 57-58, *reh’g denied*, *California Indep. Sys. Operator Corp.*, 128 FERC ¶¶ 61,246 (2009).

³⁴ *California Indep. Sys. Operator Corp.*, 119 FERC ¶¶ 61,076 (2007) at P 656.

³⁵ *Id.*

implement scheduling priorities are implementation details. The penalty prices merely implement the market software's prioritization of schedules, which the tariff describes.³⁶ CAISO tariff section 34.12.1 specifies the relative priorities between load and the various types export schedules in the real-time market. The changes the CAISO proposes in the BPM are consistent with the scheduling priorities specified in the tariff because they align the priority of self-scheduled exports of non-RA Capacity (which includes the export leg of a wheeling through transaction) and CAISO load.

As explained in Section II of this Answer, the CAISO has proposed to specify the priority of wheeling through transactions in Docket No. ER21-1790. However, under the "rule of reason" the penalty prices used in the CAISO market software to implement these scheduling priorities do not belong in the tariff. They merely give effect to the tariff rules that do specify the scheduling priorities.

IV. NV Energy Fails to Meet its Burden of Establishing that the CAISO's Proposed BPM Change or Any Existing CAISO Tariff Provisions or Business Practices are Unjust, Unreasonable, Unduly Discriminatory or Preferential

FPA Section 206 permits a party to file a complaint to show that "any rate, charge, or classification, demanded, observed, charged, or collected by any public utility for any transmission or sale subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is

³⁶ See, e.g., CAISO tariff section 31.4.

unjust, unreasonable, unduly discriminatory or preferential.”³⁷ The complainant bears the burden of proof under FPA Section 206.³⁸ Specifically, the Courts and the Commission have long recognized the complainant “carries the heavy burden of making a convincing showing that [an existing rate, practice, etc., subject to Commission jurisdiction] is invalid because it is unjust and unreasonable in its consequences.”³⁹ Further, “[w]ithout a showing that the existing rate is unlawful,” the Commission “has no authority to impose a new rate.”⁴⁰ “[T]he complainant must make an adequate proffer of evidence including pertinent information and analysis to support its claims.”⁴¹

As explained below, NV Energy falls far short of meeting its burden of proof under FPA Section 206. NV Energy fails to show the practice about which it complains is unjust and unreasonable – *i.e.*, that the CAISO cannot revise the BPM as proposed in PRR 1345 to give wheeling through self-schedules the same scheduling priority as internal CAISO load. Also, as discussed further below,⁴² it would be unjust and unreasonable – and unsupported by the CAISO tariff – for the Commission to require the CAISO to continue its current practice of providing wheeling through self-schedules

³⁷ 16 U.S.C. § 824e(a).

³⁸ 16 U.S.C. § 824e(b). *See also* *CXA La Paloma, LLC v. Cal. Indep. Sys. Operator Corp.*, 169 FERC ¶ 61,045, at P 36 (2019); *FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Md. Pub. Serv. Comm’n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011).

³⁹ *FPC v. Hope Nat. Gas Co.*, 320 U.S. 591, 602 (1944). Although *Hope* addressed Section 5 of the Natural Gas Act, the Commission properly applies these bedrock principles to the analogous provisions of the FPA. *See, e.g., Cal. Mun. Utils. Ass’n v. Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,315, at P 70 (2009), *order on reh’g*, 143 FERC ¶ 61,174 (2013).

⁴⁰ *CXA La Paloma*, 169 FERC ¶ 61,045, at P 36 (quoting *Emera Me. v. FERC*, 854 F.3d 9, 25 (D.C. Cir. 2017)).

⁴¹ *CAIifornians for Renewable Energy, Inc., et al. v. Pac. Gas & Elec. Co., et al.*, 142 FERC ¶ 61,143, at P 18 (quoting *Ill. Mun. Elec. Agency v. Cent. Ill. Pub. Serv. Co.*, 76 FERC ¶ 61,084, at 61,482 (1996)).

⁴² *See* Section V, *infra*.

a higher scheduling priority than internal CAISO load. Likewise, it would be unjust and unreasonable to require the CAISO to file a tariff amendment at this time providing a scheduling priority to wheeling through transactions supported by firm transmission to the CAISO border superior to that associated with RA imports with non-firm transmission on external systems. NV Energy provides no evidence, pertinent information, or analysis, to support such an outcome. Further, NV Energy's proposal would cause an undue disruption of operations and expectations under the CAISO's annual RA program in the middle of the year, thereby jeopardizing reliability this summer. For all of these reasons, the Commission should deny NV Energy's Complaint.

A. NV Energy Mischaracterizes the CAISO's Proposed BPM Change, Which is Limited to Clarifying that the Scheduling Priorities for Export and Wheeling Through Self-Schedules are Equal to those for Load within the CAISO Balancing Authority Area

NV Energy states its "separate complaint is necessitated in case the Commission rejects the CAISO's proposed wheel through amendments in the CAISO Tariff Filing, and the CAISO nevertheless seeks to modify its BPM to accomplish a similar result."⁴³ However, if the Commission rejects the CAISO's tariff revisions, there is no possibility the CAISO will end-run the Commission's order by implementing BPM revisions similar to those the Commission found to be unjust and unreasonable. Such a maneuver would certainly fail, and rightly so.

NV Energy's argument conflates the subject matter of the BPM change in PRR 1345 with the tariff revisions proposed in the CAISO's tariff amendment. The CAISO

⁴³ Complaint at 2.

expressly distinguished them in the transmittal letter for its tariff amendment in Commission Docket No. ER21-1790:

Contemporaneous with this tariff amendment filing, the CAISO is proceeding to change its business practice manuals to set CAISO market parameters so all wheeling through self-schedules will have the same priority as serving CAISO load. Given tight supply conditions in the Western Interconnection, this business practice manual change does not eliminate the critical need for the tariff revisions proposed in this filing establishing two categories of wheeling through transactions (and related revisions). If the Commission approves these proposed tariff revisions, the CAISO will modify its business practice manual to specify that only Priority Wheeling Through transactions will have the same priority as CAISO load. Non-Priority Wheeling Through transactions will have lower priority than CAISO load, as discussed in this filing.⁴⁴

As the CAISO explained, the BPM change in PRR 1345 will give *all* wheeling through self-schedules the same priority as CAISO load, *i.e.*, load within the CAISO balancing authority area. The CAISO's proposed BPM changes do not mention Priority Wheeling Through transactions and do not establish different priorities for different categories of wheeling through transactions.⁴⁵ In contrast, the tariff revisions filed in ER21-1790 will give *only* Priority Wheeling Through transactions the same scheduling priority as CAISO load. Non-Priority Wheeling Through transactions will have a lesser scheduling priority relative to CAISO load.⁴⁶ If the Commission accepts the tariff revisions regarding Priority Wheeling Throughs, the CAISO will make a further BPM

⁴⁴ Transmittal letter for load, exports, and wheeling priorities tariff amendment, Docket No. ER21-1790-000, at 26 n.79 (Apr. 28, 2021) (Tariff Amendment Transmittal Letter).

