120 FERC ¶ 61,023
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator Corporation Docket Nos. ER07-869-000
ER07-475-000
ER07-475-001
ER06-615-001

ORDER CONDITIONALLY ACCEPTING TARIFF PROVISIONS, SUBJECT TO MODIFICATION, AND GRANTING IN PART AND DENYING IN PART REHEARING

(Issued July 6, 2007)

1. In this order, we conditionally accept, subject to modification, proposed revisions to the California Independent System Operator Corporation's (CAISO's) Market Redesign and Technology Upgrade (MRTU) Tariff provisions related to short-term financial transmission rights (referred to herein as short-term congestion revenue rights (CRRs)), to become effective on July 9, 2007. We also conditionally accept, subject to modification, proposed revisions to the MRTU Tariff to implement long-term firm transmission rights (LTTRs) (also referred to herein as long-term CRRs), to become effective on July 9, 2007. The CAISO's LTTRs proposal was filed in compliance with the Commission's Final Rule regarding Long-Term Firm Transmission Rights in Organized Electricity Markets.[1] We also grant in part and deny in part the requests for rehearing on LTTR issues that were raised in Docket No. ER06-615-001.

[1] *Long-Term Firm Transmission Rights in Organized Electricity Markets*, Order No. 681, 71 Fed. Reg. 43,564 (Aug. 1, 2006), FERC Stats. & Regs. ¶ 31,226 (Final Rule), *order on reh'g*, Order No. 681-A, 117 FERC ¶ 61,201 (2006) (Final Rule Rehearing Order).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Table of Contents

Background 3
Filings 4
Notices of Filings and Responsive Pleadings 8
Discussion 9
A. Procedural Matters 9
B. Compliance with Final Rule Guidelines 9
1. Guideline 1 10
2. Guideline 2 17
3. Guideline 3 21
4. Guideline 4 27
5. Guideline 5 36
a. Quantity of Long-Term CRRs Released to LSEs in Year One: Transmission Capacity Available and 50 Percent Cap 37
b. Historical Reference Period 48
c. Placement of Tier LT in Tier Allocation Sequence 54
d. Access of Small LSEs to Long-Term CRRs 55
e. Scheduling Priority for LSEs with Long-Term CRRs 58
f. Access of External LSEs to Long-Term CRRs 59
g. Assignment of Residual Long-Term CRRs to LSEs and non-LSEs 67
6. Guideline 6 69
a. Method to Track and Reallocate Long-Term CRRs Due to Load Migration 70
b. Reassignment of Long-Term CRRs Due to Load Migration 71
7. Guideline 7 74
8. Miscellaneous Issues 75
a. Transmission Planning and Expansion 75
b. Alternative Designs for LTTRs: Options vs. Obligations 76
c. Exemption of Long-Term CRRs from Marginal Losses 79
d. Schedule for Unresolved Issues 80
e. Testing and Simulation of Simultaneous Feasibility Test, Limited Second CRR Dry Run and Future Evaluation of LTTR Proposal 81
LTTR Issues Raised on Rehearing of MRTU Order 83
A. Financial Rights' Equivalency with Physical Rights 84
B. CRRs' Combined Physical and Financial Rights 88
C. Infrastructure Investment 90
D. Timing of Implementation of LTTRs 92

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

E. Interim Use of Physical Rights 93
F. Priority for LSEs with long-term contracts 96
G. Treatment of External LSEs 97
H. Provision of LTTRs 99

Transfer of CRR Provisions from Business Practice Manuals to the MRTU Tariff..... 100

Background

2. On February 9, 2006, in Docket No. ER06-615-000, the CAISO filed its proposed MRTU Tariff that provided for seasonal and monthly transmission rights called short-term CRRs. On September 21, 2006, the Commission issued an order that conditionally accepted the short-term CRR tariff provisions, subject to modification.[2] On April 20, 2007, the Commission issued an order on rehearing of the September 21, 2006 Order, in which it directed further modifications to the proposed short-term CRR tariff provisions.[3]

3. Separately, on July 20, 2006, the Commission issued the Final Rule, which, consistent with the Energy Policy Act of 2005 (EPAct 2005),[4] required independent transmission organizations that oversee organized electricity markets to make LTTRs available that satisfy seven guidelines.[5] On November 16, 2006, the Commission issued an order on rehearing of the Final Rule, which required the CAISO to submit its LTTRs proposal with the Commission by the January 29, 2007 deadline set forth in the Final Rule.[6] On January 29, 2007, as amended on February 2, 2007, in Docket Nos. ER07-475-000 and ER07-475-001, the CAISO submitted its proposal to implement long-term CRRs under the MRTU Tariff.

---

[2] *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274 at P 704-873 (2006) (MRTU Order), *order on reh'g*, 119 FERC ¶ 61,076 (2007) (MRTU Rehearing Order).

[3] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 348-411.

[4] Pub. L. No. 109-58, § 1233, 119 Stat. 594, 958 (2005). Section 217(b)(4) of EPAct 2005 directed the Commission to use its authority to facilitate transmission planning and expansion to meet the reasonable needs of load serving entities (LSEs) with respect to meeting their service obligations and, relevant to this filing, securing LTTRs for long-term supply arrangements made, or planned, to meet such obligations. *Id*.

[5] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 108-428; Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 12-15.

[6] Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 116.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

4. On May 7, 2007, in Docket No. ER07-869-000, the CAISO amended its LTTR proposal as well as several short-term CRR tariff provisions previously conditionally accepted by the Commission. The CAISO requests an effective date of July 9, 2007 for the long-term and short-term CRR tariff provisions.

Filings

Long-term CRR Proposal

5. The CAISO's LTTRs proposal is an extension of the short-term CRR design under the MRTU Tariff, which was conditionally accepted by the Commission in the MRTU Order.[7] Short-term CRRs have terms of less than a year. They consist of monthly CRRs, which have a term of one month and are differentiated by time-of-use periods (*i.e.*, on-peak or off-peak), and seasonal CRRs, which have a term of three months and are differentiated by time-of-use period for each day within a season. The CAISO now proposes to provide long-term CRRs, with renewable terms of 10 years,[8] to LSEs at the start of the MRTU markets, currently scheduled for January 31, 2008.

6. The CAISO will use nomination tiers to allocate CRRs. In each tier, an LSE will be allowed to nominate a percentage of the total amount of CRRs it is eligible to request. The CAISO then will run a simultaneous feasibility test on all nominated CRRs to determine the feasible CRRs that it can award. Upon making this determination, the CAISO will notify LSEs whether or not their CRR nominations are feasible. LSEs will use this information to decide which CRRs to nominate in the next CRR tier. Running separate, simultaneous feasibility tests for each tier allows LSEs to maximize their chances of receiving the CRRs they value most.[9]

---

[7] *See* MRTU Order, 116 FERC ¶ 61,274 at P 730. The CAISO is in the midst of a comprehensive overhaul of its market design known as "MRTU." The Commission conditionally accepted, subject to further modification, the CAISO's MRTU Tariff implementing this new market design, effective November 1, 2007. *Id.* The CAISO has subsequently changed the MRTU implementation date to January 31, 2008.

[8] The long-term CRRs may have a nine-year term under the alternative the CAISO proposes for renewing expiring long-term CRRs, ETCs and converted rights. *See* further discussion under Guideline 4.

[9] *See generally* MRTU Order, 116 FERC ¶ 61,274 at P 706-715 (providing background on use of tier process under MRTU).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

7. The short-term CRR allocation process, conditionally accepted by the Commission, has three tiers. In order to nominate short-term CRRs in Tiers 1 and 2, the requested CRR must be source verified. The source verification process requires an LSE to demonstrate that, during a historical reference period, the LSE was entitled to receive energy from the nominated sources to serve its demand.

8. Tier 3 short-term CRR nominations are only limited by each LSE's grid usage; they are not source verified. After the first year of MRTU, the CAISO proposes to replace the source verification process used in Tiers 1 and 2 with a priority nomination process. Under the priority nomination process, LSEs can nominate some of the same CRRs they were allocated in the prior years.[10]

9. To allocate the long-term CRRs, the CAISO proposes to introduce a new allocation tier (Tier LT) in the CRR allocation process, which will immediately follow the source verified tiers (*i.e.*, Tiers 1 and 2) in the first year of MRTU and the priority nomination process in the second year of MRTU and beyond. Therefore, in the first year of MRTU, the CAISO proposes to allocate only long-term CRRs that are source verified. The CAISO explains that Tier LT will provide LSEs that have been awarded short-term CRRs in prior tiers with an opportunity to nominate and receive long-term CRRs for their eligible load. The CAISO proposes to limit long-term CRR nominations to 50 percent of an LSE's adjusted load metric.[11]

10. The CAISO argues that it is beneficial to embed the Tier LT in the existing structure because the allocation of long-term CRRs will be based on the annual allocation of seasonal CRRs and thus maintain their seasonal and time-of-use characteristics. The

---

[10] *See* MRTU Tariff section 36.8.3.5(a).

[11] The adjusted load metric consists of the LSE's load metric minus any MWs of load covered by existing transmission contracts (ETCs), converted rights, and transmission ownership rights (TORs). MRTU Master Definition Supplement, App. A. The load metric is the basis of an LSE's load eligible for CRR allocation and is calculated as the level of load for a defined time period that is exceeded in only 0.5 percent of the hours of that time period based on historical or forecast load data. *Id*.

Converted rights refer to those contractual rights and transmission facilities that were turned over to CAISO control subsequent to the initial start up of the CAISO. *See* MRTU Order, 116 FERC ¶ 61,274 at P 913 & n.377. TORs are existing contracts that establish joint ownership or direct ownership of transmission facilities that are within the CAISO Control Area and have not been turned over to CAISO operational control. *See Id*. n.412.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

CAISO states that, like short-term CRRs, long-term CRRs will be obligations and each will have a specific source, sink and MW quantity.[12] Additionally, like short-term CRRs, long-term CRRs are differentiated by season and time-of-use period (*i.e.*, on-peak or off-peak). Thus, each long-term CRR applies to a single season and time-of-use combination for a 10-year period. The CAISO states that the season and time-of-use specifications are features broadly favored by stakeholders.

11. The CAISO states that long-term CRRs will be allocated based on the transfer capacity of the grid as it exists when nominations are submitted to the CAISO. Each long-term CRR that is allocated will be feasible for a 10-year period over the transmission grid, which is modeled assuming a 60 percent reduction of its total capacity. The CAISO contends that a primary reason for reducing the grid's capacity during the simultaneous feasibility test is to ensure that binding constraints occurring in Tier LT do not adversely impact the allocation of seasonal CRRs in future years.

12. The CAISO proposes two options for renewing long-term CRRs and converting expiring ETCs and converted transmission rights to long-term CRRs. Either an LSE can nominate a long-term CRR corresponding to the expiring transmission right upon expiration of the right, or an LSE with an expiring right can participate in the nomination process one year prior to the expiration of the right. The CAISO states that this second option will allow holders of expiring rights to compete on an equal basis with other LSEs the first time such capacity becomes available.

Other Proposed Tariff Provisions Affecting Short-Term and/or Long-Term CRRs

13. The CAISO proposes changing the historical reference period for the source verification of short-term CRRs from the previously accepted period of September 1, 2004 to August 31, 2005 to calendar year 2006. The CAISO also proposes tariff language to extend full funding to short-term CRRs.

[12] If congestion costs are negative, "obligation" CRRs require the CRR holder to make a payment. In contrast, "option" CRRs grant the right to collect positive congestion revenues and do not impose an obligation to pay negative congestion revenue.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

14. As a result of problems with CRRs sourced at trading hubs that were identified in the CRR dry run,[13] the CAISO proposes modifications to its process for awarding short-term CRRs sourced at trading hubs. The CAISO also proposes a process for awarding long-term CRRs sourced at trading hubs intended to avoid the problems identified in the CRR dry run.

15. The CAISO also proposes tariff provisions to respond to the Commission's directive in the MRTU Rehearing Order to permit external LSEs (*i.e.*, LSEs serving load located outside the CAISO Control Area) to obtain short-term CRRs associated with historic wheel-through transactions on a similar basis as LSEs serving load within the CAISO Control Area.[14] Additionally, in response to the Commission's directive in the MRTU Rehearing Order,[15] the CAISO proposes tariff provisions that allow an external LSE to prepay its annual wheeling access charge on a monthly basis for short-term CRRs.

16. In response to the Commission's directive in the MRTU Order,[16] the CAISO proposes tariff provisions to implement the CRR allocation methodology for merchant transmission projects. Finally, in response to stakeholder comments, the CAISO proposes moving some CRR information from the CRR Business Practice Manual into the MRTU Tariff.

---

[13] Between July 2006 and January 2007, the CAISO conducted the CRR dry run that allowed the CAISO and market participants to perform, on a non-binding market simulation basis, a complete sequence of activities for the allocation or auction of short-term CRRs based on the rules specified in the MRTU Tariff. *See* CAISO May 7, 2007 Transmittal Letter, Docket No. ER07-869-000, at 4. The CAISO states that the CRR dry run provided illustrative allocations and awards of short-term CRRs to LSEs and identified potential problems with the filed rules and procedures that required modifications to the MRTU Tariff. *Id*.

[14] *See* MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 368, 379.

[15] *Id*. P 368, 378.

[16] *See* MRTU Order, 116 FERC ¶ 61,274 at P 873.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Notices of Filings and Responsive Pleadings

Docket Nos. ER07-475-000 and ER07-475-001

17. Notices of the CAISO's filing in Docket Nos. ER07-475-000 and ER07-475-001 were published in the *Federal Register*, 72 Fed. Reg. 5,695 and 72 Fed. Reg. 7,024 (2007), with protests and interventions due on or before February 23, 2007.

18. California Electricity Oversight Board (CEOB); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (Constellation); Coral Power, L.L.C.; Dynegy Power Marketing, Inc.; Golden State Water Company (Golden State Water); NRG Power Marketing Inc., Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC and Long Beach Generation LLC; and Williams Power Company, Inc. (Williams Power) filed timely motions to intervene.

19. Alliance for Retail Energy Markets (AReM); California Department of Water Resources State Water Project (SWP); California Municipal Utilities Association (CMUA); Calpine Corporation (Calpine); Cities of Anaheim, Azusa, Banning, Colton, Pasdena and Riverside, California (Six Cities); City of Santa Clara, California (Santa Clara); Cogeneration Association of California and the Energy Producers and Users Coalition (CAC/EPUC); DC Energy, LLC (DC Energy); Imperial Irrigation District (Imperial); the M-S-R Public Power Agency (M-S-R); Metropolitan Water District of Southern California (Metropolitan); Modesto Irrigation District (Modesto); Northern California Power Agency (NCPA); Pacific Gas and Electric Company (PG&E); Powerex Corp. (Powerex); Sacramento Municipal Utility District (SMUD); San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SoCal Edison); Transmission Agency of Northern California (TANC); and Western Power Trading Forum (WPTF) filed timely motions to intervene and comments and/or protests. SMUD also filed a request for evidentiary hearing. The California Public Utilities Commission (CPUC) filed an untimely motion to intervene and comments. The CAISO, NCPA, Powerex, SoCal Edison and SWP filed answers. Modesto and TANC filed answers to the CAISO's answer. TANC filed an answer to SoCal Edison's answer.

20. SMUD filed a motion for partial summary disposition. Modesto filed a motion in support. The CAISO, PG&E and SoCal Edison filed motions in opposition. PG&E also filed a request for clarification. SMUD filed an answer to the motions in opposition.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Docket No. ER07-869-000

21. Notice of the CAISO's filing in Docket No. ER07-869-000 was published in the *Federal Register*, 72 Fed. Reg. 28,486 (2007), with protests and interventions due on or before May 29, 2007.

