

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY ENERGY COMMISSION

California Independent System)
Operator Corporation)

Docket No. ER21-1790-000

**MOTION FOR LEAVE TO FILE OUT-OF-TIME COMMENTS AND
COMMENTS OF WESTERN RESOURCE ADVOCATES**

Pursuant to Rule 212 of the Rule of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. § 385.212 (2020), Western Resource Advocates (“WRA”)¹ hereby respectfully submits the Motion For Leave to File Comments Out-of-Time (“Motion”) and Comments (“Comments”) in response to the California Independent System Operator’s (“CAISO”) April 28, 2021 filing with the FERC, “Tariff Amendment to Implement Market Enhancements for Summer 2021 – Load, Export, and Wheeling Priorities” (“Filing”).²

I. MOTION FOR LEAVE TO COMMENT OUT-OF-TIME

WRA moves for leave to comment out-of-time. WRA filed an out-of-time motion to intervene on May 20, 2021, but did not file substantive comments at that time to avoid

¹ WRA is a non-profit conservation organization dedicated to protecting the land, air, and water of the West. WRA’s Clean Energy Program develops and implements policies to reduce the environmental impacts of the electric power industry in the Interior West by advocating for a western electric system that provides affordable and reliable energy, reduces economic risks, and protects the environment through the expanded use of energy efficiency, renewable energy resources, and other clean energy technologies.

² *Cal. Indep. Sys. Operator Corp.* (CAISO), Tariff Amendment to Implement Market Enhancements for Summer 2021 – Load, Export, and Wheeling Priorities, Transmittal Letter, Docket No. ER21-1790-000 (Apr. 28, 2021) [hereinafter “CAISO Transmittal Letter”].

sacrificing substance for speed.³ The Commission has accepted out-of-time comments when they have assisted the Commission in its decision-making process,⁴ when filed during the early stage of a proceeding,⁵ and when such comments do not create any undue prejudice or delay.⁶ By filing this motion and the accompanying comments, WRA seeks to inform the Commission and parties on the complex issues raised in the proposed tariff filing. WRA does not seek to delay this proceeding, and does not believe that filing these comments 8 calendar days out of time will prejudice any party. Accordingly, good cause exists to grant WRA's motion for leave to comment out-of-time.

II. COMMENTS

A. Introduction

These comments are being submitted by WRA in FERC Docket ER21-1790-000, with the endorsement of the following Public Interest Organizations: Western Grid Group, Renewable Northwest, Center for Energy Efficiency and Renewable Energy Technologies, Northwest Energy Coalition (collectively with WRA, "Joint Commenters").

B. Executive Summary

In August 2020, during a severe heatwave that affected the entire western U.S., the CAISO was forced to implement controlled load-shedding (and related transmission redirect or

³ Out-of-Time Motion to Intervene of Western Resource Advocates under ER21-1790, Docket No. ER21-1790-000 (May 20, 2021).

⁴ *Midwest Indep. Transmission Sys. Operator, Inc.*, 143 FERC ¶ 61258, at P 25 (2013) ("We accept the untimely supplemental comments of SPP because these comments have assisted us in the decision-making process.")

⁵ *California Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,140, at P 19 (2003) ("In addition, due to the early stage of the proceeding, their interest in the proceeding, and the lack of undue prejudice or delay, we accept the out-of-time comments filed.")

⁶ *Id.*

import transfer limits) events.⁷ In the aftermath of those events, the CAISO, the California Public Utilities Commission and the California Energy Commission undertook a root-cause analysis⁸ which, among other things, revealed certain issues in CAISO’s market operations (and design) that CAISO believes need to be revised in advance of summer 2021.⁹ The changes have been made in two “Summer 2021 Readiness” filings at the FERC, Part 1 under Docket ER21-1536¹⁰ and Part 2 under Docket ER21-1790.¹¹ The Joint Commenters recognize the efforts taken by CAISO through their own stakeholder process to solicit feedback to their proposals.

Particularly, under the Part 2 filing, the Wheel-Through transactions priorities provision has elicited a range of responses, including substantial concern and dissent among a number of utilities and other entities from areas outside the full CAISO market footprint.¹² Some of these utilities are members of the Energy Imbalance Market Entities (“EIM Entities”) as well as public utilities and public interest organizations (“PIOs”) – several of which are now intervenors in this FERC docket. The concerns focus mainly on two things: (1) that the proposal elevates CAISO load-serving entities (“LSE’s”) to a higher priority than non-CAISO LSE’s, and (2) that the restrictions that CAISO proposes to apply to Priority Wheel-Through transactions are too inflexible, severe and could disrupt business arrangements now in place.