⁴⁵ PRR 1345 is available at [BPM CM - View PRR Details \(caiso.com\)](#). See the attachment to PRR 1345 at [MO BPM Penalty price update 20210421.docx](#).

⁴⁶ The tariff amendment proposes to define a Priority Wheeling Through as a wheeling through self-schedule supported by (1) a firm power supply contract to serve an external load serving entity's (LSE's) load for the entire calendar month, and (2) monthly firm transmission from the source to the CAISO border for most hours from Monday through Saturday. A non-Priority Wheeling Through will be all other wheeling through self-schedules. Tariff Amendment Transmittal Letter at 62-65.

change to implement the Commission-approved tariff revisions. If the Commission rejects the tariff revisions, the CAISO will not make further BPM changes to implement the Priority Wheeling Through concept.⁴⁷

Despite the CAISO's explanation, throughout the Complaint NV Energy confuses the planned BPM change with the proposed tariff revisions. For instance, NV Energy claims that the BPM change will give Priority Wheeling Throughs the same scheduling priority as CAISO load,⁴⁸ when in reality the BPM change will provide all wheeling through self-schedules the same scheduling priority as CAISO load. NV Energy also repeatedly references the tariff revisions to establish the two types of wheeling through transactions (*i.e.*, priority wheeling throughs and non-priority wheeling throughs).⁴⁹ However, the differences between these types of wheeling through transactions are wholly irrelevant to the Market Operations BPM change that is the subject of the Complaint. The Commission should disregard NV Energy's arguments regarding the tariff revisions, and limit its rulings in this docket to the revisions that the CAISO has actually proposed to adopt through the applicable BPM change. In other words, is it unjust and unreasonable for the CAISO to clarify that wheeling through self-schedules

⁴⁷ If the Commission rejects the Priority Wheeling Through tariff revisions, however, the BPM changes proposed in PRR 1345 will still be justified to ensure that wheeling through transactions do not continue to receive a scheduling priority that has no justification in the CAISO tariff or in Commission policy.

⁴⁸ See, e.g., Complaint at 10 ("During the Stakeholder Meeting on April 14, 2021, the CAISO announced it viewed the 'status quo' for the summer of 2021 as a modification of the penalty price parameters in the BPM so that Priority Wheeling Through transactions would have the same priority as CAISO Load, regardless of the quality of the transmission used to import the Resource Adequacy Resources."); *id.* at 26 ("The CAISO's proposed change to the penalty price parameters [in the BPM] in combination with the proposed additional criteria for Priority Wheeling Through have the effect of substantially limiting the incentives of customers to secure short-term firm or even long-term firm service if there is no assurance of deliverability through CAISO.").

⁴⁹ Complaint at 9-10, 18, 26-27, 33.

have the same scheduling priority as CAISO load?⁵⁰ As explained herein, the answer is no, and NV Energy fails to meet its burden of demonstrating otherwise.

B. The Planned BPM Change is Consistent with the CAISO Tariff and Commission Policy

As explained above,⁵¹ the existing CAISO tariff is silent as to the scheduling priority given to wheeling through self-schedules when there is insufficient capacity. However, the tariff does specify that CAISO load and exports from non-RA Capacity have the same real-time (and day-ahead) scheduling priority.⁵² No specified self-schedule has a priority higher than CAISO load in the real-time market.⁵³ The tariff also specifies that a wheeling through transaction is simply a matched set of balanced import and export bids:

A Wheeling Through transaction consists of an Export Bid and an Import Bid with the same Wheeling reference (a unique identifier for each Wheeling Through transaction). . . . Wheeling Through transactions with matching Wheeling references will be kept balanced in the IFM and RTM; that is, to the extent an Export Bid or Import Economic Bid or Self-Schedule specify different quantities, only that matching quantity will clear the CAISO Markets.⁵⁴

The BPM change in PRR 1345 merely reflects the nature of a wheeling through transaction under the CAISO tariff by setting the export leg at the same penalty price as CAISO load.

⁵⁰ The CAISO views the issue of whether the penalty pricing parameters should be in the BPM or the tariff as procedural. As explained above in section III of this answer, although the CAISO agrees that the scheduling priority for wheeling through schedules should be included in its tariff, it is also just and reasonable to include the implementation detail of specific penalty pricing parameters in the BPM.

⁵¹ See Section II.B, *supra*.

⁵² CAISO tariff section 34.12.

⁵³ CAISO tariff section 34.12.1. In the day-ahead market, the only self-schedules with a priority higher than CAISO load are Existing Transmission Contracts and Transmission Ownership Rights, both of which are pre-existing arrangements.

⁵⁴ CAISO tariff, section 30.5.4.

There is no basis in the CAISO tariff for wheeling through schedules to have a scheduling priority over CAISO load. NV Energy cites to no tariff provision stating otherwise. The scheduling priority currently given to a wheeling through self-schedule results from applying an export pricing parameter that is higher than the pricing parameter for CAISO load even though exports of non-RA capacity have an equal scheduling priority as CAISO load under the tariff. The CAISO's planned BPM change would remedy this outcome by setting the pricing parameter for exports equal to that of load in the real-time market and making clear that the export leg of a wheeling through transaction will have the same pricing parameter as load and exports of non-RA capacity.

The CAISO's existing transmission service paradigm does not support providing wheeling through transactions a higher priority than CAISO load. The CAISO has only one type of transmission service. There are no capacity reservations. There are not different levels of "firmness" of transmission service. All transmission service customers pay a volumetric rate. Granting wheeling through transactions a higher scheduling priority than CAISO load is unjustifiable given this transmission service framework where the same transmission service applies to all grid users and there are no gradations of service.