22. CEOB, Constellation, Six Cities, TANC, Western Area Power Administration and Williams Power filed timely motions to intervene. The CPUC filed a notice of intervention, comments and protest. AReM; Golden State Water; Imperial; Modesto; M-S-R and Santa Clara, jointly; NCPA; Powerex; SDG&E; SMUD; SoCal Edison; SWP and WPTF filed timely motions to intervene and comments and/or protests. The CAISO, the CPUC, Powerex, SDG&E, SMUD and SoCal Edison filed answers. The CAISO also filed an answer to Powerex's answer.

Discussion

A. Procedural Matters

23. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceedings in which they moved to intervene. We will grant the CPUC's unopposed, untimely motion to intervene in Docket Nos. ER07-475-000 and ER07-475-001 given its interest in this proceeding, the early stage of this proceeding and the absence of any undue prejudice or delay.

24. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept the CAISO's answer in Docket Nos. ER07-475-000, ER07-475-001 and the CAISO's initial answer in Docket No. ER07-869-000 because they have provided information that assisted us in our decision-making process. We are not persuaded to accept the answers of Modesto, NCPA, Powerex, SMUD, SoCal Edison, SWP, and TANC in Docket Nos. ER07-475-000 and ER07-475-001, the answers of the CPUC, Powerex, SDG&E, SMUD and SoCal Edison in Docket No. ER07-869-000, or the CAISO's answer to Powerex's answer in Docket No. ER07-869-000 and will, therefore, reject them.

B. Compliance with Final Rule Guidelines

25. The Final Rule established seven guidelines that each transmission organization must satisfy to comply with the Final Rule and EPAct 2005. The Final Rule gives

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

transmission organizations flexibility in the manner in which they satisfy the guidelines. We assess below the CAISO proposal's compliance with these guidelines.

1. Guideline 1

> The [LTTR] should be a point-to-point right that specifies a source (injection nodes or node) and sink (withdrawal node or nodes), and a quantity (MW).

26. Guideline 1 is intended to support LSEs' ability to obtain point-to-point LTTRs that will hedge delivery of power from particular long-term power supply arrangements to load. The Commission noted that Guideline 1 is largely consistent with existing designs (*i.e.*, point-to-point transmission rights) already in place in the organized electricity markets operated by transmission organizations.[17]

27. Not all long-term power supply arrangements are sourced at particular generators; moreover, withdrawals by load are often settled on a zonal basis. Hence, the Final Rule further clarified that LTTRs could be specified upon request to support rights from trading hubs or zones,[18] which are essentially a set of nodes on the system with distribution of weighted injections (trading hubs) or withdrawals (zones).

a. Proposal

28. The CAISO states that, under its proposal, all long-term CRRs will have a specified source, sink, and quantity and that no tariff changes are needed to comply with this guideline. The CAISO explains that these specifications are set forth in MRTU Tariff sections 36.2 and 36.3.

29. Previously, the CAISO had proposed to allow trading hubs to be designated as sources for short-term CRRs under MRTU, and, in the MRTU Order, the Commission accepted this proposal.[19] In its initial LTTR filing in Docket Nos. ER07-475-000 and ER07-475-001, the CAISO did not similarly propose to provide trading hub-sourced long-term CRRs because the CAISO encountered a problem during its CRR dry run.

---

[17] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 116.

[18] *See Id*. P 117. For example, an LTTR for 100 MW from a hub to a load would require that the 100 MW injection at the hub is spread over the hub nodes according to some weighting, such as 5 MW at hub node 1, 10 MW at hub node 2, etc.

[19] *See* MRTU Order, 116 FERC ¶ 61,274 at P 711.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Specifically, the CAISO found that the rule for pro-rationing eligible nominations on over-subscribed transmission facilities favored trading hub-sourced CRRs over non-trading hub sourced CRRs (also called nodal CRRs). The CAISO explains that, when a transmission constraint associated with a nodal CRR becomes binding in the simultaneous feasibility tests, two phenomena occur.[20] First, nodal CRR nominations are likely to be prorated prior to the CRR nominations from trading hubs because the proration algorithm reduces first the nominations most effective at relieving the binding constraint. In this regard, nodal CRR nominations tend to be more effective than hub-sourced CRRs nominations at relieving common constraints.[21] Second, once such a constraint becomes binding, no additional trading hub CRRs can be allocated unless the nominated CRR has no effect on the binding constraint.[22]

30. In its amended filing in Docket No. ER07-869-000, the CAISO proposes a solution that would permit the nomination of short-term and long-term CRRs sourced at trading hubs. After considering stakeholders' comments, the CAISO proposes disaggregating CRR nominations sourced at trading hubs for CRR allocation purposes into nodal CRRs that make up each trading hub based on the weighting factors used to establish the trading hub. The CAISO contends that this proposal eliminates the problem identified in the CRR dry run because the simultaneous feasibility tests do not have trading hubs nominations; they only have individual nodal CRR nominations sourced at either generator pricing nodes or interties.

31. The CAISO states that, in the stakeholder process, it identified and discussed three drawbacks to the disaggregation of CRR nominations. First, a bundle of nodal CRRs will not perfectly match the composition of the trading hub; therefore, the settlement of the bundle will not exactly offset the day-ahead market congestion charges for an energy schedule of the same number of MWs from the trading hub to the load location.[23] Second, a design feature of the system that tracks CRR awards and holdings limits the MW granularity of CRRs to tenths of a MW; therefore, while the simultaneous feasibility test carries out the calculations to ample decimal places, the tracking system will round off to zero any results that are less than 0.05 MW.[24] The CAISO states that as a result of

---

[20] *Id*.

[21] *Id*.

[22] *Id*.

[23] CAISO May 7, 2007 Filing, Docket No. ER07-869-000, Exh. ISO-1 at 20 (Kristov May 2007 Testimony).

[24] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

this limitation an LSE that nominates trading hub CRRs may not receive as many CRRs as it nominates, even if there are no binding constraints and every component of the unbundled trading hub clears the simultaneous feasibility test.[25] The CAISO states that it can eliminate this limitation by the second year of the CRR allocation process.[26] The CAISO claims that, in general, stakeholders felt that this drawback was an acceptable tradeoff for the benefits of the disaggregation approach, as long as the CAISO implemented greater granularity in the second year.[27] Third, starting in the second year, LSEs that were allocated nodal CRRs as a result of the disaggregation approach will be able to pick which nodal CRRs they want to renew in the priority nomination process. LSEs may want to hold the most valuable nodal CRRs and not renew others.[28] The CAISO states that this cherry-picking is unavoidable with unbundling because it would be difficult to accurately track which CRRs in an LSE's holdings are linked back to first-year trading hub nominations when the LSE had a mixed portfolio of verified CRR sources in the first year.[29] The CAISO states that stakeholders felt this drawback was acceptable given the other advantages of the disaggregation approach.[30]

b. <u>Comments</u>

32. The CPUC supports the disaggregation approach because it maximizes the availability of CRRs to market participants consistent with the Final Rule and provides market participants with a reasonably accurate hedge against their congestion risk in transmitting energy from sources at or near trading hubs. The CPUC states, however, that, although the proposed approach appears to be the best option, experience could reveal further unanticipated negative effects. Therefore, the CPUC suggests that, if the implementation of MRTU is delayed beyond the current start-up date, the CAISO should conduct another dry run to test the modified methodology prior to the allocation of long-term CRRs.

33. AReM supports the CAISO's proposal but recommends a refinement. AReM contends that the disaggregation of trading hub CRRs will limit the ability of LSEs to

---

[25] *Id*. at 21.

[26] *Id*.

[27] *Id*.

[28] *Id*.

[29] *Id*. at 21-22.

[30] *Id*. at 22.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

trade their trading hub CRRs in the market. AReM argues that this limitation may be acceptable for a short time for seasonal CRRs but will be problematic for long-term CRRs. AReM requests that the Commission direct the CAISO to develop, within 12 months after MRTU implementation, software to assist LSEs to reconstitute all the price nodes to create an equivalent to the trading hub CRR to allow easy trading of trading hub CRRs.

34. Golden State is concerned that it will not receive sufficient CRRs under the disaggregation proposal due to the rounding error identified by the CAISO. Golden State contends that the CAISO has not explained why it cannot fix the problem until after the first year allocation process. Golden State requests that the Commission require the CAISO to fix the software problem by a firm deadline and to report on the status of its solution in the periodic status reports the CAISO files with the Commission. Golden State adds that there is no reason to perpetuate the first year rounding errors in the nominations and allocations in later years. Therefore, Golden State requests that, once the CAISO has fixed its software, the Commission require the CAISO to re-run the first year allocations without the rounding errors and allow LSEs to use these corrected CRR allocations for the nominations in the second year priority nomination process.

35. SWP does not support the disaggregation proposal because it presents additional unresolved and potentially significant problems due to the mismatching inevitably resulting from this process. SWP also claims that, although the MRTU Tariff mentions that CRRs are financial tools that will match sources and sinks, the MRTU Tariff fails to specify that the sources and sinks should be matched evenly. SWP contends that there is no empirical evidence that the disaggregation approach will resolve the problems with hub-sourced CRRs. SWP argues that, if the CAISO had used SWP's proposal of matching the sources and sinks evenly for the entire yearly CRR allocation, which was tested in the sensitivity run, then the shortage of allocated CRRs from trading hub to load points would have been fixed for all tiers. SWP complains that the CAISO has not explained why it chose the untested disaggregation solution over SWP's proposal.

36. Imperial does not protest the disaggregation proposal. Imperial protests that the CAISO has not extended to external LSEs the same flexibility that it has given internal LSEs to nominate a trading hub as the source for CRRs by providing source verification as proof of purchase of power at the relevant trading hub. Imperial contends that external LSEs contribute to offsetting the embedded cost of the CAISO transmission system by paying the wheeling access charge when exporting energy to serve their external load. Imperial claims that permitting external LSEs to nominate trading hubs as CRR sources may benefit the system because the external LSEs will provide counter flows that relieve CRR hub congestion and the CAISO will gain a more accurate representation of the use of the grid, which could result in the release of more CRRs. Imperial requests that the

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Commission direct the CAISO to amend the MRTU Tariff to designate trading hubs as an eligible CRR source for external LSEs or, alternatively, reject any proposal that does not permit external LSEs to source CRRs from trading hubs.

37. SMUD notes that, despite the CAISO's stated intention to treat external and internal LSEs the same and the Commission's directive in that regard, some provisions of the MRTU Tariff appear to treat external LSEs differently with respect to the use of trading hubs as verified sources. Therefore, SMUD requests that the Commission direct the CAISO to clarify MRTU Tariff sections 36.8.3.1.1, 36.8.3.2(b), 36.8.3.4 and 36.9.1 to confirm that external LSEs, like internal LSEs, are eligible to use trading hubs as verified sources to obtain CRRs.

38. In its June 14, 2007 answer, the CAISO states that SWP's proposal is very similar to another option for addressing the hub-sourced CRR issue that the CAISO initially recommended but was not preferred by stakeholders and was eventually abandoned. The CAISO explains that both of these options would limit the quantity of CRR nominations an LSE can submit from any particular source.[31] In response to AReM, the CAISO notes that there already exist a significant number of post-MRTU start-up enhancements that have been identified as candidates for possible implementation at a later date. The CAISO states that it can commit, at this time, to include AReM's suggestion on the candidate list of post-MRTU Release 1 CRR enhancements that will be prioritized through the stakeholder process at a later date.

39. In response to Golden State, the CAISO notes that, although the MW rounding feature can result in the LSE that nominates hub-sourced CRRs receiving fewer CRRs than it nominated even in the absence of binding constraints, the LSE will have the opportunity to make up for this result in subsequent tiers of the allocation process. The CAISO explains that the granularity limit and rounding conventions do not reduce the LSE's overall eligibility for CRRs; they only affect how many CRRs the LSE gets back from the trading hub nomination. Therefore, the CAISO states that, even if the LSE only has trading hubs as verified sources to nominate in Tiers 1-2 of year one, the LSE can still choose in Tier 3 to nominate non-trading hub CRRs and obtain sufficient CRRs to complete its full seasonal eligible MW quantity.

40. In response to SMUD and Imperial, the CAISO agrees that its proposal does not allow external LSEs to nominate CRRs with trading hub sources. The CAISO points out

---

[31] CAISO June 14, 2007 Answer, Docket No. ER07-869-000, Kristov Affidavit at 3.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

that this aspect of the MRTU design is consistent with the initial MRTU Tariff filing in Docket No. ER06-615-000. The CAISO states that, while its amended filing in Docket No. ER07-869-000 does modify the trading hub proposal, the proposal does not revisit or change the restriction on external LSEs using trading hubs as sources that was part of the original MRTU design. The CAISO argues that, if the Commission were now to decide in favor of SMUD's and Imperial's protest and grant external LSEs the ability to nominate hub-sourced CRRs, it should do so in a manner that is consistent with the rules for the annual showing of legitimate need for internal CRR sources.

c. Commission Determination

41. We conditionally accept the revisions to MRTU Tariff sections 36.2 and 36.3, subject to further compliance. Consistent with Guideline 1 of the Final Rule, the CAISO's proposed tariff provisions implement long-term CRRs that are specified by source, sink, and megawatt quantity.

42. We find that the CAISO's proposal to provide CRRs sourced at trading hubs is just and reasonable, with the exception of its treatment of external LSEs. We also find that the CAISO's proposal to provide CRRs sourced at trading hubs is generally supported by stakeholders and is expected to solve most of the problems encountered during the CRR dry run.[32] Disaggregating hub-sourced CRR nominations into individual nodal elements using appropriate weighting factors appears to be a sensible means of evaluating the feasibility of both trading hub and nodal sourced CRRs on a comparable basis. While we recognize that disaggregating hub-sourced CRRs into nodal CRRs before running the simultaneous feasibility test will not necessarily cover all congestion costs associated with CRRs sourced at the trading hub, the disaggregation methodology should cover the vast majority of the congestion costs.[33]

43. We agree with the CPUC and AReM that additional experience may indicate that further refinement is needed to the hub-sourced CRR proposal. However, the best experience will be obtained under MRTU operations, not through another CRR dry run. As stated above, the CAISO proposal is expected to solve most of the problems encountered during the CRR dry run and provides market participants with the ability to nominate hub-sourced CRRs. Accordingly, we find that the CAISO's hub-sourced CRR proposal is a just and reasonable resolution of the problem, and we will not require the CAISO to continue evaluating the proposal prior to the start-up of the MRTU markets.

---

[32] *See* Kristov May 2007 Testimony at 23.

[33] *See Id*. at 20.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

However, if experience under MRTU indicates that further refinements or another methodology may be desirable, we expect the CAISO to file to modify its tariff. Accordingly, we direct the CAISO to make a compliance filing within six months after the start of MRTU markets that explains whether the method of disaggregating hub-sourced CRRs continues to be an appropriate methodology for releasing hub-sourced CRRs and whether the CAISO intends to develop software consistent with AReM's request and, if so, its expected timeframe.

44. As for Golden State's concerns, we find that the CAISO has reasonably explained that it does not have sufficient time to correct the rounding feature before the allocation process begins in July 2007. Furthermore, the CAISO has explained that an LSE's eligibility for CRRs will not be reduced because an LSE can use the Tier 3 allocation process and request sufficient CRRs to complete its full seasonal eligible MW quantity. We also do not have evidence before us that would indicate that Golden State is disproportionately or unduly affected by the rounding feature that the CAISO has stated will occur in the first year. Accordingly, we will not direct the CAISO to re-run the first year allocations to adjust the rounding of CRRs. The CAISO states that it can eliminate this rounding limitation in the second year priority nomination process. If the CAISO is unable to correct the rounding limitation by the second year of MRTU, we direct the CAISO to make a compliance filing with the Commission within six months after the start of MRTU markets that explains why it was not able to make this modification.