⁷ See generally CAISO Board of Governors Meeting, Briefing on System Operations, <https://www.caiso.com/Documents/BriefingonSystemOperations-Presentation-Aug17-2020.pdf> (Aug. 17, 2020) (last visited May 26, 2021).

⁸ CAISO, Root Cause Analysis: *Mid-August 2020 Extreme Heat Wavier*, <http://www.caiso.com/Documents/Final-Root-Cause-Analysis-Mid-August-2020-Extreme-Heat-Wave.pdf> (Jan. 13, 2021) (last visited May 26, 2021) [hereinafter Root Cause Analysis].

⁹ See CAISO, Initiative: *Market Enhancements for Summer 2021 Readiness*, <https://stakeholdercenter.caiso.com/StakeholderInitiatives/Market-Enhancements-for-Summer-2021-Readiness> (Dec. 22, 2020) (last visited May 26, 2021); Root Cause Analysis.

¹⁰ See generally CAISO, Tariff Amendment to Implement Summer 2021 Market Enhancements, Summer 2021 Tariff Amendment Transmittal Letter, Docket No. ER21-1536-000 (March 26, 2021).

¹¹ See generally CAISO Transmittal Letter.

¹² See e.g., Motion to Intervene and Protest of the Bonneville Power Administration, Docket No. ER21-1790 (May 19, 2021); Notice of Intervention and Protest of the Arizona Corporation Commission, Docket No. ER21-1790 (May 19, 2021); Protest of Powerex Corp., Docket No. ER21-1790 (May 19, 2021).

As explained in more detail in these comments, Joint Commenters, do not believe that the intention of the Filing is to elevate CAISO LSE's to a higher priority than non-CAISO LSE's. Joint Commenters do not take a position as to whether it does so inadvertently or whether it unjustly and unreasonably disrupts existing business relationships. The Joint Commenters are confident that the FERC can determine these issues through the evidence presented in this docket.

Joint Commenters acknowledge the legitimate concerns and interests of all affected parties in this proceeding. However, more importantly, as it relates to “existential” concerns for the continued progress of grid integration and market enhancement efforts (i.e., Western EIM, Extended Day-Ahead Market (“EDAM”) or a future western Regional Transmission Organization (“RTO”), construct), the Joint Commenters do not believe that the issues raised in this proceeding necessarily poses an insuperable obstacle.

Instead, the Joint Commenters believe the Filing addresses a short-term, time-limited adjustment that will allow for extensive review of the longstanding issue of different methodologies used by CAISO and the non-CAISO transmission owners to allocate transmission capacity on their respective grids. The resolution of this and related issues are central to the progress of the EDAM stakeholder initiative and the potential development of a western RTO. CAISO's filing is a proposed temporary strategy for it to operate reliably through summer 2021. CAISO has not proposed this solution as a permanent remedy and has already commenced a stakeholder initiative – the External Load Forward Scheduling Rights Process workshop (“External Loads” stakeholder initiative)– to develop a more permanent solution.¹³ The Joint

¹³ CAISO, Initiative: *External Load Forward Scheduling Rights Process*, <https://stakeholdercenter.caiso.com/StakeholderInitiatives/External-load-forward-scheduling-rights-process> (July 13, 2021) (last visited May 27, 2021) [hereinafter External Loads Stakeholder Initiative].

Commenters recommend that all affected entities and stakeholders focus their attention to the EDAM and the External Loads stakeholders' initiatives.

The different methodologies for allocating transmission capacity create a true “seams” problem. If the solution to bridging this seam were simple, it would have been implemented by now. Although complex, the cost, reliability, and environmental benefits of a western RTO are too great to cast away over this methodological issue. It is important that the Commission keeps the end in sight – for a decarbonized western electric grid with a fully coordinated multi-state energy market –as parties navigate these issues.

1. What is a Wheel-Through Transaction?

In the parlance of CAISO's transmission tariff, a “Wheel-Through transaction” is the use of CAISO transmission system in which a supplying entity is transmitting power through an agreement with an external transmission owner to an interchange point with the CAISO controlled grid. The power then transits through the CAISO system to another interchange point where it flows into another external transmission owner's system. Within the context of the Wheel-Through provisions of the CAISO filing, this primarily refers to transactions where the source is generally located in the Pacific Northwest and the sink is in the Southwest. It is important to note that the Wheel-Through transactions referenced in this FERC filing are not the same as wheel-through transactions referred to in the quarterly EIM Benefits reports, which are transfers initiated in the EIM and are not self-scheduled transfers.¹⁴ The Wheel-Through transactions of this FERC filing are separate from and not a part of the EIM.