Today, CAISO load may submit self-schedules as part of the integrated forward market, but thereafter CAISO load is unable to ensure supply schedules clearing the day-ahead market are sufficient to serve real-time demand. In other words, load cannot self-schedule or bid in RUC or in the real-time. Further, in RUC, although the CAISO can commit resources to meet forecasted load, it does not issue a self-schedule to

those resources. Instead, the CAISO imposes a must offer obligation on them to bid in the real-time market. Consequently, there is an incongruity if wheeling through self-schedules coming out of RUC have a higher scheduling priority than resources the CAISO commits in the same RUC process to serve load. If conditions change after the day-ahead market that involve scheduling constraints on the CAISO system, wheeling through and export self-schedules supported by non-RA Capacity that cleared the day-ahead market can crowd out supply the CAISO commits to serve CAISO load. The CAISO's proposed BPM changes are necessary to ensure CAISO load has equal access to supply in the real-time, if such constraints arise. Affording wheeling through transactions a higher scheduling priority than CAISO load under these circumstances would inappropriately subordinate CAISO load, potentially creating reliability problems.

Other transmission providers reserve (*i.e.*, set-aside) capacity to serve native load and network integration transmission service (NITS) customers before even making capacity available for other transmission uses in their available transmission capacity (ATC) calculations. Some transmission providers set aside transmission capacity in the form of a capacity benefit margin (CBM).⁵⁵ This allows LSEs to meet their generation requirements.⁵⁶ These transmission providers effectively only provide capacity for short-term wheeling through transactions to the extent capacity is available, thus limiting the quantity of such transactions.

The CAISO has none of the protections offered by other transmission providers. The CAISO does not reserve ATC for its internal load, and it does not set aside CBM to

⁵⁵ Order No. 890 at P 209.

⁵⁶ *Id.*, at PP 256-259.

account for changed conditions that might arise in real-time. Accordingly, whereas other transmission providers can restrict in advance the reservation of short-term point-to-point wheeling through transactions to ensure they do not infringe on the capacity previously reserved to serve native load, the CAISO does not limit the quantity of wheeling through transactions scheduling service on the CAISO grid. In other words, the CAISO does not limit service reservations for wheeling through transactions only to the capacity that remains available after first reserving capacity for native load.

Because there is no limit on the quantity of wheeling through transactions, granting them a higher priority than CAISO load in these circumstances can be problematic when the system is constrained. The potential exists for short-term wheeling through transactions to “crowd-out” supply from both internal and external RA Capacity needed to serve internal load, which would increase the risk of load shedding. The CAISO’s BPM change is necessary to ensure the CAISO can serve its load reliably similar to other transmission providers. The CAISO emphasizes it is providing the same scheduling priority to internal load equal to wheeling through transactions. It would be reasonable for the CAISO to reserve capacity for native load within its own balancing authority area before determining what capacity is available for other uses such as conditional short-term wheeling through transactions based on the native load priority articulated in Order Nos. 888 and 890.⁵⁷ However, the CAISO has not invoked the

⁵⁷ See *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. By Pub. Utils.*; *Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,745(1996) (Order No. 888), *order on reh’g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (Order No. 888-A), *order on reh’g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh’g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff’d in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff’d sub nom. New York v. FERC*, 535 U.S. 1 (2002). See also Order No. 888 at 31,694 (“We conclude that public utilities may reserve existing transmission capacity needed for native load growth and network transmission customer load

native load priority in PRR 1345 or its existing tariff. Given the CAISO is not implementing any type of native load priority in its BPM change, setting the scheduling priority of all wheeling through transactions equal to that of CAISO load through PRR 1345 accords with the CAISO's Commission-accepted market design.⁵⁸

The Commission found the CAISO tariff to be consistent with or superior to the *pro forma* OATT as updated in Order No. 890 even though, as the CAISO explained, it implements a market design that differs significantly from that reflected in the *pro forma* OATT:

The CAISO explains that many of the revisions to the *pro forma* OATT [in Order No. 890] are specific to a physical rights transmission service model under which a public utility provides network and firm and non-firm point-to-point transmission service. Rather than offering the two distinct traditional transmission services contemplated by the *pro forma* OATT, the CAISO offers a single "daily" transmission service that is available on a non-discriminatory basis to all eligible customers on a day-to-day basis.⁸

⁸ Under the MRTU [*i.e.*, CAISO] tariff, there is no offer of traditional Order No. 888 network and point-to-point transmission services, there are no firm, long-term transmission reservations of capacity, and there is no formal application process for transmission service.⁵⁹

Applying equal scheduling priorities for wheeling through self-schedules and CAISO load is consistent with the current, unique nature of the CAISO's services and markets.

The CAISO handles all scheduling priorities through the penalty parameters in the

growth reasonably forecasted within the utility's current planning horizon."); *see also* Section V.A *infra*, below.

⁵⁸ For reasons explained in the tariff amendment pending in Docket No. ER21-1790, the CAISO also believes it is just and reasonable to set only Priority Wheeling Through transactions at the same priority as CAISO load under the terms and conditions proposed in that proceeding.

⁵⁹ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,180, at P 7 & n.8 (2008), *order on compliance filing*, 126 FERC ¶ 61,099 (2009).

market optimization. Accordingly, PRR 1345 establishes the relative priority of native CAISO load and other uses of the transmission system through a scheduling priority based on the market's application of penalty prices.

NV Energy also fails to demonstrate the planned BPM revisions are inconsistent with Commission policy. NV Energy cites to no provision in the *pro forma* OATT, NV Energy's own OATT, or the tariff of any other ISO/RTO that gives wheeling through transactions a higher priority than native load. NV Energy is silent on this score for good reason – to the CAISO's knowledge, there are no such provisions in those OATTs and tariffs that would support favoring wheeling through transactions over native load, regardless of the firmness of the transmission service obtained on neighboring systems.