45. In regard to SWP, we again recognize that, if the feasible set of disaggregated CRRs is different from the actual composition of the trading hub, the congestion hedge provided through the CAISO's proposal will not exactly match the congestion hedge requested in the CRR release process. As discussed above, we find this limitation is acceptable for the start of the MRTU markets. Finally, because we have found the CAISO's disaggregation proposal to be just and reasonable, we will not consider SWP's alternate proposal.[34]

---

[34] For a proposal to be acceptable, it need not be perfect nor even the most desirable; it need only be reasonable. *See New England Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990); *reh'g denied*, 54 FERC ¶ 61,055 (1991), *aff'd*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992); *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984), *cert. denied*, 469 U.S. 917 (utility need establish that its proposed rate is reasonable, not that it is superior to alternatives); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

46. Finally, as for the ability of external LSEs to nominate hub-sourced CRRs, we find that, upon meeting the requirements set forth in MRTU Tariff section 36.9, external LSEs should be permitted to nominate short-term and long-term, hub-sourced CRRs in the allocation process. There is no reason before us that would justify precluding external LSEs from making these hub-sourced CRR nominations while permitting other such nominations for internal LSEs. However, we emphasize that these nominations must be subject to the rules for the annual showing of legitimate need that apply to internal CRR sources. Accordingly, we direct the CAISO to make a compliance filing with the Commission, within 10 days of the date of this order, that provides external LSEs the opportunity to nominate hub-sourced CRRs in the CRR allocation process.

2. Guideline 2

> The [LTTR] must provide a hedge against locational marginal pricing [(LMP)] congestion charges or other direct assignment of congestion costs for the period covered and quantity specified. Once allocated, the financial coverage provided by a financial [LTTR] should not be modified during its term (the "full funding" requirement) except in the case of extraordinary circumstances or through voluntary agreement of both the holder of the right and the transmission organization.

47. Guideline 2 responds to the requirement in FPA section 217(b)(4) that LSEs with service obligations be able to obtain "firm" transmission rights or equivalent financial or tradable rights on a long-term basis. As stated in the Final Rule, the Commission interpreted "firmness" in the context of LTTRs to refer primarily to two properties of such rights: stability in the quantity of rights that an LSE is allocated over time; and an enhanced degree of "price certainty" for the rights, once they are allocated to an LSE, by requiring that they are fully funded. The Final Rule also encouraged transmission organizations to consider extending full funding to short-term transmission rights.[35]

a. Proposal

48. The CAISO states that it has revised MRTU Tariff section 11.2.4.4.1 so that it can fully fund long-term and short-term CRRs using the monthly clearing of the CRR balancing account.

---

[35] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 179.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

49. The CAISO proposes to distribute any surplus and charge any shortfall of revenues in the CRR balancing account to measured demand, which includes demand in the CAISO Control Area plus real-time exports. At the end of each month, any surplus revenue will be distributed to the Scheduling Coordinators in an amount equal to the revenue surplus times the ratio of each Scheduling Coordinator's measured demand divided by total measured demand for all Scheduling Coordinators. If the balance in the CRR balancing account is not sufficient to satisfy all revenue shortfalls for the month, the shortfalls will be recovered from Scheduling Coordinators in an amount equal to the revenue shortfall times the ratio of each Scheduling Coordinator's measured demand divided by the total measured demand for all Scheduling Coordinators. The CAISO states that, to minimize the possibilities of uplifts and to help support the full funding requirement, CRR auction revenues will flow into the CRR balancing account.

50. With respect to full funding in "extraordinary circumstances," the CAISO explains that, under MRTU Tariff section 36.2.8, full funding of both short-term and long-term CRRs will be suspended if: (1) a system emergency occurs as described in MRTU Tariff section 7.7.4; (2) an uncontrollable force event occurs as described in MRTU Tariff section 14; or (3) a Participating Transmission Owner (PTO) withdraws grid facilities from the CAISO controlled grid as addressed in MRTU Tariff section 36.8.7.

b. <u>Comments</u>

51. SoCal Edison states that the CAISO worked closely with stakeholders to establish a full funding mechanism that appropriately allocates under and over-collection of congestion revenue. SoCal Edison supports the CAISO's proposal because load pays the cost of congestion and receives the benefits of the CRRs, and, therefore, in SoCal Edison's view, load, rather than the PTOs, should fund any under-collection and receive any over-collection. The CPUC also agrees that it is appropriate to allocate the under or over-collection to load. The CPUC agrees with the CAISO's accommodation of stakeholder interests in ensuring full funding by clearing the CRR balancing account on a monthly basis. DC Energy supports the CAISO proposal because it fully funds CRRs without charging shortfalls back to the CRR holder, thus maximizing the CRR auction revenues for CRR holders; the funding methodology symmetrically matches risks and rewards; and there is substantial overlap in the parties responsible for full funding irrespective of whether the shortfalls are allocated to measured demand, transmission customers or LSEs on a load ratio basis.

52. Imperial, Modesto and NCPA argue that external LSEs should not be required to pay the uplift charges resulting from a CRR shortfall because they do not receive the same level of benefits from long-term CRRs as internal LSEs (*i.e.*, LSEs serving load

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

located within the CAISO Control Area). NCPA suggests that external LSEs should only pay uplift costs in proportion to the amount of long-term CRRs they actually obtain.

53. In its March 12, 2007 answer, the CAISO explains that full funding will be applied to all CRRs, not just long-term CRRs, and therefore the beneficiaries of full funding will include not only LSEs serving internal load, but also some entities who export from the CAISO grid to serve external load, and parties who do not serve any load at all. The CAISO argues that, because there is no straightforward way to allocate uplift just to the beneficiaries of the full-funding policy, it is appropriate to allocate the full-funding uplift (and monthly surplus) to the whole population of loads, both internal and external, served by the CAISO-controlled grid.

c. Commission Determination

54. We accept revised MRTU Tariff section 11.2.4.1 because long-term CRRs will be fully funded in compliance with Guideline 2 of the Final Rule. Moreover, following the recommendation of the Final Rule, the CAISO will also fully fund short-term CRRs. We find that together these will help prevent the market inefficiency that could result from LSEs selecting short-term or long-term CRRs simply based upon differences in their expected pay-out.[36] Furthermore, LSEs with a relatively high percentage of short-term supply contracts will not be disadvantaged if all CRRs are fully funded.[37] Instead, LSEs desiring more flexible, short-term congestion hedges will benefit from the full funding requirement and will not face financial exposures associated with long-term CRRs that may not fit their supply contracts going-forward.

55. The CAISO proposes to allocate to measured demand the cost of ensuring full funding in the event that the CAISO does not collect sufficient congestion revenues. We find that this uplift methodology complies with the Final Rule. In the Final Rule, the Commission gave transmission organizations the discretion to propose methods for allocating such uplift but precluded unreasonable outcomes (*e.g.*, where some holders of LTTRs would be exposed to unreasonable charges that would undercut the goal of relative congestion price certainty).[38] The CAISO's proposal to allocate the uplift to

---

[36] CAISO Jan. 29, 2007 Filing, Docket No. ER07-475-000, Exh. ISO-2 at 50 (Pope January 2007 Testimony).

[37] *Id*. at 51.

[38] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 176.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

measured demand ensures that no individual holder of long-term CRRs will face an unreasonable reduction in price certainty. Accordingly, we accept the proposed allocation methodology.

56. We also find it reasonable to assign uplift charges to exports, including external LSEs. External entities will also be paid their *pro rata* share of any surplus. The full funding mechanism will benefit all CRR holders, including external LSEs that meet eligibility requirements and are allocated short and/or long-term CRRs. Additionally, as discussed in the MRTU Rehearing Order, the Commission has taken steps to ensure that external LSEs that have historically contributed and continue to pay the embedded costs of the transmission system have appropriate access to CRRs.[39] These steps include permitting the allocation of CRRs for wheel-through transactions and allowing external entities that find the prepayment of a fixed annual amount of the wheeling access charge to be financially burdensome to meet their obligation by making monthly payments. Through our directive in Guideline 5, we have ensured that external LSEs are given the opportunity to nominate not only short-term but also long-term CRRs associated with wheel-through transactions. As for the prepayment obligation, consistent with the Commission's action in the MRTU proceeding, we direct the CAISO to permit external LSEs to meet their 10-year prepayment obligation for long-term CRRs by paying on a monthly basis. We direct the CAISO to modify MRTU Tariff section 36.9.2.1, within 10 days of the date of this order, consistent with this determination. In light of the ability of external LSEs to receive long-term CRRs associated with their wheel-through transactions and to prepay on a monthly basis, we find that exports should not be exempt from the uplift costs necessary to maintain the proposed full funding mechanism.[40]

57. In addition, we accept as just and reasonable the CAISO's exceptions to the full funding requirement for extraordinary circumstances set forth in MRTU Tariff section 36.2.8. Consistent with the Final Rule, these exceptions are narrowly tailored and are limited to extraordinary circumstances beyond the CAISO's control that leave the CAISO revenue inadequate.[41]

---

[39] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 368, 378-79.

[40] In the discussion below of Guideline 5, we address whether external LSEs can nominate long-term CRRs associated with wheel-throughs.

[41] *See* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 181-83.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

3. Guideline 3

> [LTTRs] made feasible by transmission upgrades or expansions must be available upon request to any party that pays for such upgrades or expansions in accordance with the transmission organization's prevailing cost allocation methods for upgrades or expansions.

58. The Commission intended that Guideline 3 of the Final Rule apply to transmission rights awarded to entities that fund transmission upgrades and expansions through direct cost assignment and not to rights related to upgrades that are rolled into transmission rates.[42]

a. Proposal

59. The CAISO states that long-term CRRs will be available to parties that pay for transmission upgrades or expansions. The CAISO explains that MRTU Tariff section 36.11 provides that a sponsor of transmission facilities that turns such facilities over to CAISO operational control and does not recover the cost of the transmission investment through the CAISO's transmission access charge or wheeling access charge (or other regulatory cost recovery mechanism) may be allocated option CRRs that reflect the contribution of the upgrade to grid transfer capacity.

60. In response to the Commission's directive in the MRTU Order,[43] in proposed MRTU Tariff sections 36.11-36.11.3.2.3, the CAISO provides details on how it will implement the CRR allocation methodology for merchant transmission projects. The CAISO explains that the sponsor of a merchant transmission facility that transfers operational control of the facility to the CAISO will be eligible to receive an allocation of merchant transmission CRRs if the sponsor has not elected to recover the costs of its investment through the CAISO's transmission access charge, wheeling access charge or other regulatory cost-recovery mechanisms.

61. The CAISO states that the scope of its proposed methodology is narrow because it assumes that (1) the project or upgrade is well defined in terms of physical facilities being installed or upgraded; (2) any required mitigations for adverse impacts of the project have been identified and incorporated into the project; (3) the upgrade is near the point of being energized for operation; (4) the merchant status and entitlement of the

---

[42] *Id*. P 211.

[43] *See* MRTU Order, 116 FERC ¶ 61,274 at P 873.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

sponsor to be allocated CRRs have been established; (5) any operating parameters associated with the project have been determined; and (6) the CAISO's planning department has developed the appropriate full network model incorporating the project for use in the CAISO markets.[44]

62. The CAISO states that the proposed merchant transmission CRRs will be similar to other CRRs offered by the CAISO because they will be point-to-point and defined by a source location, sink location, MW quantity and time-of-use period.[45] However, unlike other CRRs, at the sponsor's election, merchant transmission CRRs can be options or obligations.[46] The term of merchant transmission CRRs will begin when the project has been energized and operational control transferred to the CAISO and will continue for 30 years or the pre-specified life of the project, whichever is shorter.[47] The quantity of CRRs released to a merchant transmission sponsor will be commensurate with the transfer capacity that the project adds to the CAISO-controlled grid.[48] The CAISO will allow the project sponsor to nominate up to five CRR source and sink pairs prior to the commencement of the allocation process.[49]

63. The CAISO proposes a three step process for allocating merchant transmission CRRs.[50] First, the CAISO will determine how many of the project sponsor's nominated CRRs would be feasible on the network model before the transmission upgrade and will reserve this capacity to prevent the project sponsor from utilizing it.[51] Second, the CAISO will verify that adding the upgrade into the network model does not adversely affect any of the previously released CRRs or other existing encumbrances on the transmission system and will address any impacts that may be identified.[52] Third, the CAISO will apply the project sponsor's nominations on the network model that includes the transmission upgrade and will determine how many of the nominated MWs are

---

[44] Kristov May 2007 Testimony at 27.

[45] *Id*.

[46] *Id*. at 28.

[47] *Id*. at 28-29.

[48] *Id*. at 28.

[49] *Id*.

[50] *Id*. at 29.

[51] *Id*.

[52] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

feasible.[53] The CAISO states that the outcome of the third step represents the incremental CRRs attributable to the project that will be awarded to the project sponsor.[54]

b. Comments

64. SoCal Edison is concerned that it will be difficult to develop a mechanism that translates any merchant transmission facility upgrade made to the CAISO-controlled grid into a commensurate set of CRRs because an upgrade, which increases the capacity of a transmission element, is fundamentally different from a CRR. SoCal Edison contends that the value associated with an upgrade may be difficult to disentangle from the value associated with other constraints on the CAISO-controlled grid because other constraints may affect the LMPs of these same nodes. SoCal Edison argues that, as a result, the CAISO's proposal could allocate more CRRs than the sponsor deserves. SoCal Edison states that the CAISO's proposed methodology and tariff language to determine how many CRRs a merchant transmission facility should be awarded is conceptually reasonable (*i.e.*, allowing the merchant to request five sets of CRRs provides ample opportunity for the merchant to derive the value of the upgrade). However, SoCal Edison requests that the CRR nominations be performed sequentially, rather than simultaneously.

65. SoCal Edison also states that, although the use of temporary test CRR options to block the merchant from realizing value not associated with its upgrade is necessary, it is concerned that under certain circumstances the merchant could be awarded CRRs that reflect value on the transmission grid that existed prior to the merchant transmission facility upgrade. SoCal Edison explains that, because the temporary test CRR options must have the same sink and source as the merchant transmission CRR nominations, if the CRR value associated with other constraints was not previously allocated, then the merchant could inappropriately grab that value in the proposed allocation process. SoCal Edison contends that, to prevent this problem from occurring, the CAISO should not require temporary test CRR options to have the same source and sink as the CRRs requested by the merchant. SoCal Edison proposes that, instead, the CAISO issue additional temporary test CRR options with additional sources and sinks.

66. Finally, SoCal Edison requests that the CAISO provide tariff language addressing a special case for which it is relatively simple to translate a merchant transmission upgrade into a set of CRRs. In this special case, a merchant transmission project sponsors upgrades to a transmission element on an intertie that increases the intertie's

---

[53] *Id*.

[54] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

total transmission capability, there is only one path from the intertie to the next node within the CAISO-controlled grid and the intertie is connected to an external control area. SoCal Edison contends that all the value of the upgraded constraint will appear in a CRR between the intertie and the next node within the grid. SoCal Edison argues that there is no reason to apply a general method to a special case where there is a known correct answer.

67. The CPUC argues that option CRRs for merchant transmission sponsors are not necessary. The CPUC contends that merchant transmission sponsors have other methods to avoid the risks inherent in owning an obligation CRR (*e.g.*, recovering costs through transmission access charges or selling obligation CRRs on the secondary market upon its receipt or any time thereafter). The CPUC adds that the owner of CRRs on a transmission path is reasonably assured of a positive revenue stream for the foreseeable future because transmission additions to the grid will only be approved if it is determined that they will feasibly reduce congestion on the grid.