¹⁴ CAISO, Western EIM Benefits Report: *First Quarter 2021*, at 13, <https://www.westerneim.com/Documents/ISO-EIM-Benefits-Report-Q1-2021.pdf> (April 29, 2021) (last visited May 26, 2021).

2. Why has the Wheel-Through transaction become an issue?

Wheel-through transactions are common in the Western Interconnection, though outside of CAISO they are not generally referred to as wheel-throughs. Outside of CAISO, transmission owners have established the terms and conditions for use of their transmission system consistent with the pro-forma Open Access Transmission Tariff (“OATT”) or its equivalent arrangements established in FERC Order No. 888.¹⁵ Among other things, the pro-forma OATT provides for different types of transmission arrangements specifically allowing users to physically reserve capacity on the transmission system.¹⁶ Physical reservations in the pro-forma OATT system are called Point-to-Point (“PTP”) transactions and can come in varieties of firmness and duration.¹⁷

The CAISO’s proposed changes and original transmission tariff is not, however, founded on the basic pro-forma OATT framework.¹⁸ CAISO was the first independent system operator to implement a real-time energy market and consequently the use of the CAISO transmission system is determined through the CAISO’s Integrated Forward Market (“IFM”). It is not possible to physically reserve transmission capacity in the CAISO system, rather a scheduled request to transmit power through the CAISO system is cleared through the IFM. If the transaction cannot be cleared via the IFM, then the transaction is curtailed.

¹⁵ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996) [hereinafter Order No. 888], *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

¹⁶ Order No. 888, Appendix D, Section II, *Point-To-Point Transmission Service*, <https://www.ferc.gov/sites/default/files/2020-05/rm95-8-0aa.txt> (last visited May 27, 2021).

¹⁷ *Id.*

¹⁸ See e.g., *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 118 FERC ¶ 61,119, at ¶ 19 (2007), (Recounting the changes in load service and markets since the issuance of Order No. 888 as customers “took advantage of the *pro forma* OATT and purchased power from competitive sellers.”).

Wheel-Through transactions have to use both the CAISO system of clearing through the IFM for that portion of their transaction traversing CAISO and the pro-forma OATT processes of physically reserving transmission capacity outside the CAISO system. This arrangement works well enough under normal operating conditions. However, the Wheel-Through transactions provisions that the Filing is trying to address pertains uniquely to what happens when the system encounters tight operating conditions, as it did in August and September 2020.

3. What problems occur for Wheel-Through transactions in tight conditions?

When system conditions are tight, i.e. the transmission system cannot accommodate all of the requests to use the transmission system, the system operator may have to resort to curtailing usage of the system. To do this, the system operator needs a methodology that establishes the priority of requests to use the system, and allocates curtailments from lowest priority requests (i.e. first to be curtailed) to highest priority requests.

Transmission systems that are operated under the pro-forma OATT utilize the NERC Transmission Service Reservation Priority methodology.¹⁹ That methodology puts firm PTP transactions and transmission supporting load-serving entities (LSE) within the system as the highest priority transactions.

CAISO, on the other hand, uses a system of “penalty prices” to compute a hypothetical cost-of-not-serving in the IFM, and awards highest priority to the requests that have the highest cost-of-not-serving.²⁰ The August 2020 root-cause analysis revealed that, under the CAISO’s “penalty price” mechanism, Wheel-Through transactions would be given a priority higher than

¹⁹ See North American Electric Reliability Corp. (NERC), Transmission Loading Relief (TLR) Procedures – TLR Levels, <https://www.nerc.com/pa/rrm/TLR/Pages/TLR-Levels.aspx> (last visited May 26, 2021).