Although the CAISO tariff does not follow the *pro forma* OATT, principles underlying the *pro forma* OATT confirm the reasonableness of the change proposed in the BPM. Under the *pro forma* OATT, transmission providers offer both firm and non-firm service. Firm long-term point-to-point transmission service has the same reservation priority as service to native load customers.⁶⁰ The capacity available for non-firm point-to-point service expressly excludes capacity reserved for reliable service to native load customers. Section 14.2 of the *pro forma* OATT, first established in Order No. 888 and retained (with non-substantive modifications) in Order No. 890, provides:

Non-Firm Point-To-Point Transmission Service shall be available from transfer capability in excess of that needed for reliable service to Native Load Customers, Network Customers and other Transmission Customers taking Long-Term and Short-Term Firm Point-To-Point Transmission Service.

⁶⁰ *Pro forma* OATT, section 13.2.

The OATTs of most transmission providers that offer non-firm transmission service, including NV Energy, contain this provision.⁶¹ Thus, there is no reason why the applicable BPM implementing the CAISO tariff should not provide CAISO native load a scheduling priority that is at least equal to wheeling through transactions.

Also, the *pro forma* OATT makes clear that service to native load will not be curtailed before other types of service.⁶² The *pro forma* OATT states that “[i]f multiple transactions require Curtailment, to the extent practicable and consistent with Good Utility Practice, the Transmission Provider will curtail service to Network Customers and Transmission Customers taking Firm Point-To-Point Transmission Service *on a basis comparable to the curtailment of service to the Transmission Provider’s Native Load Customers.*”⁶³ Further, “[a]ny Curtailment of Network Integration Transmission Service will not be unduly discriminatory relative to the Transmission Provider’s use of the Transmission on behalf of its Native Load Customers.”⁶⁴ The NV Energy OATT mirrors these provisions in the *pro forma* OATT.⁶⁵

In sum, NV Energy fails to show there is any basis for providing wheeling through transactions a higher scheduling priority than native load regarding use of the CAISO

⁶¹ See NV Energy OATT, section 13.2.

⁶² The *pro forma* OATT defines “Curtailment” to mean a “reduction in firm or non-firm service in response to a transfer capability shortage of system reliability conditions.” *Pro forma* OATT, section 1.8.

⁶³ *Pro forma* OATT, section 13.6 (emphasis added).

⁶⁴ *Id.*, section 33.7.

⁶⁵ See NV Energy OATT, sections 13.6 and 33.7. The scheduling priorities established through the CAISO’s penalty parameters are not exactly curtailment priorities, because they determine which transactions can be scheduled and utilize transmission capability on the CAISO controlled grid, as opposed to cutting already-scheduled transactions. Nevertheless, the OATT’s curtailment priority provisions are instructive insofar as they establish that native load is afforded an equal priority relative to firm transmission service with respect to cutting scheduled transactions, over and above any native load protections that a transmission provider adopts in determining available capability in the first place.

transmission system. The BPM change in PRR 1345 is consistent with the existing CAISO tariff and with Commission policy and other transmission providers' tariffs.

C. There is no Merit to NV Energy's Contention that the CAISO's Proposal to Afford Wheeling Through Schedules the Same Priority as Load Schedules Runs Afoul of the Commission's Open Access Principles

NV Energy argues that giving wheeling through transactions the same scheduling priority as internal load under the BPM change in PRR 1345 is inconsistent with open access principles because such an equal scheduling priority "fails to respect" monthly, weekly, and daily firm transmission service under the OATTs of other balancing authority areas.⁶⁶ Effectively, NV Energy asserts that if a wheeling through transaction has secured firm transmission on an external system to the CAISO border, the CAISO must provide the wheeling through self-schedule with a scheduling priority over other import self-schedules serving CAISO load that have not procured firm transmission to the CAISO border. This argument is without merit.

The purpose of the planned BPM changes is to remove the unwarranted scheduling priority in the real-time market given to export self-schedules and wheeling through self-schedules relative to CAISO load. The CAISO has no obligation to prioritize wheeling through self-schedules over CAISO load based on whether upstream transmission of those transactions is firm or non-firm, nor does the *pro forma* OATT or any other ISO/RTO tariff require this. For example, if a CAISO LSE chooses to self-schedule RA Capacity from an external resource using non-firm service on a

⁶⁶ Complaint at 26-30.

neighboring system, that transaction would be subject to curtailment on that system before transactions utilizing firm service. There is no precedent that transmission providers must establish scheduling priorities for reserving scarce transmission capability on their own systems based on the category of transmission service provided by external transmission providers, nor does NV Energy cite to any such precedent.⁶⁷

NV Energy also notes the CAISO has commenced the Extended Day-Ahead Market (EDAM) stakeholder initiative to explore the possible extension of the day-ahead market to EIM entities. NV Energy asserts that using short-term firm transmission products under the OATTs of participating balancing authority areas will be an essential element of any EDAM.⁶⁸ The EDAM initiative is irrelevant to the issues raised in the Complaint. The EDAM is an ongoing, long-term stakeholder initiative that the CAISO has not finalized.⁶⁹ Any implication the issues raised in the Complaint might have on EDAM are hypothetical and provide no basis for a finding the CAISO's current practices are unjust or unreasonable. The CAISO is committed to working with NV Energy and other stakeholders to develop an effective EDAM design and a longer-term, more durable solution for wheeling through transactions that can function in harmony with that design.

⁶⁷ NV Energy points to the Commission's policy regarding designation of network resources under the OATT and other ISO/RTOs' RA requirements, but, as discussed below, those are different issues than how a transmission provider allocates scarce transmission capability on their systems.

⁶⁸ Complaint at 29.

⁶⁹ *Id.* Materials related to the EDAM stakeholder initiative are available at [California ISO - Extended day-ahead market \(caiso.com\)](https://www.caiso.com/ExtendedDayAheadMarket). As shown on that website, the latest issue paper posted in the initiative is a Straw Proposal issued on July 20, 2020 (EDAM Straw Proposal).

NV Energy also asserts the BPM change in PRR 1345 will somehow “distort” the Western markets and regional transmission planning.⁷⁰ This claim is conclusory, and NV Energy offers no evidence to support it. Therefore, the Commission should disregard this claim and find that NV Energy fails to satisfy its burden of proof as the complainant to show the planned BPM change is unjust and unreasonable. Moreover, NV Energy appears to base its argument on an unwarranted assumption that the existing scheduling priority for wheeling through self-schedules over CAISO load should persist. The BPMs are subject to change at any time pursuant to the PRR process set forth in the CAISO tariff.⁷¹ Although NV Energy disagrees with the substance of the BPM change in PRR 1345, nowhere in the Complaint does NV Energy contend the CAISO lacks the right to change a BPM or that the CAISO did not follow the required process with regard to PRR 1345.