68. The CPUC is also concerned that the issuance of option CRRs will reduce the availability of CRRs for LSEs seeking to hedge congestion from inland energy sources, which will add a financial impediment to the development of renewable energy by artificially and unnecessarily raising the apparent cost of energy delivered from such resources. The CPUC argues that option CRRs will also complicate the administration of the CRR program because they will increase the complexity of the market and may lead to opportunities for gaming the CRR market. The CPUC adds that the one-way flexibility inherent in the issuance of option CRRs threatens the revenue sufficiency of the CRR program.

69. Finally, the CPUC asserts that it is not clear whether or how the CAISO plans to balance the allocation of long-term CRRs for new transmission incorporated into the grid to serve a new generation source remote from load. The CPUC seeks development and/or clarification of how the CAISO intends to address such concerns within both the long-term grid planning and long-term CRR allocation processes before the Commission approves option CRRs for merchant transmission sponsors. The CPUC requests that the Commission direct the CAISO to issue only obligation CRRs to merchant transmission sponsors until the effects of option CRRs can be evaluated within the overall CRR structure and the CAISO develops a plan for the nondiscriminatory integration of new resources into the long-term CRR program.

70. Separately, SoCal Edison states that the only way for an LSE that contracts for or builds a new generating resource and the transmission capacity necessary to deliver the output of this resource to obtain CRRs or long-term CRRs for the new transmission investment is to fund the transmission upgrade as a merchant investment. SoCal Edison

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

claims that, without such an election, the rights to the associated transmission would be made available to all LSEs with no demonstration of need in the years beyond the initial allocation of CRRs/long-term CRRs. SoCal Edison contends that, as a result, investment in generation and transmission may not take place because LSEs face a significant risk in their ability to hedge the congestion risk associated with the new generating facility. To resolve this issue, SoCal Edison recommends that the Commission direct the CAISO to file by a date certain, within one year of MRTU implementation, an allocation of rights for transmission upgrades and a transmission planning process in the public domain.

71. In its June 14, 2007 answer, the CAISO disagrees with SoCal Edison's interpretation of the allocation process for merchant transmission CRRs. The CAISO explains that the allocation process for merchant CRRs would start with a large number of infeasible test CRRs that are evaluated and reduced in quantity until feasibility is achieved. The CAISO argues that this method differs from SoCal Edison's interpretation, which appears to rest on the assumption that the CAISO would test the merchant CRRs using a small, feasible number of CRRs that are evaluated until a constraint is achieved. The CAISO states that its methodology will achieve the results SoCal Edison agrees are correct. Thus, the CAISO concludes that sequential testing is unnecessary because the simultaneous method produces the result sought by SoCal Edison.

72. With respect to the CPUC's concerns, the CAISO states that option CRRs are an important aspect of the merchant transmission CRR proposal because, without option CRRs, project sponsors would be unable to capture the congestion revenues associated with capacity without being exposed to the financial risk of reversals in the direction of congestion. The CAISO does not believe this is an acceptable result, especially because the project sponsor bears the cost of investment that adds capacity to the CAISO-controlled grid. Furthermore, the CAISO argues that it would be inappropriate to allow other parties to receive CRRs in the allocation process when a project sponsor bears the investment costs for the project. The CAISO points out that the CPUC correctly concludes that CRR options do affect the amount of capacity available for allocation to LSEs to a greater degree than CRR obligations. The CAISO states that merchant transmission CRR options affect the CRRs available to the LSEs due to the fact that, unlike obligations, options provide no free counterflows that the LSEs might utilize. The CAISO states that this outcome is appropriate because LSEs are not paying the investment costs associated with the project.

73. The CAISO adds that the introduction of CRR options will not increase the risk of CRR revenue inadequacy because CRR options will be fully accounted for in the CRR network model used for releasing CRRs. The CAISO also states that the use of CRR options does not add unknown complications to the CRR process because it is a relatively

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

simple and straightforward procedure to model. The CAISO notes that PJM Interconnection, L.L.C. (PJM) has been modeling options for over a year in its auctions.

c. <u>Commission Determination</u>

74. We find that the CAISO's proposal to allocate option CRRs to merchant transmission sponsors, commensurate with the incremental transmission capacity provided by a merchant transmission upgrade, is just and reasonable, and we accept it.[55] We will not require the CAISO to adopt SoCal Edison's proposal to award CRRs to merchant transmission sponsors based on sequential testing. As the CAISO has indicated in its answer, its proposal achieves the desired outcome of providing project sponsors with the incremental amount of CRRs associated with the grid enhancement.

75. We disagree with the CPUC's contention that option CRRs will be too difficult for the CAISO to administer. The CAISO indicates that it can administer these option CRRs.[56] As the CAISO points out, PJM has been using options in its auctions for over a year. There is no evidence before us that would indicate that the CAISO's proposal is impractical or unreasonably burdensome. We also reject the CPUC's recommendation to allocate only obligation CRRs to merchant transmission sponsors. Requiring a project sponsor to hold obligation CRRs could potentially expose it to congestion charges, which could diminish its ability to recover project costs and also diminish any incentives to construct needed transmission infrastructure enhancements.

76. Finally, we disagree with the CPUC that the issuance of option CRRs will reduce the availability of CRRs to LSEs. Option CRRs will be awarded for transmission upgrades based on the incremental capacity created from the upgrade. Option CRRs will not provide additional counterflow on the CAISO's system that LSEs can utilize to nominate additional CRRs. However, the release of option CRRs to merchant transmission sponsors will not affect the feasible set of obligation CRRs that would have

---

[55] In an order on MRTU compliance filings issued on June 25, 2007, the Commission stated that it would address matters relating to the allocation of CRRs to sponsors of merchant transmission projects in the instant proceeding. *See Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,313, at P 245 (2007) (MRTU Compliance Order). In this order, we accept the CAISO's proposal for allocating CRRs to sponsors of merchant transmission projects. Accordingly, the Commission's action in this proceeding resolves all outstanding compliance obligations regarding the allocation of merchant transmission CRRs.

[56] *See* CAISO June 14, 2007 Answer, Docket No. ER07-869-000, at 47-48.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

been available without the upgrade. Therefore, we find that the CAISO's proposal to award option CRRs to merchant transmission sponsors is commensurate with the transmission enhancements they provide.

77. In regard to SoCal Edison's concern about its investment in generation and transmission, we find its comments unclear. If SoCal Edison is asking for preferential access to transmission capacity that becomes available through an expansion project that is backed by a regulatory cost-recovery mechanism, we decline to provide such a preference. The incremental capacity created by such a project should be released to LSEs under the CAISO's CRR allocation and auction rules. On the other hand, if SoCal Edison's concern stems from the CAISO's proposal to eliminate the source verification process after year one, we agree that the CAISO and its stakeholders may benefit from retaining a process in the second and subsequent years of MRTU that will allow LSEs to demonstrate their need to have a CRR sourced at a particular location. As discussed elsewhere in this order, we encourage the CAISO and its stakeholders to consider implementing some form of its verification process in the second year of MRTU and beyond.

4. Guideline 4

> [LTTRs] must be made available with term lengths (and/or rights to renewal) that are sufficient to meet the needs of [LSEs] to hedge long-term power supply arrangements made or planned to satisfy a service obligation. The length of term of renewals may be different from the original term. Transmission organizations may propose rules specifying the length of terms and use of renewal rights to provide long-term coverage, but must be able to offer firm coverage for at least a 10-year period.

78. In the Final Rule, the Commission stated that it will allow regional flexibility in defining the terms of LTTRs that are offered and will permit substantial latitude to determine how to achieve long-term coverage through combinations of LTTRs of specific terms and renewal rights, along with transmission planning and expansion procedures that support LTTRs.[57] However, the Final Rule requires transmission organizations to make available LTTRs and renewal rights that provide coverage for a period of at least 10 years so that LTTRs are offered that meet the reasonable needs of LSEs to obtain transmission service for long-term power supply arrangements used to meet service obligations.

---

[57] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 257-59.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

a. Proposal

79. In its initial LTTR filing in Docket Nos. ER07-475-000 and ER07-475-001, the CAISO proposes that, under the MRTU Tariff, long-term CRRs, as specified by season and time-of-use periods (*i.e.*, peak and off-peak), will have a 10-year term, which may be renewed for additional 10-year terms. The CAISO explains that, under MRTU Tariff section 36.8.3.5.1, the CRR holder can renew a long-term CRR by nominating the identical source, sink, and MWs in the priority nomination process in the final year of the long-term CRR. However, because of the application of simultaneous feasibility tests in Tier 1 and Tier LT, the roll-over of a long-term CRR is not guaranteed.[58] An LSE could also utilize the priority nomination process to convert the long-term right to a rolling annual right, but this is also contingent on passing the simultaneous feasibility test on an annual basis. In this manner, an LSE could obtain a congestion cost hedge for a power supply arrangement for a 13- or 14-year duration, for example.

80. In addition, the CAISO provides several alternatives for LSEs that would like to manage congestion exposure for a term of more than one year, but less than 10 years. An LSE may obtain a long-term CRR and then sell it bilaterally or through the CRR seasonal and monthly auctions for the time periods when it is not needed. An LSE may request seasonal CRRs through the annual allocation process rather than obtaining long-term CRRs, and thereby shape its CRR portfolio to suit its congestion hedging needs on an annual basis. The LSE could further seek to renew an annual CRR through the priority nomination process, contingent on passing the simultaneous feasibility test.[59]

81. The CAISO also proposed to modify MRTU Tariff section 36.8.3.5.5 to allow eligible entities with an ETC or converted rights that expire by the start of the year in which the CRR allocation process is conducted to participate in the priority nomination process as if their ETC or converted rights' sources and sinks were previously allocated seasonal CRRs. These entities can then nominate awarded seasonal CRRs in Tier LT to receive long-term CRRs.

82. In its amended filing in Docket No. ER07-869-000, the CAISO states that stakeholders identified an aspect of this allocation process that could negatively impact the ability of the holders of expiring rights (*i.e.*, expiring long-term CRRs, ETCs and converted rights) to renew long-term CRRs or the ability of holders of ETCs or converted

---

[58] Pope January 2007 Testimony at 66.

[59] *Id.* at 68; *see* MRTU Tariff section 36.8.3.5.1.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

rights to transition to long-term CRRs. Specifically, the CAISO states that the grid capacity corresponding to the expiring rights becomes available for allocation of long-term CRRs in the annual allocation process one year prior to the year in which the rights actually expire, creating an opportunity for other LSEs who are not the holders of the expiring rights to obtain long-term CRRs that use some of this capacity in the year before the holder of the existing right can obtain the CRR. The CAISO states that, as a result, when the holder of the expiring right tries to renew the expiring long-term CRRs or convert the expiring ETCs or converted rights into long-term CRRs, there is the possibility that some of the associated grid capacity would have already been encumbered by long-term CRRs issued to other LSEs in the previous year.

83. To address this problem, in MRTU Tariff section 36.8.3.5.5, the CAISO proposes to give the holders of expiring long-term CRRs, ETCs and converted rights two alternatives. First, as originally proposed in the LTTR filing, holders of expiring transmission rights can nominate the identical right in the priority nomination process conducted in the year that the right expires. Second, as proposed in the amended filing, holders of expiring long-term CRRs, ETCs or converted rights can nominate their expiring right in Tier LT one year before the right expires. The CAISO states that this second alternative will allow holders of expiring rights to compete on an equal basis with other LSEs the first time such capacity becomes available.

84. The CAISO acknowledges that an entity that elects the new second alternative will hold a right that has a term of nine years, rather than the 10-year term required in the Final Rule. However, the CAISO states that the new alternative addresses a unique problem identified by stakeholders and is merely an option for holders of expiring rights.

b. <u>Comments</u>

85. NCPA supports the flexibility offered by varying long-term CRRs by season and time-of-use because it addresses the needs of hydroelectric resources, which are heavily relied upon in California. Powerex is concerned, however, that those variations will allow LSEs to “cherry pick” the more valuable and useful seasonal and long-term CRRs.

86. Santa Clara and TANC argue that the CAISO market requires a more flexible long-term CRR mechanism that can address longer terms and a reasonable process for modifying long-term CRR holdings before they expire. TANC asserts that the CAISO’s proposed 10-year term with only the possibility of renewal for another 10-year term fails to meet the needs of LSEs that enter into power supply arrangements for more than 10 years, which are prevalent in the West, and that develop generation resources that require use of the CAISO-controlled grid. Santa Clara and TANC claim that flexibility is needed to adjust to the life of a plant or supply arrangement (*i.e.*, long-term CRRs for service

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

requirements of 2-9 years, 11-19 years and beyond 20 years). Santa Clara adds that flexibility is also needed to incorporate long-term CRRs into the new LMP market design. TANC requests that the Commission direct the CAISO to provide further explanation about the CAISO's priority nomination proposal for continued long-term firm transmission service beyond the initial 10-year term.

87. PG&E argues that the CAISO's proposal should provide an LSE automatic renewal rights to its allocated long-term CRRs when the 10-year period expires. PG&E contends that an automatic renewal provides developers and LSEs certainty as to the transmission costs and risks related to new generation facilities, including renewable facilities that have a useful life of more than 10 years. PG&E states that it will also provide LSEs certainty before entering into power purchasing agreements that are longer than 10 years. PG&E claims that the minimal revenue impacts that may be avoided by using the nomination process do not outweigh the importance of a guaranteed renewal right.

88. CMUA argues that the proposed long-term CRRs are not "equal to or superior" to OATT services as required under Order No. 890.[60] CMUA requests that the Commission direct the CAISO to explain why its current treatment of renewal rights is as good or superior to OATT service or propose modifications to ensure renewal rights for long-term CRRs.

89. AReM opposes the CAISO's proposal for the renewal of expiring long-term CRRs, ETCs and converted rights. AReM disagrees with the CAISO's contention that the proposed alternative renewal process will allow all involved parties to compete on a level basis with other LSEs. AReM contends that the proposal is preferential and discriminatory to non-incumbent LSEs and contrary to the Final Rule. AReM argues that the Final Rule structured LTTRs to provide an equal footing for non-incumbent LSEs, particularly in retail access states, and did not entitle holders of ETCs or converted rights to perpetual rights to certain transmission paths. AReM claims that the new alternative could stultify the market and erect barriers to entry for new LSEs. AReM requests that the Commission reject proposed MRTU Tariff section 36.8.3.5.5.

90. While SWP agrees with many aspects of the CAISO's proposal regarding expiring rights, it claims that the CAISO has not responded to it request for clarification that LSEs

---

[60] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266, at P 1657 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

whose ETC rights expire after the initial long-term CRR allocation will, upon expiration of their contract, be directly allocated the long-term CRRs the CAISO internally used to ensure the "perfect hedge" for their contractual rights. SWP states that, following the 2008 allocation, no source validation will be used until the following ten-year allocation in 2018 and the internally-reserved long-term CRRs attributable to an expired ETC will be freed and available to all LSEs. SWP concludes that, when CRRs are freed by the former ETC-holding LSE's contract expiration between 2008 and 2018, the former ETC-holding LSE will be in a disadvantageous position because it will not be able to provide the source validation in a priority nomination process to obtain the CRRs that it actually needs and would have been allocated to it in the 2008 CRR allocation had it participated at that time. SWP states that, instead, the former ETC-holding LSE will have to compete to obtain the rights it actually needs on paths with LSEs that already had the opportunity to obtain the CRRs that they actually needed. To resolve this problem, SWP suggests that the CAISO make available to the former ETC-holding LSE the internally reserved long-term CRRs for the balance of the initial 2008 long-term CRR allocation period.