²⁰ See CAISO, Penalty Prices and Scheduling Priorities in CAISO Market, <http://www.caiso.com/InitiativeDocuments/Presentation-PenaltyPrices-SchedulingPriorities-CAISOMarkets-Nov20-2020.pdf> (Nov. 20, 2020) (last visited May 27, 2021).

transmission supporting CAISO LSE's, even though some of those Wheel-Through transactions might not be supported with firm PTP transactions outside of CAISO.²¹

CAISO states that this creates an inequity by curtailing CAISO loads before *non-firm (i.e. curtailable)* transactions serving loads outside of CAISO.²² It should be noted that CAISO states that this situation was not a significant factor in the August 2020 controlled outages, but that they expect more Wheel-Through transactions in Summer 2021 and believe that the inequity in the CAISO priority methodology needs to be corrected so that CAISO loads are treated as highest priority in a curtailment situation on a comparable priority with LSE's outside of CAISO.²³

4. What is CAISO proposing through the FERC ER21-1790-000 tariff filing?

CAISO proposes to classify Wheel-Through transactions as either Priority Wheel-Through transactions or Non-Priority Wheel-Through transactions.²⁴ Simply put, in tight conditions where curtailing usage of the system is required, Priority Wheel-Through transactions will be afforded the same priority as CAISO LSE's, meaning they will be curtailed last as the highest priority transactions of the system. Non-priority Wheel-Through transactions would be curtailed earlier in the process.

In essence, CAISO is proposing to create a category of Wheel-Through transactions that are analogous to the firm PTP transactions in non-CAISO systems that receive the highest priority along with CAISO LSE's. As per the Filing, Priority Wheel-Through transactions will be

²¹ See CAISO, Tariff Amendment to Implement Market Enhancements for Summer 2021 – Load, Export, and Wheeling Priorities, Attachment H, Docket No. ER21-1790-000 (Apr. 28, 2021); CAISO Board of Governors Meeting, Decision on Market Enhancements for Summer 2021 Readiness – Export, Load, and Wheeling Priorities, <http://www.caiso.com/Documents/Decision-Market-Enhancements-Summer-2021-Readiness-load-export-wheeling-priorities-Presentation-Apr-21-2021.pdf> (Apr. 21, 2021) (last visited May 27, 2021).

²² CAISO Transmittal Letter at 7–8.

²³ *Id.* at 6–7.

²⁴ *Id.*

qualified on a calendar month basis, and to be eligible for the classification, the transaction must meet three criteria:

1. There must be a *firm* power supply contract to serve the load external to CAISO for the entire calendar month.
2. There must be a monthly *firm* PTP transmission agreement from the point of receipt to the CAISO boundary for the hours of 07:00 to 22:00, Monday through Saturday, excluding NERC holidays.
3. The scheduling coordinator must confirm that the Wheel-Through transaction meets the first two criteria at least 45 days prior to the calendar month for which priority status is being requested.²⁵

5. What are the concerns that non-CAISO entities have with these criteria?

The fundamental concerns of non-CAISO entities seems to be whether the criteria for Priority Wheel-Through transactions will put CAISO LSE's at a priority higher than non-CAISO LSE's.²⁶ CAISO itself states that the proposal puts CAISO and non-CAISO LSE's on a comparable basis.²⁷ However, some non-CAISO entities express the view that the eligibility criteria for Priority Wheel-Through transactions are a higher hurdle to pass than the criteria that CAISO LSE's must themselves demonstrate for their firm supply resources (i.e., Resource Adequacy capacity).²⁸ Therefore, non-CAISO entities claim this proposal effectively elevates CAISO LSE's to a higher priority than non-CAISO LSE's, which would be a violation of FERC Order 888 open access principles.²⁹

²⁵ CAISO, Tariff Amendment to Implement Market Enhancements for Summer 2021 – Load, Export, and Wheeling Priorities, Attachment A – Clean Tariff (June 28, 2021), at 2–3, Docket No. ER21-1790-000 (filed Apr. 28, 2021).

²⁶ See e.g., Motion to Intervene and Protest of the Bonneville Power Administration, Docket No. ER21-1790 (May 19, 2021); Notice of Intervention and Protest of the Arizona Corporation Commission, Docket No. ER21-1790 (May 19, 2021); Protest of Powerex Corp., Docket No. ER21-1790 (May 19, 2021).

²⁷ CAISO Transmittal Letter at 9.

²⁸ See e.g., Motion to Intervene and Protest of the Bonneville Power Administration at 6–7.

²⁹ See e.g., Motion to Intervene and Protest of the Bonneville Power Administration; Notice of Intervention and Protest of the Arizona Corporation Commission; Protest of Powerex Corp.

Non-CAISO entities have also complained that these criteria could disrupt existing business arrangements made with an expectation of the existing CAISO prioritization scheme.³⁰ While RTO's can and do make changes to their tariff, the presumption here is that this change is either too burdensome or too immediate with no grandfathering provision.