The CAISO also has the express right under the Federal Power Act to file amendments with the Commission at any time to change its tariff, and NV Energy cannot reasonably dispute the CAISO’s right to file its tariff amendment in docket number ER21-1790.⁷² Thus, NV Energy has no reasonable expectation that it would be able to enjoy a scheduling priority for wheeling through transactions in perpetuity, especially given such priority is not set forth in the tariff.

⁷⁰ Complaint at 30-33.

⁷¹ CAISO tariff, section 22.11 *et seq.*

⁷² “Nothing contained [in the CAISO tariff] shall be construed as affecting, in any way, the right of the CAISO to . . . unilaterally to make an application to FERC for a change in rates, terms, conditions, charges, classifications of service, Scheduling Coordinator Agreement, rule or regulation under FPA Section 205 and pursuant to the FERC’s rules and regulations promulgated thereunder.” CAISO tariff, section 15.

D. NV Energy's Argument in Favor of Requiring Firm Transmission for RA Imports Improperly Conflates Issues of RA Eligibility with Scheduling Priorities Under the CAISO Tariff

NV Energy devotes much of its Complaint to arguing that firm transmission on external systems should be required to support RA imports into the CAISO. NV Energy claims that this treatment is consistent with the criteria for designating external Network Resources under the OATT and other ISOs/RTOs' resource adequacy requirements. NV Energy then concludes that because there is currently no firm transmission requirement for RA imports delivered to the CAISO, the CAISO's proposal to treat RA imports to serve CAISO load on an equal footing with wheeling through transactions *on its own system* conflicts with Commission precedent.⁷³

NV Energy conflates issues of eligibility for RA status based on external transmission rights with how the CAISO assigns scheduling priorities on its own system in the market optimization. Whether firm transmission should be required for off-system RA resources goes to the question of whether a particular resource is eligible for designation as RA Capacity in the first place – *i.e.*, the reliability and dependability of this capacity for RA planning purposes. On the other hand, the CAISO's market optimization scheduling priorities reflect a determination as to how the market allocates scarce transmission capability on the CAISO grid when faced with insufficient supply or binding transmission constraints in its day-ahead and real-time markets. The CAISO's planned BPM change, and NV Energy's proposal to preserve a priority for wheeling through transactions, relate exclusively to the latter issue.

⁷³ Complaint at 16-17.

NV Energy argues that in various CPUC proceedings, the CAISO has provided comments supporting a firm transmission requirement for RA imports. However, the CAISO's support for such a requirement is solely to establish which resources should be eligible in future years to qualify as RA Capacity. Nowhere did the CAISO suggest that absent such a requirement, RA imports utilizing non-firm service on external systems would or should have a lower scheduling priority than wheeling through schedules in the day-ahead and real-time markets. Indeed, the scheduling priority for CAISO load in the tariff is not limited to CAISO load served by RA Capacity.

It would be illogical for the CAISO to adopt this position because it would be inconsistent with the purpose of imposing a firm transmission eligibility requirement – improving the CAISO's ability to ensure reliable service to meet native load obligations. Although a firm transmission requirement would enhance the dependability of RA imports for RA planning purposes in the future, providing a lower scheduling priority relative to wheeling through transactions for RA imports that do not deliver to the CAISO border using firm transmission would undermine the CAISO's ability to serve load reliably in the day-ahead and real-time timeframes. It would require the CAISO under tight system conditions to allocate limited transmission capability first to wheeling through schedules, potentially cutting schedules designed to serve CAISO native load, based solely on the nature of transmission service obtained from other balancing authorities. This contravenes the principle of a native load priority and increases the risk the CAISO would have to shed load.

E. Most of NV Energy’s Arguments Represent a Legally Impermissible Attack on the CAISO’s Resource Adequacy Mechanism

Even if the Commission is inclined to entertain the arguments offered by NV Energy regarding the need for firm transmission to support RA imports, the Commission should nevertheless reject those arguments. They misapprehend both the relevant facts and legal principles, and represent a collateral attack on the Commission’s approval of the CAISO’s RA construct.

NV Energy alleges that one of the drivers of the CAISO’s proposed changes is a concern that wheeling through self-schedules will displace imports of CAISO RA resources. NV Energy argues that the CAISO markets should schedule day-ahead wheeling through self-schedules before RA imports delivered to the CAISO border using non-firm transmission service based on an analogy to the requirements for Designated Network Resources (DNRs). NV Energy states that, in Order No. 890, the Commission determined that a DNR could be located on an external transmission system, but in order to reserve transmission capacity on the intertie with that transmission system, the DNR had to have firm transmission to the border.⁷⁴

NV Energy’s argument does not apply to the CAISO system and incorrectly states the requirements of Order No. 890. First, the CAISO tariff does not provide for network integration transmission service. Because there are no designated loads on the CAISO’s system, there is no need to designate network resources to serve those loads. Second, even if NV Energy intends this as an analogy to the treatment of CAISO

⁷⁴ Complaint at 14-15, 17 (citing *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 1521 (Order No. 890), *order on reh’g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007) (Order No. 890-A), *order on reh’g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008) (Order No. 890-B), *order on reh’g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

RA resources, the comparison fails. In Order No. 890-B, the Commission explained that network resource designation rules were not a proxy for RA requirements, stating “[t]he Commission has made clear that the requirements for the designation of network resources are not intended to replace or replicate resource adequacy requirements, which impose distinct obligations on the transmission provider and its customers.”⁷⁵ Thus, the requirements for DNR are distinct from resource adequacy requirements.

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

the Commission clarifies that the requirement in section 29.2(v) of the *pro forma* OATT to identify the transmission arrangements on external systems applies to the transmission leg from the resource being designated to the transmission provider’s transmission system. If an off-system power purchase is sufficiently firm to satisfy the designation requirements, then the transmission provider need not be concerned with the upstream transmission leg(s) from the generator(s) to the point where the buyer takes title of the firm power. Because the contract itself is the resource being designated, and that contract is firm in nature, *it is not necessary to demonstrate the firmness of the upstream transmission in order to designate the contract as a network resource.*⁷⁶

⁷⁵ Order No. 890-B at P 175 (citing Order No. 890 at P 1584; Order No. 890-A at PP 835, 837).