91. CMUA and NCPA also request that the Commission direct the CAISO to file with the Commission all credit and collateral requirements for long-term CRRs because the term of the long-term CRRs could place significant collateral requirements on small LSEs. NCPA is concerned that the CRR credit requirements will not be final or even filed with the Commission until after the annual CRR allocation process begins in late July 2007. NCPA disagrees that it is not necessary for entities to know the credit policies before the CRR monthly allocations and auction in October 2007 because rights acquired through the allocation process in July 2007 will be binding. NCPA argues that it is the CAISO's responsibility to ensure that all required information is made available to LSEs, including the CRR credit requirements, prior to the commencement of the allocation process, so LSEs have a fair opportunity to consider and validate all risks prior to entering into a binding commitment. DC Energy argues that the credit provisions should be part of the MRTU Tariff, not simply included in a Business Practice Manual, to avoid conflicts or differing practices between the Business Practice Manual and the MRTU Tariff, and should be subject to notice and Commission review.

92. In its March 12, 2007 answer, the CAISO responds that the 10-year term is a reasonable length and the seasonal and time-of-use structure is essential for providing a balanced, unbiased process through which LSEs can obtain their individual, preferred mix of long-term and seasonal CRRs and preferred balance between 10-year certainty and flexibility. With respect to the request for terms of less than 10 years, the CAISO notes that the annual priority nomination process affords LSEs a high degree of certainty in renewing seasonal CRRs for only as many years as their supply arrangements require, and an LSE can obtain CRR coverage for less than 10 years by obtaining a long-term CRR and then offering the unneeded years into the annual CRR auction or engaging in a

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

bilateral sale. With respect to the request for terms of greater than 10 years, the CAISO points to an LSE's ability to renew a long-term CRR in its final year by nominating the same source, sink and MW terms of the long-term CRR in the priority nomination process and receiving a seasonal CRR, which it can then use to nominate and receive a new long-term CRR in the Tier LT process. While the CAISO acknowledges that this approach is not an absolute guarantee of renewal, it points out that the LSE does benefit from the high degree of certainty built in to the priority nomination process rules.

93. With respect to the request for guaranteed renewal, the CAISO believes that its proposal is just and reasonable because long-term CRRs can be renewed using the priority nomination process with the high likelihood of renewal for subsequent 10-year terms. The CAISO adds that guaranteed renewal raises a few concerns: (1) it may violate simultaneous feasibility and thus lead to a CRR revenue shortfall that would increase the CRR uplift payment by all load; and (2) the appropriate way to guarantee renewal without undermining feasibility and revenue adequacy would require significantly increasing the complexity of the simultaneous feasibility tests for long-term CRRs and reducing the overall amount of long-term CRRs available to all LSEs. The CAISO states that it would be more appropriate to address CMUA's concerns about long-term CRR renewal rights and renewal rights under the *pro rata* OATT in an Order No. 890 compliance filing.

94. In its March 12, 2007 answer, the CAISO argues that SWP's proposal is inappropriate because it would give the expiring ETC holder a substantial advantage over other LSEs, rather than placing the expiring ETC holder on a comparable basis with other LSEs. While the CAISO recognizes that expiring ETC holders, like LSEs holding expiring long-term CRRs, face some uncertainty in obtaining the full amount of the specific long-term CRRs corresponding to their expiring rights, the CAISO states that a guarantee of renewal would impose unreasonable costs on the rest of the market vis-à-vis smaller released quantities of long-term CRRs or greater risk of revenue shortfall. In its June 14 answer, the CAISO adds that the methods it proposes to allow ETC and converted rights holders to use to transition to long-term CRRs when their existing rights expire provide sufficient answers to SWP's concern.

95. In its March 12, 2007 answer, the CAISO notes that it has submitted a compliance filing in Docket No. ER06-700, which includes certain details on the CAISO's credit policy in the tariff, while keeping the balance of the details of the CAISO's credit policy in its Credit Policy & Procedure Guide. The CAISO states that it anticipates that the Commission's order on its compliance filing in Docket No. ER06-700 will provide additional guidance on which details must be included in the tariff. The CAISO adds that it plans to fully comply with Order No. 890 and views that proceeding as the most expeditious forum in which to resolve issues about tariff detail on credit and collateral.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

In its June 14, 2007 answer, the CAISO adds that the draft Business Practice Manual on Credit Management and draft CRR credit policy tariff language were published on June 6, 2007. The CAISO states that it will file the tariff amendment to implement the CRR credit policies in June 2007, well before the first Tier 1 nominations are due in the annual CRR allocation for year one. The CAISO also notes that, in Docket No. ER07-613-000, the Commission granted its request for extension of time until June 22, 2007 to file, for informational purposes, its Credit Management Business Practice Manual.

c. <u>Commission Determination</u>

96. We find that the term length of the long-term CRRs in the CAISO's proposal complies with Guideline 4 of the Final Rule, and we accept revised MRTU Tariff section 36.2.7 as just and reasonable. While the Final Rule provided transmission organizations with flexibility in defining the terms of the LTTRs, it required transmission organizations to provide firm coverage for a minimum of a 10-year period.[61] The CAISO's proposal satisfies this requirement. In addition, the CAISO's priority nomination process, which increases the likelihood that short-term CRR holders will be able to renew their annual rights in subsequent years, provides some flexibility for enabling LSEs to obtain a congestion hedge that reasonably accommodates long-term power supply arrangements with different term lengths. Market participants can also tailor their congestion hedges by nominating long-term CRRs and then selling portions of their allocated long-term CRRs in the annual auction process in the second year of MRTU, and thereafter.[62] Finally, the LTTR renewal process does not exist in a vacuum. It is crucial to recognize that the CAISO has a responsibility to plan for, and cause the expansion of, its transmission grid to accommodate the legitimate uses of the grid and thereby to ensure that sufficient corresponding CRRs are available.

97. Some commenters suggest that the CAISO should consider incorporating more flexibility into the term lengths of long-term CRRs. We agree that, ideally, LSEs should be allocated LTTRs that meet their term-length preferences. However, the CAISO states that its software system presently cannot accommodate such differing terms. Nonetheless, we encourage the CAISO to continue to explore the possibility of providing in the future flexibility to allow long-term CRRs in excess of 10 years or annual

---

[61] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 255.

[62] We note that, in the first year of MRTU, market participants will not be able to sell previously allocated CRRs in the auction, but this feature will be available in year-two and in all subsequent years. In year-one, market participants wishing to sell a portion of their long-term CRRs will have to do so bilaterally.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

transmission rights with guaranteed renewal rights up to year 10 or long-term CRRs with terms ranging from 2 to 9 years. Any subsequent change in the available term lengths would have to respect the rights of the holders of any outstanding 10-year CRRs.

98. In response to PG&E, we agree that the CAISO's proposal to renew only expiring long-term CRRs that pass the simultaneous feasibility test may create some degree of uncertainty for certain long-term CRR holders. However, there will always be some circumstances (*i.e.*, changes in network topology) that may create infeasibilities in the portfolio of long-term CRRs. Those infeasibilities will result in accumulating uplift charges. Under the CAISO's proposal, the MWs of long-term CRRs will remain fixed for the term of the CRRs. Therefore, any adjustments to the MW quantity of each long-term CRR that may result from the simultaneous feasibility test, which is used to control accumulating uplift charges, will occur only upon re-nomination of the long-term CRR and after the term of the long-term CRR expires. Moreover, we anticipate that a robust transmission planning and expansion process that supports the continued feasibility of long-term CRRs could minimize these potential uplift costs.[63]

99. Additionally, we note that, under the CAISO's proposal, market participants wishing to re-nominate long-term CRRs can do so in the highest priority allocation tier. While these nominations will be subject to the simultaneous feasibility test, we find that participation in the highest priority tier coupled with the transmission planning process directed in the Final Rule will provide long-term CRR holders with reasonable certainty that they can extend their rights beyond 10-years, if desired. Therefore, we find that the CAISO's proposal to renew only feasible long-term CRRs in order to minimize potential revenue shortfalls is a reasonable approach.

100. While the Final Rule does not require resource or contract verification, the CAISO's proposal includes a verification process, but only in the first year of MRTU. After the first year, the verification process is replaced with the priority nomination process. The priority nomination process affords CRR holders the right to nominate a percentage of their current CRR holdings in Tier 1 of the next annual allocation process. By making these nominations in a "priority" tier, the likelihood of these CRR nominations being simultaneously feasible increases. However, in the case of an LSE holding a CRR associated with ownership of a generator that is being shut down or a

[63] However, holders of long-term CRRs must recognize that, despite such measures, circumstances may require adjustments in their allocation (based on the results of the simultaneous feasibility test) to reduce infeasibilities and hence potential cost shifts to other LSEs.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

contract for energy that is expiring, it may be desirable to have a mechanism for allowing the LSE a right to nominate a new CRR in a "priority" tier. Otherwise, under the CAISO's proposal, these LSEs will have to nominate the new CRR in Tier 3, which reduces the probability that their nomination will be feasible. We encourage the CAISO to consider implementing some form of its current verification process in the second year of MRTU and beyond to give LSEs with an expiring supply arrangement some additional flexibility when requesting new CRRs based on new sources.

101. We disagree with Powerex that long-term CRRs differentiated by season and time-of-use will allow LSEs to "cherry pick" the most valuable long-term CRRs. Instead, we find that these characteristics provide LSEs with additional flexibility to manage their supply portfolio needs. In the Final Rule, the Commission explained that its guidance was in part intended to help ensure that LSEs could "obtain point-to-point [LTTRs] that will hedge particular long-term power supply arrangements."[64] The CAISO's 10-year long-term CRRs are consistent with the Commission's guidance and should promote certainty in long-term investment.

102. We disagree with the contention raised by CMUA that the proposed long-term CRRs do not conform to the *pro forma* OATT because of the manner in which renewal rights are treated. We continue to find that the combination of physical and financial rights provided by the MRTU congestion management system is superior to a pure physical rights approach that CMUA seeks because the CRR congestion management scheme provides greater flexibility to accommodate changes in the usage of the transmission system over time, more accurate price signals, and an opportunity to receive congestion revenue from CRRs or to sell them.[65]

103. We also accept the CAISO's modified proposal in Docket No. ER07-869-000 in regard to expiring long-term CRRs, ETCs and converted rights. As noted above, in order to minimize revenue shortfalls, the CAISO proposes to release long-term CRRs subject to a simultaneous feasibility test. The CAISO's modified renewal proposal in Docket No. ER07-869-000 provides additional assurance that renewal requests will pass the feasibility test. Under this renewal process, market participants can nominate CRRs associated with expiring long-term CRRs, ETCs and converted rights in Tier LT one year prior to expiration of their rights. While this process does not guarantee that the quantity of CRRs awarded will exactly match the MWs of expiring transmission rights, it permits expiring right holders to re-nominate their transmission rights "the first time such

---

[64] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 119.

[65] *See* MRTU Order, 116 FERC ¶ 61,274 at P 897-900.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

capacity becomes fully available in the CRR network model."[66] We note that market participants retain the option of re-nominating their expiring CRRs in the final year of the CRR term. Because the modified renewal proposal provides an additional alternative for market participants, we find that it is just and reasonable and is consistent with Guideline 4.[67]

104. In response to AReM, we disagree that providing holders of expiring rights with reasonable assurance that they can renew their rights will erect barriers to new LSEs being able to obtain long-term CRRs. However, as discussed under Guideline 6, we direct the CAISO to address AReM's proposal to allow LSEs gaining load through load migration to request CRRs in the priority nominations process.

105. Finally, we note that the Commission is addressing the filing of credit and collateral requirements in Docket Nos. ER06-700-000, *et al*., RM05-17-000, *et al*., and RM05-25-000, *et al*. Therefore, that issue is beyond the scope of this proceeding. Furthermore, as the Commission has stated previously in Docket No. ER07-613-000, while we concur that any financial obligations binding on CRR recipients should be known prior to the initial CRR allocation, we believe that, through the policy development process and informational filings to the Commission, market participants will have sufficient information to fully participate in the initial CRR allocation.[68]

5. Guideline 5

> [LSEs] must have priority over non-[LSEs] in the allocation of [LTTRs] that are supported by existing transmission capacity. The transmission organization may propose reasonable limits on the amount of existing transmission capacity used to support [LTTRs].

106. Guideline 5 protects LTTRs used to satisfy native load service obligations. In the Final Rule, the Commission chose not to require LSEs with long-term power supply

---

[66] *See* Kristov May 2007 Testimony at 25.

[67] In the MRTU Compliance Order, the Commission stated that it would address matters relating to the priority nomination process in the instant proceeding. *See* MRTU Compliance Order, 119 FERC ¶ 61,313 at P 239. In this order, we accept the CAISO's proposal to renew expiring CRRs, which includes provisions relating to the priority nomination process. Accordingly, the Commission's action in this proceeding resolves all outstanding compliance obligations regarding the priority nomination process.

[68] *See Cal. Indep. Sys. Operator Corp.*, 119 FERC ¶ 61,244, at P 6 (2007).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

arrangements to have priority over LSEs that prefer short-term power supply arrangements; that is, LSEs are on equal footing, unless stakeholders agree to an alternative rule.

107. The Final Rule also stated that non-LSEs should be given access to any LTTRs available following the allocation to LSEs.

108. The Final Rule also states that the transmission organization and its stakeholders should have flexibility to determine the level at which an LSE may nominate LTTRs, as long as that level does not fall below the reasonable needs of the LSE. The Commission allowed transmission organizations to propose reasonable limits on the amount of transmission capacity made available for LTTRs, stating that this level can be expressed as a straightforward measure of load, such as minimum daily peak load or 50 percent of maximum daily peak load, for example. The Final Rule also provides the transmission organization and its stakeholders with flexibility to propose an approach for incorporating load growth in the allocation process.

Proposal

109. Under the CAISO's proposal, only LSEs are entitled to participate in the allocation of long-term CRRs. Non-LSEs will be allowed to purchase short-term CRRs in the annual auctions (including one-year term durations of the long-term CRRs sold by LSEs). The CAISO notes that this feature is consistent with the filed MRTU design and requires no tariff changes. As discussed in more detail below, the CAISO proposes to limit eligibility to nominate long-term CRRs to 50 percent of an LSE's adjusted load metric[69] and also to use 60 percent of grid capacity when allocating long-term CRRs.

a. Quantity of Long-Term CRRs Released to LSEs in Year One: Transmission Capacity Available and 50 Percent Cap

110. The CAISO states that, like the monthly and seasonal CRRs in the conditionally accepted MRTU Tariff, long-term CRRs will be allocated based on a reduced capacity of the grid as it exists when the nomination is submitted to the CAISO. Specifically, the CAISO explains that the simultaneous feasibility tests for Tier LT will be performed

[69] The adjusted load metric adjusts each LSE's load metric by the MWs of load served by ETCs, converted rights and TORs. *See also supra* note 11.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

using a network model limited to 60 percent of existing transmission capacity.[70] The CAISO states that the primary reason for reducing the modeled grid capacity in this fashion is to ensure that any binding constraints occurring in Tier LT do not adversely impact the allocation of seasonal CRRs in future years.[71]

111. The CAISO also proposes to allow each LSE to nominate up to 50 percent of its adjusted load metric in long-term CRRs, if it receives that many seasonal CRRs in the allocation tiers preceding Tier LT.[72] The CAISO states that this limitation is reasonable because, on average, the ratio of an LSE's minimum and maximum load is approximately 50 percent. The CAISO explains that 50 percent is, therefore, a reasonable approximation of the base load transmission usage congestion risk that needs to be managed with long-term CRRs.[73]

112. In the MRTU Order, the Commission conditionally accepted the short-term CRR provisions but directed the CAISO to evaluate whether its proposal to set aside 50 percent of the intertie capacity needed to be modified based upon the results of the CRR dry run.[74] In its amended filing in Docket No. ER07-869-000, the CAISO states that it has considered changes to the rules related to setting aside or reserving import capacity on the interties in the allocation process so that this capacity could be made available for the short-term CRR auctions.[75] The CAISO states that it concluded that each of the changes that were considered would have had impacts beyond their stated objective and thus were not sufficiently narrowly tailored. The CAISO adds that the CRR dry run results did not provide evidence to support the need for changes to these rules. The CAISO also notes that incentives and opportunities already exist in the rules for LSEs to modify their CRR holdings and that there is no way to determine with any confidence whether the rules will create insufficient liquidity in the free choice tiers to enable LSEs to meet their future

---

[70] The CAISO notes that this reduction is greater than the 75 percent of existing transmission capacity used for the simultaneous feasibility test to allocate short-term seasonal CRRs in Tiers 1, 2 and 3. *See* CAISO Jan. 29 2007 Transmittal Letter, Docket No. ER07-475-000, at 11 (*citing* Kristov January 2007 Testimony at 39-40).