6. What is the timeline for FERC to make a decision on these proposals?

CAISO has requested FERC to expedite the process in order to implement these changes by July 1, 2021.³¹ In furtherance of that goal, CAISO is asking FERC for a decision by June 27, 2021,³² which is an extraordinarily tight timeframe for a FERC hearing – especially, for a contested one. In addition, CAISO is proposing that the provisions automatically expire as of June 30, 2022, limiting their applicability to one year.³³ In the interim, CAISO has commenced the External Loads stakeholder initiative to address the longer-term solutions to this seams issue and has scheduled an initial workshop for July 13, 2021.³⁴

C. Recommendations

1. Western Regulators and Commission Staff Should Participate In Upcoming Stakeholder Processes and Initiatives.

Whenever possible, western state regulators should participate in upcoming stakeholder initiatives. Certainly, western regulators and their staffs will want to stay apprised of the outcome of this specific FERC docket., but it is important to keep in perspective that CAISO's proposal is temporary and will expire at the end of June 2022, unless that is somehow changed by FERC. However, the Joint Commenters believe the more important discussion, about resolving the

³⁰ *See e.g., id.*

³¹ CAISO Transmittal Letter at 2.

³² *Id.* at 2.

³³ *Id.* at 65.

³⁴ External Loads Stakeholder Initiative.

Wheel-Through transaction and other related seams issues, will happen in the External Loads and EDAM stakeholder processes. Therefore, the Joint Commenters recommend that western regulators and their staffs participate in these initiatives to the extent reasonable and appropriate for their commission, regulated utilities, and ratepayer interests.

2. Western Regulators and Commission Staff Should Consider the Following Principles In Both ER21-1790-000 And The CAISO led External Loads Initiative.

The Joint Commenters believe that certain overarching principles should guide the Commission’s determination in this docket and the stakeholder dialogue in both the External Loads and EDAM initiative to be held at CAISO. These guidelines include:

- **More, not less, regional coordination will be required to manage exigent circumstances among western balancing authority areas (“BAAs”).** More regional coordination, *independent of transmission ownership*, will be required to manage energy transactions more economically and improve system reliability. The future requires more “sharing of assets” not less.
- **Reconvene the EDAM stakeholder initiative in tandem with the External Loads initiative.** These stakeholder initiatives, which are not constrained by the commencement of the summer of 2021, will provide the time necessary to develop durable solutions, amenable to a consensus of stakeholders, regarding these methodological differences in transmission system usage.
- **More demand-side options in western markets will reduce the need for curtailments.** Given the results of the California root cause analysis and other recent studies, it is important to emphasize the value of additional demand side options and load flexibility to reduce congestion during high-stress conditions and avoid the need for involuntary curtailment. The situations being addressed in this FERC docket apply only to extreme operating situations – the fewer extreme situations, the less these seam differences will matter.
- **A western regional transmission organization is a keystone to overall western resource adequacy.** A western regional market and transmission control framework that incorporates the following characteristics:
 - Enables independent transmission planning, control and provision;
 - Sponsors independent planning for reliability and transmission investment and cost recovery;
 - Focuses market operations on improving regional economic efficiency and sector productivity;

- Encourages more demand side and load flexibility; and
- Provides attention to coordinated and consistent reliability solutions is essential for an affordable and reliable grid in a future dominated by decarbonized resources.

III. CONCLUSION

The Wheel-Through transactions proposal filed by CAISO in this docket will address a fundamental difference in methodologies used by the CAISO and non-CAISO transmission owners to allocate available transmission capacity on their transmission systems during tight system conditions. The Joint Commenters urge western regulators, their staffs, and policy advisors in western states to consider the underlying circumstances of the request by CAISO of FERC. The Joint Commenters also encourage regulators to re-engage with each other and find common ground on these and other difficult market design and resource planning issues, that can incentivize increased regional cooperation and ensure a reliable grid into the future. For the foregoing reasons, WRA respectfully requests that the Commission consider this Motion and Comments in the captioned proceeding.

Respectfully submitted,

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May 27, 2021

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, I hereby certify that I have this day caused a copy of the foregoing document to be served to the service list established by the Secretary in this proceeding.

Dated in Boulder, Colorado this 27th day of May, 2021

/s/ Ellen Howard Kutzer
Ellen Howard Kutzer