⁷⁶ Order No. 890-A at P 867 (emphasis added). The Commission affirmed this finding at paragraph 169 of Order No. 890-B.

NV Energy also argues that other ISOs and RTOs require external resource adequacy resources be imported on firm transmission, and therefore the CAISO must do likewise.⁷⁷ The Commission has rejected automatic application of a one-size-fits-all resource adequacy framework for all independent system operators and regional transmission organizations:

We also find that CXA La Paloma has not substantiated its general claims that CAISO's and CPUC's decision not to implement centralized capacity procurement renders the existing resource adequacy paradigm unjust and unreasonable. As CAISO and several protestors correctly observe, the Commission has not required a centralized capacity market as part of a just and reasonable market design. Indeed, the Commission has consistently rejected a one-size-fits all approach to resource adequacy in the various RTOs/ISOs due, in large part, to significant differences between each region and also due to the well-established tenet that there can be more than one just and reasonable rate. . . . While the Commission has opined on the benefits of specific features of the eastern RTO/ISO centralized capacity markets within the context of those specific regions and market designs, the Commission has not imposed a centralized capacity market in an RTO/ISO or found that it is the only just and reasonable resource adequacy construct to attract and retain sufficient capacity. With respect to the eastern RTOs, the capacity markets originated through section 205 filings or developed through settlements. Thus, we find that CXA La Paloma's reliance on Commission precedent pertaining to the eastern centralized capacity markets is inapt here.⁷⁸

Consistent with the Commission's rejection of a one-size-fits-all approach to RA, the Commission should not impose a firm transmission service requirement in connection with a Section 206 complaint regarding scheduling priorities in the CAISO's market software.

The Commission approved the CAISO's RA program as part of its approval of the CAISO's Market Redesign and Technology Upgrade (MRTU) tariff fifteen years

⁷⁷ Complaint at 19-22.

⁷⁸ *CXA La Paloma*, 165 FERC ¶ 61,148, at P 76 (citations omitted).

ago.⁷⁹ The Commission has affirmed, in response to arguments made by market participants, that the RA program remains just and reasonable.⁸⁰ Nowhere in those orders, or anywhere else, has the Commission required the CAISO to restrict RA eligibility to imports accompanied by firm transmission service to the CAISO border, or directed the CAISO to establish such a restriction. The arguments NV Energy raises in this complaint proceeding constitute a collateral attack on the orders approving the CAISO's RA construct. As a result, the Commission should reject any suggestion by NV Energy that the CAISO mandate firm transmission service for RA imports in the context of this Complaint.⁸¹

NV Energy notes the CAISO's recommendation in a CPUC proceeding and in an ongoing CAISO stakeholder initiative that RA resources be imported on firm transmission.⁸² However, as discussed above, those recommendations are irrelevant to

⁷⁹ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at PP 1090-1326 (2006), *order on reh'g*, 119 FERC ¶ 61,076, at PP 521-638 (2007).

⁸⁰ *See, e.g., CXA La Paloma*, 165 FERC ¶ 61,148, at P 76 (“We also find that CXA La Paloma has not substantiated its general claims that CAISO's and CPUC's decision not to implement centralized capacity procurement renders the existing resource adequacy paradigm unjust and unreasonable”); *id.* at P 79 (“Moreover, we find that Powerex has not demonstrated that circumstances have changed in any way to render CAISO's previously-accepted tariff provisions unjust and unreasonable or unduly discriminatory or preferential.”); *CXA La Paloma*, 169 FERC ¶ 61,045, at P 44 (“Moreover, the Commission has previously found unpersuasive similar arguments asserting that, under the current resource adequacy framework in California, existing generation is treated in an unduly discriminatory manner.”) (citing *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,229, at P 99 (2008); *Cal. Indep. Sys. Operator Corp.*, 125 FERC ¶ 61,053, at P 104 (2008)).

⁸¹ *See, e.g., Sage Grouse Energy Project, LLC v. PacifiCorp*, 154 FERC ¶ 61,223, at P 29 (2016) (denying complaint in relevant part on the grounds that it “constitutes an untimely request for rehearing and an improper collateral attack on the Commission's December 2015 Order”); *New Eng. Conference of Pub. Utils. Comm'rs, Inc. v. Bangor Hydro-Elec. Co.*, 135 FERC ¶ 61,140, at P 27 (2011) (“Despite NECPUC's arguments on rehearing, we continue to find that NECPUC's complaint constitutes a collateral attack on Opinion No. 489.”); *Consol. Edison Co. of N.Y., Inc. v. N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,059, at P 57 (2004) (“denying complaint in relevant part on the grounds that “complainants' contention that NYISO should have calculated refunds based on the methodology superceded by the Demand Curve Order constitutes an improper collateral attack on the Demand Curve Order.”).

⁸² Complaint at 22-25.

the instant complaint proceeding. The CAISO is discussing with stakeholders the idea of requiring firm transmission for RA imports as part of phase 2 of the CAISO's Resource Adequacy Requirements stakeholder initiative. Under the current schedule, CAISO staff would present a proposal to the CAISO Governing Board later this year.⁸³ The CAISO has not filed any such firm transmission proposal with the Commission.⁸⁴ The fact the CAISO is considering adding a firm transmission requirement for RA imports in the future does not cause the existing RA tariff rules to be unjust and unreasonable.

The Commission should not entertain arguments advocating firm transmission requirements for RA imports in this proceeding, nor should it accept them. The planned BPM changes that formed the basis of NV Energy's complaint involve a narrow issue regarding the scheduling priority for wheeling through transactions, not the much broader issue of revamping the CAISO's RA program – which is relief NV Energy does not formally request in its Complaint.⁸⁵ Imposing new RA requirements in this proceeding would unduly disrupt the CAISO's annual RA program mid-year, creating uncertainty whether LSEs could continue to rely on their RA arrangements for this summer. The rule change NV Energy seeks should be given due consideration in the

⁸³ See transmittal letter for tariff amendment to implement Phase 1 of Resource Adequacy Enhancements initiative, Docket No. ER21-1551-000, at 9, 11 (Mar. 29, 2021); attachment C to the tariff amendment (Final Proposal – Phase 1) at 5, 8, and 32.