[71] *Id*. (*citing* Kristov January 2007 Testimony at 39).

[72] Kristov January 2007 Testimony at 37.

[73] CAISO Jan. 29, 2007 Transmittal Letter, Docket No. ER07-475-000, at 12.

[74] MRTU Order, 116 FERC ¶ 61,274 at P 830.

[75] CAISO May 7, 2007 Transmittal Letter, Docket No. ER07-869-000, at 21 (*citing* Kristov May 2007 Testimony at 66-68).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

needs. As a result, the CAISO has not proposed changes to the rules for setting aside capacity on the interties in the CRR allocation process.

i. Comments

113. DC Energy supports the modeling proposed by the CAISO because it will avoid under-funding and over-allocation of long-term CRRs. DC Energy agrees that CRR allocations should be limited to allow sufficient capability to be released into the auction to ensure a robust auction result. SoCal Edison and AReM support the 50 percent cap on long-term CRRs. SoCal Edison agrees that allowing up to 50 percent of an LSE's adjusted load metric will provide rights sufficient for LSEs to hedge their base load.[76] SoCal Edison states that the testimony of CAISO Witness Treinen on the average ratio of minimum and maximum load demonstrates that, for a majority of the load on the CAISO system, the 50 percent cap for long-term CRRs is consistent with the amount of base load expected.

114. AReM claims, however, that some LSEs will be able to obtain more than 50 percent of the load in long-term CRRs because LSEs holding ETCs, converted rights or TORs will have LTTRs in addition to those allocated through the CRR process. AReM explains that this outcome is possible because the CAISO's first step in determining the transmission capacity available for CRRs is to remove capacity associated with those contracts and rights and these rights are accounted for before the adjusted load metric is calculated. AReM proposes capping the amount of long-term CRRs for each LSE at 50 percent of its load metric (which is not "adjusted" for ETCs, converted rights or TORs). AReM argues that its proposal ensures non-discriminatory treatment of LSEs.

115. Powerex argues that it would be more reasonable to make far less of the system capability available to support long-term CRRs. Powerex states that an LSE's ability to convert seasonal CRRs into 10-year long-term CRRs will reduce the amount of intertie capacity available in the annual auction for seasonal CRRs after year one. Powerex contends that such a result conflicts with the proper resolution of whether the proposed set aside of intertie capacity for the CRR auction ensures that external suppliers can obtain sufficient intertie CRRs in the MRTU proceeding.[77] Powerex asserts that allowing up to 60 percent of the transmission capacity to be committed under long-term CRRs in

---

[76] SoCal Edison Feb. 22, 2007 Comments, Docket No. ER07-475-000, at 6 (*citing* Kristov January 2007 Testimony and Exh. ISO-3).

[77] Powerex Feb. 23, 2007 Protest, Docket Nos. ER07-475-000 and ER07-475-001, at 19 (*citing* MRTU Order, 116 FERC ¶ 61,274 at P 830 (2006)).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

year one would likely make fewer seasonal CRRs available in future years, limiting LSEs' ability to reconfigure their CRRs to adapt to changed load patterns. Powerex claims that, if almost all of the 60 percent transmission capacity is fully subscribed in year one, the CAISO will not be able to issue any additional long-term CRRs in year two or any material long-term CRRs until the end of 2017.

116. Further, Powerex contends that the award of a large quantity of long-term CRRs in year one will preclude the development of a long-term CRR auction. Powerex states that the long-term CRRs are characterized by four seasons and peak and off-peak time of use periods that create eight distinct CRR products per year, which will not lead to the cohesive transmission path anticipated in the Final Rule. Powerex adds that these rules allow LSEs to cherry-pick the more valuable and useful seasonal CRRs to convert to long-term CRRs, leaving the less valuable seasonal CRRs for the auction. Powerex claims that, unlike other ISO/RTO proposals, most of the transmission capability would be locked-in for the next 10-years, eliminating the CAISO's ability to apply the lessons that will be learned during the initial years of implementing LMP and associated seasonal and monthly CRRs.

117. Powerex argues that the proposal should be modified so that the simultaneous feasibility test used to determine the allocation of long-term CRRs under Tier LT uses a transmission system model reduced to no more than 25 percent of system capability. Powerex also requests that the Commission require a phasing-in of long-term CRR levels over the course of a few years before the 25 percent simultaneous feasibility test level is reached to mitigate the risk of initial-year inefficiencies and allow the CAISO and market participants to benefit from the experience gained after implementation of LMP. Powerex argues that this modification will prevent LSEs from nominating their maximum long-term CRR levels in year one and having buyer's remorse when they realize another configuration would have been better. Powerex also argues that the modification will spread the expiration and renewal of long-term CRRs over several years, so that LSEs can adjust their long-term CRRs more gradually based upon changes in load or supplies. Powerex adds that another way to avoid the year one nomination problems is by making one-tenth of the total long-term CRR quantity available in each year, so that one-tenth of the outstanding long-term CRRs would expire in each year. Powerex recommends delaying the implementation of long-term CRRs until the intertie set-aside issue is resolved.

118. Finally, Powerex claims that, although the priority nomination process was originally intended to provide multi-year durability of short-term CRRs, the allocation of any long-term CRR in prior years achieves multi-year durability of the short-term CRRs. Therefore, Powerex contends that there is no basis for long-term CRRs to also be renewed in the priority nomination process under the revised priority nomination process

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

provision in MRTU Tariff section 36.8.3.5.1. Powerex also claims that the combination of the long-term CRRs and the priority nomination process for short-term CRRs could enable LSEs to increase from year to year the amount of CRRs they are awarded at a particular location. Powerex claims that this process gives an advantage to LSEs that prefer long-term rights over LSEs that prefer short-term rights. Powerex requests that the Commission adopt its modification to the priority nomination process provision in MRTU Tariff section 36.8.3.5.1.

119. The CPUC argues that the lack of a plan to coordinate the CAISO's long-term transmission planning process with the long-term CRR allocation and renewal methodology threatens to magnify transmission costs for LSEs that deliver energy from future energy resources, including renewables, and creates a bias against their use. The CPUC suggests two modifications to facilitate California's choice to increase use of renewable energy resources. First, the CPUC proposes that the Commission direct the CAISO to decrease the initial percentage of short-term CRRs that can be converted into long-term CRRs from 50 percent, to 20 percent, of the LSE's adjusted load metric if the LSE is unable to verify that that the CRR nominations are supported by either a contract of 10 years or greater length or ownership of the generation source. The CPUC proposes that LSEs continue to obtain and renew short-term CRRs through allocation or the secondary market to hedge their energy supply contracts that are shorter than 10 years. The CPUC supports raising the percentage of an LSE's adjusted load metric that can be hedged with non-source verified long-term CRRs after the CAISO develops a method to coordinate the addition of future elements to the grid that will not unreasonably financially hinder the transmission of energy from such resources. Second, the CPUC states that CRR nominations that are verified, either by a source-specific energy contract of 10 years or greater length or ownership of the generation source, should remain subject to the 50 percent maximum proposed by the CAISO. The CPUC argues that, by reducing the number of unverified short-term CRRs that can be converted to long-term CRRs, the CAISO will decrease the ability of LSEs holding CRRs not related to current or future grid use to impede other LSEs from obtaining well-tailored hedges.

120. Finally, Powerex and WPTF raise a concern that affects both short-term and long-term CRRs. Powerex and WPTF note that the Commission conditioned its approval of the CAISO's MRTU proposal on the CAISO evaluating the adequacy of the intertie set-aside provision. Powerex claims that the CAISO's CRR dry run results reveal that the set aside mechanism is ineffective at ensuring sufficient intertie CRRs are available in the auction. However, Powerex points out that, despite this evidence, the CAISO proposed no changes. WPTF argues that the set-aside rules are intended to protect the ability for non-LSE market participants to hedge the cost of delivering certain levels of energy into and out of California. WPTF contends that the set-aside mechanism must serve this role in order to be just and reasonable.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

121. Powerex explains that, despite capacity at interties being available for nomination as a CRR source in the auction, in many cases, fewer CRRs were actually cleared in the auction during the CRR dry run than expected.[78] Powerex states that the CAISO has explained that these unexpected results were caused by "downstream constraints" that make the requested intertie-sourced CRRs infeasible under the simultaneous feasibility tests.[79] Powerex and WPTF conclude that, even though there is sufficient capacity at the interties for use as a CRR source, there is not sufficient transmission capacity to deliver that energy inside the CAISO-controlled grid. Powerex and WPTF argue that it is unduly discriminatory for the CAISO to fail to ensure that import CRRs obtained in the auction are as likely to be feasible as CRRs allocated to LSEs.

122. Furthermore, Powerex and WPTF contend that the intent of the set-aside provision is to divide equally and in a non-discriminatory fashion intertie-sourced CRRs that remain after the source verified allocation process. Powerex and WPTF claim, however, that the results of the CRR dry run auction show that the set-aside rules do not provide import CRRs in the auction in an equitable and non-discriminatory fashion. Powerex and WPTF contend that, because the allocation process occurs prior to the auction, any nominations in the auction become infeasible. Powerex and WPTF assert that internal transmission constraints will impair the performance of the CRR auction more than that of the CRR allocation process. Powerex and WPTF argue that different treatment of similarly situated parties seeking CRRs from the residual intertie capacity violates section 205 of the FPA.

123. Powerex and WPTF also disagree with the CAISO's suggestion that the infeasibility problem could be solved with more bidding for counterflow CRRs. Powerex states that it is unreasonable to assume that bids for counterflow CRRs will solve the feasibility issue for import CRRs.[80] Powerex and WPTF suggest that the CAISO could reduce the infeasibility problems by modeling the set-aside capacity as fixed flows with injections at the intertie and withdrawals at the corresponding trading hub. Powerex and WPTF also contend that modeling the set-aside capacity as CRR obligations in the simultaneous feasibility test can result in releasing infeasible CRRs in the allocation process because set-aside capacity may provide counterflow that has to be cleared in the

---

[78] *See* Powerex May 29, 2007 Protest, Docket No. ER07-869-000, Exh. PWX-1 at 2 (Wellenius Affidavit).

[79] *See Id*. at 14 (*citing* Kristov May 2007 Testimony at 67); Wellenius Affidavit at 2.

[80] Powerex May 29, 2007 Protest, Docket No. ER07-869-000, at 21 (*citing* Wellenius Affidavit at 24-26).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

auction to maintain the feasibility of allocated CRRs and that there is no way to guarantee that would happen.[81] Powerex and WPTF claim that this problem can be resolved by modeling the use of the set-aside capacity as an option, rather than an obligation. Powerex and WPTF note that this approach was used by the CAISO in setting aside transmission capacity associated with TORs and merchant transmission expansion projects.

124. Powerex and WPTF also are concerned that, in the second year of MRTU, the auction set-aside provision is delayed until after LSEs have had the opportunity to nominate CRRs that are not sourced verified. Powerex and WPTF claim that this free-choice of CRRs will give LSEs not only the opportunity to keep the premium CRRs they received in previous years but also to cherry-pick from CRRs that were previously in the auction. Powerex and WPTF claim that, in the long run, this policy could result in a limited number of CRRs being eligible for auction.

125. Powerex and WPTF add that, contrary to the Commission's directive, the CAISO has failed to perform a CRR dry run for the second and succeeding years of MRTU, which will result in an unjust and unreasonable outcome. Powerex and WPTF request that the Commission direct the CAISO to work with stakeholders to develop the minimum set-aside level at each intertie before the year two allocation and auction processes begin.

126. In its March 12, 2007 answer, the CAISO states that it considered AReM's suggestion to subtract ETC and converted rights from an LSE's eligibility for long-term CRRs. The CAISO states that it found that the approach would have relatively little impact because the majority of ETCs and all converted rights do not provide 10 years of coverage comparable to long-term CRRs and, therefore, do not comply with Guideline 4. Also, the CAISO states that, when there is ETC coverage for 10 years, such a large percentage of the rights holder's adjusted load metric is covered by the ETC rights that the ETC holder has almost no eligibility for either seasonal or long-term CRRs.[82] As a result, the CAISO does not propose to reduce an LSE's eligibility for long-term CRRs by the amount of their ETC coverage.

127. In its June 14, 2007 answer, the CAISO acknowledges that many of its stakeholders have advocated a "go slow" approach. The CAISO states that, at the same

---

[81] Wellenius Affidavit at 7.

[82] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 30 (*citing* Kristov January 2007 Testimony at 40-43).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

time, its stakeholders have also requested greater long-term certainty in managing congestion costs under MRTU. The CAISO notes that, by limiting the overall percentage of LSE load that is eligible to obtain long-term CRRs, LSEs will have greater ability to obtain sufficient CRRs in subsequent years to manage congestion costs associated with new resources, including new renewable resources needed to comply with California's renewable portfolio standards and greenhouse gas emission rules. The CAISO does not advocate departing from any of its proposed CRR rules because it believes that the current proposal has struck the proper balance. However, it recognizes that good cause exists to allow California to adopt a more gradual approach to the CRR release rules that would address such regional policy concerns. The CAISO believes that the "go slow" approach the CPUC advocates to decrease the initial percentage of short-term CRRs that can be converted into long-term CRRs from 50 percent to 20 percent of an LSE's adjusted load metric would not introduce adverse market incentives because it does not change the allocation rules; it only proposes a more gradual approach to the reservation of capacity by long-term CRRs in year one.

128. In regard to intertie capacity, the CAISO states that there is no evidence that the CRR rules will unduly limit the ability of CRR auction participants to obtain import CRRs in the auctions or that the proposed market rules, which by design afford LSEs priority in obtaining CRRs through their right to participate in the CRR allocation prior to the CRR auction, must be changed.

129. The CAISO argues that Powerex's and WPTF's concerns extend beyond the binding constraints on the capacity available at the interties to import CRRs that became infeasible during the CRR dry run due to downstream constraints within the CAISO system. The CAISO claims Powerex and WPTF propose that the CAISO reserve transmission capacity within the CAISO system to guarantee the availability of import CRRs that sink at potentially congested locations. The CAISO asserts that this proposal goes beyond the CAISO's originally proposed intertie set-aside provision, the Commission's direction to the CAISO to evaluate how much residual intertie capacity will be available, and the scope of the discussion of this issue with stakeholders.

130. CAISO adds that, within the proposed rules for the set aside of residual intertie capacity for the CRR auction, Powerex and WPTF could adjust their bidding strategy to increase the chances of obtaining import CRRs on the interties when there are binding downstream constraints within the CAISO system. Furthermore, the CAISO explains that the sequencing of the CRR allocation and auction processes enables LSEs to receive an allocation of CRRs from interties rather than having to bid to obtain these CRRs in the CRR auction and that LSEs can obtain such CRRs before they are made available

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

through the auction to parties not eligible for CRR allocation. The CAISO states that these facts are direct consequences of the design of the CRR release processes and are stated intentions of CAISO policy.