⁸⁴ Further, the Commission has announced it will convene and lead a public technical conference on June 23 and 24, 2021 to discuss resource adequacy developments in the Western Interconnection. The Commission specified that it “seeks to engage varied regional perspectives to discuss challenges, trends, and possible ways to continue to ensure resource adequacy, and address broader regional coordination in the Western Interconnection.” Notice of Technical Conference, Docket No. AD21-14-000 (Mar. 16, 2021); Supplemental Notice of Technical Conference, Docket No. AD21-14-000 (Apr. 23, 2021). Concerns that NV Energy and other entities have about resource adequacy in the CAISO and the rest of the Western Interconnection can be addressed in this technical conference.

⁸⁵ See Complaint at 2-3, 6, and 36-37.

appropriate CPUC proceedings and by the CAISO and stakeholders in Phase 2 of the Resource Adequacy Enhancements initiative. The Commission should not mandate this change in response to a complaint regarding the narrow, and unrelated issue of a BPM change regarding the scheduling priorities applied to wheeling through transactions in the market optimization processes.

V. Even if NV Energy Could Demonstrate the CAISO's BPM Change and Existing Tariff are Unjust and Unreasonable, NV Energy's Proposal is not Just and Reasonable

NV Energy's Complaint seeks to retain a scheduling priority for wheeling through transactions, but this proposal ignores the native load protections espoused in Order Nos. 888 and 890. One of the "core elements" of the Commission's open access policies is the ability of transmission providers to include in their tariffs certain protections to ensure reliable service to native load customers. The Commission found in Order No. 888 that "[t]he transmission provider may reserve in its calculation of ATC transmission capacity necessary to accommodate native load growth reasonably forecasted in its planning horizon."⁸⁶ Similarly, the Commission explained in Order No. 888-A that "the transmission provider is responsible for planning and maintaining sufficient transmission capacity to safely and reliably serve its native load."⁸⁷

⁸⁶ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. By Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,745 (1996) (Order No. 888), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (Order No. 888-A), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002). See also Order No. 888 at 31,694 ("We conclude that public utilities may reserve existing transmission capacity needed for native load growth and network transmission customer load growth reasonably forecasted within the utility's current planning horizon.").

⁸⁷ Order No. 888-A at 30,279.

In Order Nos. 890 and 890-A, the Commission determined it appropriate to give public utilities “the right to reserve existing transmission capacity needed for native load growth reasonably forecasted within the utility’s current planning horizon.”⁸⁸ In rejecting arguments to eliminate native load protections in Order No. 890, the Commission once again emphasized the importance of these protections:

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.⁸⁹

Consistent with these findings, Attachment C to the *pro forma* OATT established in Order No. 890, which sets forth a transmission provider’s methodology to assess available transfer capability, states that “[f]or [existing transmission commitments], a transmission provider shall explain . . . the calculation methodology used to determine the transmission capacity to be set aside for native load (including network load).”⁹⁰ Similarly, in a number of more recent orders the Commission confirmed the ability of transmission providers to grant native load priority for transmission service.⁹¹

NV Energy’s proposal to require the CAISO to continue to provide a scheduling priority for wheeling through transactions relative to CAISO load would turn this principle

⁸⁸ Order No. 890 at P 107.

⁸⁹ *Id.*

⁹⁰ *Pro forma* OATT, Attachment C, section 3(b).

⁹¹ See, e.g., *Sierra Pac. Power Co. v. NV Energy, Inc.*, 143 FERC ¶ 61,144, at P 112 (2013) (finding that “Network Integration Transmission Service expressly recognizes the underlying right of the transmission provider to use its network resources to serve its native load needs, including through economic dispatch of those network resources”); *Duke Energy Corp.*, 166 FERC ¶ 61,112, at P 13 (2019) (internal citation omitted) (finding that the “distinction between native and non-native load recognizes the obligation public utilities undertake to engage in long-term system planning on behalf of certain customers in exchange for those customers taking requirements service and contributing to the fixed costs of the supplier’s system”).

on its head. Instead of allowing the CAISO to afford wheeling through self-schedules, export schedules supported by non-RA Capacity, and native load the same scheduling priority – which is the purpose of the CAISO proposed BPM revisions – NV Energy would make some RA imports necessary to serve CAISO native load subordinate to spot, one-day wheeling through transactions.

The outcome NV Energy seeks is inconsistent with the native load protections the Commission has consistently articulated. NV Energy’s proposal would place CAISO balancing authority area load at a distinct disadvantage relative to native load in other balancing authority areas, including that of NV Energy and other western utilities. The CAISO tariff contains none of the traditional mechanisms the Commission has accepted for other transmission providers to set aside capacity to serve native load. The method the CAISO uses to assess ATC is set forth in Appendix L to the CAISO tariff. Unlike many transmission providers, the CAISO definition of the existing transmission commitments component of the ATC calculation does not include native load commitments.⁹² Further, the CAISO’s methodology to calculate ATC provides “[t]he CAISO does not use CBMs” and as a result “[t]he CBM value is set at zero.”⁹³

The CAISO tariff also differs from most other transmission providers in that it does not provide for making non-firm point-to-point service available for transfer capability “in excess of that needed for reliable service to Native Load Customers.”⁹⁴ Rather, the CAISO has one category of transmission service not associated with

⁹² CAISO tariff, Appendix L, section L.1.3.

⁹³ CAISO tariff, Appendix L, section L.1.6.

⁹⁴ *Pro forma* OATT, section 14.2. As noted above in section IV.B of this answer, the OATTs of most transmission providers that offer non-firm transmission service, including NV Energy, contain this provision.

existing rights, and the CAISO does not use transmission reservations to manage the priority of schedules to address system constraints. Instead, the CAISO manages schedules on its system through its day-ahead and real-time markets and applies scheduling priorities defined in its tariff to ration capacity when demand for transfer capability exceeds supply.

Under this paradigm, it is entirely reasonable for the CAISO to provide import schedules to serve native load with a scheduling priority on the CAISO controlled grid that is at least equal to wheeling through schedules. Such an outcome is no less restrictive, and in fact, it is more generous, than the blanket reservations of capacity for native load included in the tariffs of transmission providers that rely on transmission reservation provisions similar to the *pro forma* OATT. For instance, Attachment C to NV Energy's OATT provides that its calculation of ATC will exclude "firm capacity set aside to serve peak Native Load forecast commitments for the time period being calculated."⁹⁵

Under the CAISO tariff, except for specific grandfathered commitments (ETCs and TORs), the entire capability of the CAISO controlled grid is available to both native load and external users daily on a comparable basis. The CAISO only imposes scheduling limitations when faced with actual transmission constraints or supply shortages in its day-ahead and real-time markets. NV Energy's proposed rule would subordinate CAISO load to wheeling through transactions when transmission capacity is scarce, unless CAISO load has secured an import from an RA Resource using firm transmission on an external system to the CAISO border. As noted above, the CAISO

⁹⁵ NV Energy OATT, Attachment C, sections 1.2.6 and 1.2.6.2.

is unaware of any transmission provider that provides a higher priority to wheeling through transactions on its own system relative to native load based on whether or not those transactions have obtained firm transmission service on neighboring systems. In its Complaint, NV Energy provides no examples of other transmission providers that establish transmission curtailment or scheduling priorities on their own systems that are solely contingent on firmness of transmission service obtained from other transmission providers. The outcome that NV Energy seeks here is unjust and unreasonable.⁹⁶

In its Complaint, NV Energy attempts to dismiss the protections for native load based on a distinction between reserving transmission capability for “future uses” versus requiring all customers to meet requirements for DNRs for “current uses.”⁹⁷ This distinction is inapplicable because the CAISO currently does not have DNR requirements or a mechanism for reserving transmission capability for future use by native load. The CAISO makes its entire system (less specific pre-existing uses) available to all users, with the scheduling priorities set forth in its penalty parameters acting as the sole means to allocate transmission capacity when demand exceeds supply.

⁹⁶ NV Energy also ignores that CAISO LSEs face numerous restrictions regarding their import RA capacity that wheeling through customers do not face. For example, LSE’s must first obtain import capability through the CAISO’s import capability allocation process in order for their procured import supplies to count as RA Capacity. This greatly restricts their ability to procure imports as RA and limits the amount of RA imports they can procure. Wheeling through transactions face no such requirements. This can allow an external LSE to schedule a wheeling through transaction, but prevent a CAISO LSE from accessing an import as RA capacity. The CPUC requires that LSEs procure (and show) 90 percent of their summer RA capacity by October 31 of the year preceding that summer. Wheeling through transactions face no such timing constraints. The CPUC requires that for capacity from a non-resource specific resource to count as RA Capacity, the capacity cannot be subject to economic curtailment and the energy product be supported by operating reserves.

⁹⁷ Complaint at 18-19.

It is unfair and inappropriate under Commission policy that enhanced flexibility to accommodate spot wheeling through transactions should come at the expense of reasonable provisions to ensure reliable service to native CAISO loads. This, however, is what NV Energy's requested relief would do.

VI. If the Commission Determines that Scheduling Priorities for Wheeling Through Transactions should be Explicitly Stated in the CAISO Tariff, there are Two Just and Reasonable Options for Doing So

As discussed above, the CAISO's pending tariff amendment in Docket No. ER21-1790 proposes to implement a two-tier scheduling priority for wheeling through transactions on an interim basis. As part of the interim measures, the CAISO proposes to add tariff language expressly specifying scheduling priorities for all wheeling through schedules relative to other uses of the CAISO grid. As noted above, the Commission should address the justness and reasonableness of these tariff changes in the context of Docket No. ER21-1790, and not in this Complaint proceeding. If the Commission agrees the CAISO should specify the relative scheduling priority for wheeling through transactions in the tariff and the Commission approves the CAISO's tariff amendment, such approval would satisfy any finding in response to the NV Energy Complaint that the CAISO should specify the relative wheeling through priority in the its tariff.⁹⁸

However, if the Commission finds the CAISO should specify the relative priority for wheeling through schedules in the tariff, but rejects the CAISO's proposed two-tier scheduling priority in ER21-1790, then the Commission should exercise its authority

⁹⁸ As explained above, while the CAISO agrees that there is a benefit to explicitly stating these priorities in the tariff, there is no basis under the Commission's rule of reason to require the CAISO to include in the tariff the specific penalty prices used to implement these priorities in the CAISO's market software.

under FPA Section 206 in this proceeding to direct the CAISO to add tariff language establishing equal scheduling priorities for wheeling through transactions and all transactions to serve CAISO load. This will ensure the CAISO tariff does not afford an inequitable and unjustified higher scheduling priority to wheeling through transactions. As discussed above, establishing such equal scheduling priorities, is consistent with Commission policy and precedent, the existing CAISO tariff, and the CAISO transmission service paradigm. For the reasons discussed above, it would be unjust and unreasonable for the Commission to require the CAISO to provide a preferential scheduling priority to wheeling through transactions simply because they utilize firm transmission on the system of another transmission provider to reach the CAISO border.

However, the CAISO stresses that merely affording CAISO load the same scheduling priority as wheeling through transactions will not adequately address the reliability challenges wheeling through transactions present. The CAISO needs the Commission to approve its tariff amendment filing in Docket No. ER21-1790. Absent approval of the interim tariff provisions, the CAISO will face potentially greater reliability challenges during the critical Summer 2021 period. The CAISO expects increased use of its transmission system for spot wheeling through transactions during this period, and these weekly, daily, and hourly wheeling through transactions will, absent the tariff amendment, have the same priority as LSEs' RA capacity that has been procured in advance and is necessary to serve CAISO native load. These short-term wheeling through transactions risk "crowding out" not only RA imports, but also RA capacity in northern California that must flow south on Path 26 to serve load further south. The

tariff amendment is necessary to address this problem. In any event, regardless of how the Commission acts on the tariff amendment, NV Energy's proposal to provide wheeling transactions a priority over CAISO native load would exacerbate the problem even further. Accordingly, the Commission should reject the complaint.

VII. Service and Communications

All service of pleadings and documents and all communications regarding this proceeding should be addressed to the following:

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VIII. Conclusion

Through its Complaint, NV Energy seeks to maintain a scheduling priority in the CAISO's markets for short-term wheeling through transactions that is higher than the scheduling priority afforded CAISO load. Neither Commission policy nor the CAISO tariff justifies such a scheduling priority above CAISO load. For the reasons set forth in

this Answer, the Commission should reject NV Energy's Complaint.

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Date: June 4, 2021

CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 4th day of June, 2021.

/s/ Martha Sedgley
Martha Sedgley