131. The CAISO states that Powerex's and WPTF's line of reasoning concerning the CRRs available for LSEs on the interties versus other entities is flawed because it inappropriately assumes that the certainty and opportunities provided by the CRR allocation process and the CRR auction process are comparable. The CAISO explains that, if the bid prices are high enough, transmission capacity will become available under the proposed market rules, and the auction results could be just as certain as those of the allocation process. The CAISO states that, when bids are high, market participants will be more willing to buy "counterflow" CRRs, which make transmission capacity available on constraints in excess of that apparently available at the end of the CRR allocation. The CAISO contends that such counterflow CRRs are routinely and extensively traded in the PJM and New York Independent System Operator, Inc. (New York ISO) auctions. However, the CAISO states that, if the bid prices are very low, the outcomes of the CRR auction will not be certain. Therefore, the CAISO concludes that the results of the CRR allocation and the CRR auction cannot be compared because the transmission capacity available in the auction will vary with the bid prices submitted to the auction.

132. The CAISO adds that Powerex and WPTF fail to account for the fact that, while the CAISO has committed to provide the opportunity for parties to obtain import CRRs in the CRR auction, it is not entirely in the CAISO's control – nor should it be – how many CRRs actually clear the CRR auction. The CAISO also points out that the auction is fundamentally different from the allocation because, in the allocation, all CRRs sink at the location of the load (except for external LSEs) but, in the auction, CRRs can sink anywhere on the grid. The CAISO contends that this difference is one of the reasons why auction results are so sensitive to the full set of submitted bids. The CAISO contends that, under alternate scenarios that relieve the constraints at the interties through the workings of the CRR auction participant's bidding strategy, more capacity may be made available to market participants at the interties than was observed in the CRR dry run.

133. The CAISO argues that it and its stakeholders intended the CRR rules to reflect a bifurcated release strategy that affords LSEs greater priority. The CAISO states that to alter this fundamental aspect of its proposal at this juncture, especially in the absence of any new methodological issues or substantiated empirical concerns, would circumvent the lengthy stakeholder process that it underwent to ensure that its market rules were fully vetted and supported by market participants.

134. Finally, the CAISO proposes adding language to MRTU Tariff section 36.8.3.5.1 in response to Powerex's and WPTF's request that the CAISO reduce the amount of

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

priority nomination process nominations an LSE may make after year one by the quantity of previously allocated long-term CRRs for each season, time of use period, and LAP for that year and to reduce an LSE's nomination of any particular CRR source-sink combination in the priority nomination process by the quantity of CRRs that were converted to long-term CRRs.

ii. <u>Commission Determination</u>

135. Consistent with the Final Rule, the CAISO's proposal gives LSEs priority over non-LSEs in the allocation of long-term CRRs; therefore, we find that it complies with Guideline 5 of the Final Rule, subject to the modifications directed herein.

136. We agree with the CAISO that a delicate balance must be struck between flexibility to accommodate changes in future procurement activities and certainty for those wishing to hedge their long-term congestion charges. While we hope LSEs will select long-term CRRs cautiously as they gain experience with the new LMP market, we find there is a strong incentive for parties to lock-up a significant portion of grid capacity as long-term CRRs in year one, reducing flexibility for LSEs in later years. Consequently, we accept the proposal put forth by the CPUC and acceptable to the CAISO to limit an LSE's or external LSE's long-term CRR eligibility to 20 percent of its adjusted load metric in year one. Under this proposal, the capacity eligibility would increase in increments of 10 percent each year until all LSEs and external LSEs are eligible for long-term CRRs of up to 50 percent of their adjusted load metric. Further, we accept the CAISO's suggestion that this new allocation rule include an exception that allows LSEs and external LSEs that can demonstrate that more than 20 percent of their load in year one is covered by long-term procurement arrangements of 10 years or greater or ownership of generation resources to nominate the full amount of those contracts or owned resources up to 50 percent of their adjusted load metric.

137. We find that this revised allocation rule meets the reasonable needs of LSEs to obtain transmission service for long-term power supply arrangements used to meet service obligations, as required by EPAct 2005 and as implemented by the Final Rule. This gradual approach to the release of CRR not only provides certainty to entities that have already made long-term procurement decisions but also provides flexibility to LSEs nominating CRRs in future years to match future procurement decisions. In addition, the CRR proposal will provide CRR holders with the flexibility to sell portions of their holdings through bilateral markets or auctions if they find that their congestion hedges no longer suit their needs. We also note that the priority nomination process provides market participants with reasonable certainty that they can retain their short-term CRR holdings in subsequent years. Finally, this approach permits all market participants to gain experience with LMP pricing and any new congestion patterns that emerge.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

138. We agree with Powerex regarding the need to mitigate the risk of initial-year inefficiencies resulting from the release of too many long-term CRRs before market participants can benefit from the experience gained after the implementation of LMP. While we reject Powerex's specific proposal to reduce the transmission capacity available in the simultaneous feasibility test to 25 percent of the system's actual capability, we are adopting an alternate proposal that we anticipate will have a similar impact in reducing the quantity of long-term CRRs awarded in year one of MRTU. As discussed above, we have directed the CAISO to phase-in the long-term CRR eligibility levels.

139. With respect to AReM's concerns, we find that ETCs will have a limited impact on long-term CRR nominations. First, the majority of ETCs will expire within 10 years. Therefore, the megawatt quantities under these contracts should not be netted from the amount of long-term CRRs that ETC holders are eligible to nominate. Second, holders of ETCs that expire beyond 10 years have almost no eligibility for long-term CRRs. Given the duration of the remaining ETCs and the supply portfolio of the remaining ETC holders, we find that the CAISO's proposal reasonably accounts for load served under ETCs.

140. In response to Powerex and WPTF arguments regarding intertie capacity, we disagree that the results of the CRR dry run show that the intertie "set-aside" provision is ineffective. Instead, as Powerex and WPTF recognize, the CRR dry run results reveal that there is intertie capacity remaining after the allocation process. This intertie capacity is available for non-LSEs who want to purchase CRRs in the auction process. We disagree that provisions relating to setting aside intertie capacity should include mechanisms to preserve internal capacity. If intertie-sourced CRR nominations are infeasible because of internal constraints, it is not because the CAISO's rules for auctioning intertie capacity are defective. Instead, it is because there is limited physical transmission capacity and internal LSEs are using all available internal capacity to serve their load. Furthermore, as noted by the CAISO, unlike internal LSEs that will ultimately pay congestion charges at the location of their load, Powerex and WPTF can modify their CRR nomination to avoid areas of the grid that are typically constrained. Also, if Powerex and WPTF want to increase their chances of receiving their desired CRRs, they can offer to pay more for these CRRs in the auction process. Finally, LSEs and marketers such as Powerex and WPTF are not similarly situated because EPAct 2005 requires LSEs to get priority treatment; therefore, there is no undue discrimination. For these reasons, we will not direct the CAISO to modify either the method of modeling

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

"set-aside" intertie capacity or the rules governing the allocation tier to which the "set-aside" provision is applied.[83]

141. Finally, we accept the CAISO's proposal to modify MRTU Tariff section 36.8.3.5.1 in response to concerns raised by Powerex and WPTF. However, because we find that the CAISO's modified renewal process is just and reasonable,[84] we disagree with the notion that expiring long-term CRRs should not be nominated in the priority nomination process.

b. Historical Reference Period

142. Prior to the start of the allocation process, LSEs must submit documentation that will be used to determine their eligibility in the first year to participate in Tiers 1 and 2.[85] The nominated CRR sources in Tiers 1 and 2 must be verifiably tied to supply sources that were owned or under contract to the LSE during the historical reference period.[86] The historical reference period initially proposed by the CAISO was September 1, 2004 to August 31, 2005.[87] However, in Docket No. ER07-869-000, the CAISO proposes to use calendar year 2006 as the historical reference period. The CAISO states that this change is offered due to stakeholder concerns that the 2004-2005 reference period was too far in the past relative to the start-up of MRTU.

i. Comments

143. SDG&E objects to the CAISO's proposal to use calendar year 2006 as the basis for resource verification in the CRR allocation process. SDG&E asserts that 2006 was not representative of its normal and necessary use of the CAISO-controlled grid. In

---

[83] In the MRTU Compliance Order, the Commission stated that it would address matters relating to intertie capacity in the instant proceeding. *See* MRTU Compliance Order, 119 FERC ¶ 61,313 at P 242. In this order, we find that it is not necessary for the CAISO to modify either the method of modeling "set-aside" intertie capacity or the rules governing the allocation tier to which the "set-aside" provision is applied. Accordingly, the Commission's action in this proceeding resolves all outstanding compliance obligations regarding intertie capacity.

[84] *See supra* P 96-105.

[85] *See* Kristov January 2007 Testimony at 30-31.

[86] *Id*. at 31.

[87] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

particular, SDG&E states that in 2006 it relied more heavily on local generation and imports from the north than it did on imports from the east via the Southwest Powerlink (SWPL). According to SDG&E, these procurement decisions were made in response to directives from the CPUC but do not reflect SDG&E's historical nor future use of the grid.

144. SDG&E also points out that, in its attempt to comply with California's renewable portfolio standard, it will need to contract with resources outside the San Diego area, thus increasing its reliance on SWPL. Because SDG&E has only a single 2006 verified source, it asserts that it will not be able to secure in Tiers 1 and 2 sufficient CRRs to hedge its existing and anticipated commitments for renewable resources sourced from the Imperial Valley and neighboring areas. SDG&E notes that it will have the opportunity to request those CRRs in Tier 3, but, if that tier is oversubscribed, the *pro rata* share SDG&E is likely to receive is only a small fraction of its planned transmission of power over SWPL. SDG&E asserts that the secondary market cannot be trusted to provide much help, given that SDG&E's reliance on Imperial Valley generation is widely known and speculators will be in a position to demand high prices for any CRRs that SDG&E attempts to purchase through the CRR auctions or through bilateral transactions with parties holding CRRs. SDG&E asserts that, in the absence of mitigation, the CAISO proposal is unreasonable, unjust, and unduly discriminatory and must be revised.

145. To that end, SDG&E offers two alternative suggestions. First, SDG&E proposes that the CAISO retain priority nominations for Tiers 1 and 2 based on resource verification from 2006 but expand the definition of a resource to include a contract signed on or before December 31, 2006. SDG&E argues that this process would not distort future procurement decisions because these arrangements would have been entered into before the design of the long-term CRR allocation process was developed. Therefore, SDG&E asserts that the contracts would not have been influenced by strategic behavior designed to maximize CRR rights. SDG&E believes this approach would provide the most satisfactory solution.

146. Second, SDG&E alternatively proposes that the resource-based priorities for Tiers 1 and 2 in the initial allocation be limited to the term of the underlying commercial arrangement. SDG&E states that, as a result, the allocation system would be gradually purged of the initial priority allocations in favor of allocations based on percentage of load. SDG&E also argues that no CRR awarded on the basis of a resource-verified priority could be converted to a long-term CRR unless the underlying commercial arrangement is for a term of at least 10 years. According to SDG&E, these rules would provide LSEs disadvantaged in the initial allocation better prospects in the future for

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

obtaining an equitable allocation of useful CRRs based on load share ratio. SDG&E states that, if the Commission does not adopt the first alternative, at a minimum it should require the CAISO to implement the second alternative.

147. Six Cities opposes the change of the historical reference period to calendar year 2006. Six Cities contends that the CAISO has not demonstrated that calendar year 2006 better represents future resource commitments than the period previously accepted by the Commission. However, Six Cities also opposes the use of a historical reference period of a year in general, even though it acknowledges that the Commission has already accepted a historical reference period of that length of time. Six Cities claims that this decision may disadvantage LSEs who made procurement commitments in calendar year 2006 for which they might require congestion hedges but are unable to obtain them because the CAISO does not offer them. Six Cities contends that such LSEs may not be able to obtain the long-term CRRs for alternative resources if the source validation rules for Tiers 1 and 2 are limited. Six Cities request that the Commission approve a historical reference period that includes the months that have been accepted already (*i.e.*, September 2004 through August 2005), the remaining months of 2005 and calendar year 2006. Six Cities argues that this longer historical reference period would allow the CAISO to accommodate a wider range of LSEs' historical procurement practices.

148. Powerex also protests the CAISO's proposal to change the historical reference period for source verification from September 1, 2004-August 31, 2005 to calendar year 2006. Powerex argues that the CAISO has failed to consider the impact on external suppliers of moving the historical reference period. Powerex claims that, while the change in the reference period does not necessarily affect the total amount of energy flowing over the interties, it does benefit those LSEs that were able to secure contracts for those energy flows and thereby position themselves to be allocated more CRRs. Powerex states that the Commission should not accept an unduly discriminatory rule change that will harm one set of market participants while benefiting another.

149. Powerex also argues that the fact that the CRR dry run was conducted under the previous historical reference period diminishes its value because it does not provide stakeholders with an opportunity to analyze and evaluate the impact of the newly proposed historical reference period. In light of this shortcoming, Powerex requests that the Commission direct the CAISO to avoid detrimental impacts on external suppliers from the change in historical reference period by establishing a minimum set-aside level at each intertie based on the historical reference period originally proposed by the CAISO and used in the CRR dry run.

150. Modesto and M-S-R/Santa Clara are concerned that the CAISO has retained the requirement in MRTU Tariff section 36.8.3.4 that energy contracts submitted for source

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

verification must be at least one month in duration, even though this requirement was relaxed for the CRR dry run. Modesto and M-S-R/Santa Clara argue that, by eliminating the one-month requirement, LSEs will have the flexibility to determine whether to compile source verification data of energy contracts for shorter durations of time to obtain CRRs in the CRR allocation process. Modesto and M-S-R/Santa Clara request that the Commission direct the CAISO to eliminate the one-month minimum requirement for CRR source verification in MRTU Tariff section 36.8.3.4.

151. In its March 12, 2007 answer, the CAISO opposes Six Cities' proposal to create a 28-month historical reference period because it will result in a greater multiple counting than even a forward looking period.

152. In its June 14, 2007 answer, the CAISO states that it considered SDG&E's first proposal but found that changing the nature of the historical reference period to allow contracts for future delivery to count would be unworkable. The CAISO argues that either the change would have to be limited to a time horizon too short to provide any benefit to the parties advocating this change, or, if extended several years into the future, it would raise difficult complexities regarding how to allocate *pro rata* shares of generating units to multiple LSEs and how to model non-existent generation in the CRR network model for the simultaneous feasibility test. Furthermore, the CAISO states that any such change to the source verification process would result in a four-week delay in the CRR implementation schedule.

153. Regarding SDG&E's second proposal, the CAISO notes that it has identified a similar, more feasible modification to its original proposal.[88] The CAISO cautions that, if a sunset provision on CRRs nominated in the priority nomination tier were adopted, it should only be applied at the initial source verification for CRR year one.[89] The CAISO adds that any ongoing source verification beyond the first year would carry with it inefficient contracting incentives and additional administrative complexity.[90] The CAISO states that, while it continues to support its filed proposal regarding the historic reference period, SDG&E's concerns could be addressed by incorporating a sunset date on priority nomination process renewability. According to the CAISO, such a change would not impact the rules currently being implemented in preparation for the first annual CRR allocation and there would be minimal, if any, schedule impact.

---

[88] *See* CAISO June 14, 2007 Answer, Docket No. ER07-869-000, at 24 (*citing* Kristov May 2007 Testimony at 63).

[89] *Id*.

[90] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

154. As for the one-month minimum requirement for contracts for source verification, the CAISO states that it maintained the requirement in its amended filing in Docket No. ER07-869-000 because it did not see a sufficient reason or stakeholder demand to reopen the issue. The CAISO states that, because almost every market participant could find something abnormal with the historical reference period, it chose to balance source verification with the free choice tiers. The CAISO states that its goal is to achieve a reasonable starting allocation that parties can modify in subsequent years. For this reason, the CAISO requests that the Commission accept the CAISO's policy decision to use a minimum contract length of one month for CRR source verification purposes.

ii. Commission Determination

155. We accept the CAISO's proposed 2006 historical reference period. As an initial matter, we accept the use of a historical reference period or time frame for source verification. In general, the historical reference period chosen should be reasonably representative of the period during which the rates will be in effect.[91] Also, relying on a historical reference period (*i.e.*, a prior time period before market participants had notice that this "snapshot" would be used for CRR allocation) will ensure that parties do not strategically alter their supply decisions, avoid tainting the bilateral contracting process, and guard against cherry-picking of the most valuable long-term CRRs.[92] This period of time should be sufficiently close to the start of the MRTU market that the data are not stale.[93] In addition, we conclude that it is reasonable for the historical reference period to be the same for short-term CRRs as it is for long-term CRRs because long-term CRRs originate from being converted from short-term CRRs in Tiers 1 and 2 of the CRR allocation process under MRTU.

---

[91] *See, e.g., Allegheny Elec. Coop. v. Niagara Mohawk Power Corp.*, 58 FERC ¶ 61,096, at 61,349 (1992); *North Carolina Electric Membership Corp. v. Carolina Power & Light Co.*, 57 FERC ¶ 61,332, at 62,059, 62,064 (1991); *Blue Ridge Power Agency*, 55 FERC ¶ 61,509, at 62,787 (1991).

[92] *See generally* Pope January 2007 Testimony at 32-33 (*citing* CAISO Feb. 9, 2006 Filing, Docket No. ER06-615-000, Exh. ISO-2, at 108-09).

[93] *See* 18 C.F.R. § 35.13 (d)(4); *see* Revised Requirements for Filing Changes in Electric Rate Schedules and for the Preparation and Submission of Supporting Data, Order No. 91, 45 Fed. Reg. 46,352 (July 10, 1980), FERC Stats. & Regs., Regulations Preambles ¶ 30,170, *order on reh'g*, Order No. 91-A, 12 FERC ¶ 61,206 (1980); *see* also Blue Ridge, 55 FERC ¶ 61,509 at 62,787 (1991) (finding more recent data to be more representative).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

156. In particular, we accept the CAISO's proposed change in the historical reference period prompted by stakeholders' concerns that the September 1, 2004 – August 31, 2005 historical reference period for short-term CRR allocation conditionally accepted by the Commission[94] was too far in the past relative to the start of MRTU markets. We accept the CAISO's proposed change in the historical reference period to calendar year 2006 for both short-term and long-term CRRs because this period better meets the criteria described above and addresses stakeholders' concerns.

157. We reject both of SDG&E's proposals. The protection SDG&E seeks is the ability to match its CRR holdings (including long-term CRRs) with its future procurement decisions. We find that SDG&E's concerns are best addressed by ensuring flexibility for LSEs to obtain the appropriate CRRs in future years, rather than by changing or distorting the historical reference period. To that end, we have directed above the CAISO to modify the amount of an LSE's adjusted load metric that can be nominated for long-term CRRs. Given that change, we find that SDG&E's suggested modifications are unnecessary.

158. We disagree with Six Cities that extending the historical reference period to a 28-month period is necessary. Instead, we agree with the CAISO that this methodology would create double counting issues resulting in infeasible CRR nominations.[95] Additionally, we disagree with Powerex that the change in the historical reference period will have detrimental impacts on external suppliers. As explained above, the reference period should be sufficiently close to the start of the markets to be representative of the period when the CRRs will be in effect. Using a calendar year 2006 historical reference period is consistent with these principles.

159. As for the one-month minimum requirement for contracts for source verification, we find that the CAISO has made a reasonable policy decision to use a minimum contract length of one month for CRR source verification purposes. Accordingly, we accept the minimum requirement proposed in MRTU Tariff section 36.8.3.4.

---

[94] MRTU Order, 116 FERC ¶ 61,274 at P 730.

[95] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 10-11.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

c. Placement of Tier LT in Tier Allocation Sequence

160. In the first year, the CAISO proposes to place Tier LT after Tiers 1 and 2 and before Tier 3 in the allocation sequence.[96] Therefore, the Tier LT process would be initiated after the completion of Tier 2 for the annual CRR allocation process and before LSEs submit nominations in the Tier 3 process.[97] After LSEs are notified of the seasonal CRRs awarded from the Tier 2 nominations, LSEs are then able to submit requests to nominate a portion of the seasonal CRRs awarded in Tiers 1 and 2 as long-term CRRs.[98]

161. In the second year and beyond, the CAISO proposes to place Tier LT after the Tier 1-Priority Nomination Tier and before Tiers 2 and 3.[99] LSEs would be able to nominate new long-term CRRs from among the seasonal CRRs awarded in the Tier 1 Priority Nomination Process, which is for renewal of seasonal CRRs that were allocated in the previous year.[100]

i. Comments

162. Six Cities argues that, for the first year and subsequent years, Tier LT should take place only after Tier 3 (*i.e.*, when all seasonal CRRs have been allocated). Six Cities also request that, in the first year, LSEs be allowed to nominate seasonal CRRs awarded in Tier 3 as long-term CRRs if those CRRs are source-verified. Six Cities contends that the advantages of this modification are that: (1) LSEs will have more information about their seasonal CRR allocations and additional nomination choices in Tier LT; (2) the completion of the seasonal CRR allocation process would be more expeditious because the more complex simultaneous feasibility test for long-term CRRs would not occur until the end of the process; and (3) there would be more time to perform the simultaneous feasibility test for nominated long-term CRRs. Six Cities states that this modification should not impact the overall timing of the CRR allocation process or affect the CAISO's ability to implement long-term CRRs in time for MRTU start-up.

163. In its March 12, 2007 answer, the CAISO states that Six Cities' concern was not raised during the stakeholder process; therefore, the CAISO has not had the opportunity to fully vet its implications with stakeholders. The CAISO states that entities might want

---

[96] CAISO Jan. 29, 2007 Transmittal Letter, Docket No. ER07-475-000, at 12.

[97] *Id*.

[98] *Id*.

[99] *Id*. at 14.

[100] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

to have more information prior to making long-term nominations; however, many entities may want to know their long-term CRRs before making their Tier 3 nominations. The CAISO states that it would be difficult to reopen one of the settled aspects of the long-term CRR design to entertain Six Cities' proposal now. But the CAISO will consider adding the proposal to the list of possible CRR enhancements that it will discuss with stakeholders.

ii. Commission Determination

164. With regard to the placement of Tier LT in the CRR allocation process, we find that the CAISO's proposal to revise MRTU Tariff section 36.8.3 to include a separate Tier LT immediately following Tiers 1 and 2 in the first year of the annual allocation process is just and reasonable. We also agree with the CAISO's decision to incorporate the long-term CRR proposal into its conditionally-accepted short-term CRR proposal. As set forth in MRTU Tariff section 36.8.3.4, in order to nominate CRRs in Tiers 1 and 2 in the first year of MRTU, LSEs must demonstrate that, during the historical reference period, they could have scheduled energy from the CRR source through ownership of a generator or contractual rights. Therefore, at the beginning of MRTU, long-term CRRs will be awarded to LSEs with verifiable contractual needs. In subsequent years, Tier 1 allocations will be based upon the priority nomination process, rather than the source verification process. Under the priority nomination process, LSEs will have the option of re-nominating a portion of the CRRs that they were previously allocated, which will include CRRs that are not source verified. Therefore, in the second year of MRTU and beyond, the CAISO will not verify that all priority tier CRR nominations will correspond to historical energy contracts. Instead, in the second year and beyond, LSEs will be permitted to nominate CRRs associated with new energy contracts in the highest priority tier. Additionally, upon receiving a short-term CRR in the priority nomination process, an LSE will be able to convert the short-term CRR into a long-term CRR by nominating it in Tier LT. We find that the CAISO's proposal strikes a reasonable balance between initially allocating long-term CRRs to entities with existing needs while affording the flexibility to accommodate future portfolio modifications.

d. Access of Small LSEs to Long-Term CRRs

i. Comments

165. NCPA asserts that the risks associated with long-term CRRs are much greater for smaller entities like NCPA than PG&E and SoCal Edison. NCPA states that, because of the size of their loads and generation resources, PG&E and SoCal Edison will be eligible to hold large portfolios of long-term CRRs (in addition to seasonal and monthly CRRs), which allows them to diversify more completely their holdings across the grid. NCPA

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

claims that this diversification will increase their odds that the instruments will produce an average positive value to cover the losses associated with those instruments that become negative in value. NCPA claims that the disproportionate risk on small LSEs vitiates their ability to use the long-term CRRs to hedge existing resources and plan new ones and thus fails to meet the anticipated goal of the statute.

166. NCPA also claims that small entities are disproportionately affected by the relative lack of data on LMP prices and CRR values. NCPA contends that limited studies have been based on the recent results of the CRR dry run to determine the value and availability of CRRs. NCPA argues that, without more extensive data, it will be difficult and speculative for LSEs to estimate the potential risk associated with obligation long-term CRRs and assess whether long-term CRRs might provide a sufficient hedge. NCPA states that, because it has declined to sign a CAISO non-disclosure agreement, it does not have access to the CAISO's input data that NCPA needs to perform its own LMP and CRR studies. NCPA requests, therefore, that the Commission act on its pending motion seeking modifications to the CAISO non-disclosure agreement.[101]

167. In its March 12, 2007 answer, the CAISO states that, contrary to NCPA's assertion, the statute, the Commission's Final Rule and the CAISO's proposal apply to all LSEs on a non-discriminatory basis. The CAISO adds that it is not convinced that any of the risks mentioned by NCPA are, on a percentage basis, less for large LSEs. As for instruments that NCPA claims "go negative," the CAISO explains that there is no risk to holding a CRR obligation when a party has a day-ahead schedule that matches the CRR source, sink and MW quantity. The CAISO adds that a CRR obligation can provide a perfect hedge even when the CRR holder is required to make a payment because the transaction hedged by the CRR would receive an offsetting congestion payment for providing counterflow so that the net congestion charge to the holder would still be zero.[102] As for the concerns about the CRR dry run process and LMP studies, the CAISO states that it disagrees with NCPA's characterization of the process and adds that it already responded fully to NCPA's arguments in Docket No. ER06-615-002.[103] The CAISO claims that there is no reason to delay or reject the CAISO's long-term CRR proposal on the basis of these arguments.

---

[101] NCPA Feb. 23, 2007 Protest, Docket Nos. ER07-475-000 and ER07-475-001, at 13 (*citing* NCPA Dec. 22, 2006 Protest on Compliance Filing, Docket No. ER06-615-000).

[102] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at n.96 (*citing* Pope January 2007 Testimony at 20, 73).

[103] *Id*. at 35.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

ii. Commission Determination

168. Based on the evidence before us, we find no reason to conclude that the long-term CRR proposal exposes smaller LSEs to disproportionately greater financial risks. Instead, we find that the rules established under the long-term CRR proposal treat all LSEs alike. As noted in this order, we expect that the first few years of MRTU will provide valuable experience, and, accordingly, we would expect market participants to consider the newness of the market when making their initial long-term CRR nominations. In addition, the "go slow" approach that we have accepted above for the release of long-term CRRs provides LSEs with a further means to gain experience with the long-term CRR allocation process. Some market participants desire additional information about the data and the assumptions used in these studies, and the CAISO has made such information available to market participants who sign a non-disclosure agreement. However, the CAISO's non-disclosure agreements governing the release of this type of information are not before us in this proceeding. The Commission recently addressed NCPA's concerns in the MRTU Compliance Order.[104] Therefore, we will not address those concerns here.

169. Finally, we note that, given the duration of long-term CRRs, it is important for the CAISO to consider transmission system conditions that could change over time and ultimately affect the feasibility of long-term CRRs. We thus believe that it is important for the CAISO to consider whether the feasibility test applied to long-term CRRs requires additional time sensitive parameters (*i.e.*, modeling of future system conditions), which are not currently modeled in the simultaneous feasibility test.[105] Accordingly, we direct the CAISO to make an informational filing, within 10 days of the date of this order, explaining how this issue is being addressed, including whether or not the details are included in the relevant business practice manual, and, if necessary, to file tariff changes in a separate 205 filing.

---

[104] *See* MRTU Compliance Order, 119 FERC ¶ 61,313 at P 40; *see also* MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 209.

[105] We note that the CAISO mentions at least some of the parameters that will be taken into account in the transmission model for its simultaneous feasibility test, such as long-term scheduled transmission outages, operating transfer capability adjusted for derates, and TORs. *See* Pope January 2007 Testimony at 40.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

e. Scheduling Priority for LSEs with Long-Term CRRs

i. Comments

170. Santa Clara proposes that LSEs allocated long-term CRRs should receive a scheduling priority over other CRR holders when scheduling transmission service to ensure that the quantity (*i.e.*, physical component) of a long-term CRR is firm. While Santa Clara acknowledges that the Final Rule does not require transmission organizations to create a long-term physical right, such as an Order No. 888 network service right,[106] Santa Clara asserts that a scheduling priority for long-term CRRs over other CRR holders is necessary to maximize the firmness of the physical component of the long-term CRR. Santa Clara adds that the scheduling priority will prevent disruption of an LSE's ability to own resources and serve its load, facilitate the planning and financing of new generation facilities and other long-term power supply arrangements, and enable LSEs to manage the risk associated with long-term resources.

171. In its March 12, 2007 answer, the CAISO emphasizes that the concept of a scheduling priority for CRRs is inconsistent with the CRR design in general. The CAISO explains that CRRs have no direct relationship to physical scheduling because CRRs do not have to be matched with a physical schedule for their holders to be entitled to the revenue stream associated with the properties of the long-term CRR. The CAISO also notes that the Commission considered and rejected this same issue raised by Santa Clara on rehearing of the Final Rule.[107]

ii. Commission Determination

172. We agree with the CAISO that holding a long-term CRR does not have any direct relationship to the scheduling of physical resources. In the event of physical curtailment, the CAISO should continue to dispatch on a least-cost basis, regardless of holdings of long-term CRRs. This should not affect the financial positions of long-term CRR holders. If curtailment takes place between the source and the sink of the long-term CRR, the long-term CRR will have value regardless of whether the CRR holder's physical schedule is fulfilled because the long-term CRR will provide a hedge against congestion charges whether or not a physical resource is scheduled at the CRR source.

---

[106] Santa Clara Feb. 20, 2007 Comments, Docket No. ER07-475-000, at 8 (*citing* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 82).

[107] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 33 (*citing* Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 100-01).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

f. Access of External LSEs to Long-Term CRRs

173. The CAISO proposes provisions for the allocation of CRRs to external LSEs. According to MRTU Tariff section 36.9, an external LSE is permitted to participate in the short-term and long-term CRR allocation processes if (1) it demonstrates legitimate need according to the criteria in MRTU Tariff section 36.9.1, (2) it prepays the appropriate wheeling access charge associated with the CRR sought as set forth in MRTU Tariff section 36.9.2, (3) it nominates CRRs that clear the relevant simultaneous feasibility tests, (4) the external load for which CRRs are nominated is not served through an ETC, TOR or converted rights that has been designated as eligible to receive the reversal of congestion charges, and (5) it complies with the CRR source and sink verification process set forth in MRTU Tariff section 36.9.4.

174. In response to the Commission's directive in MRTU Rehearing Order, the CAISO proposes to modify tariff provisions relating to the allocation of CRRs to external LSEs. First, the CAISO proposes modifying the terms for external LSEs to prepay the wheeling access charge for the short-term CRRs they hold. In MRTU Tariff section 36.9.2, the CAISO proposes to allow external LSEs to pay their annual wheeling access charge obligation for short-term CRRs through monthly installments. In MRTU Tariff section 36.9.2.1, the CAISO proposes to allow external LSEs to prepay the wheeling access charge for the 10-year term of a long-term CRR through annual installments.

175. Second, the CAISO proposes modifying MRTU Tariff sections 36.8.3.1, 36.8.3.1.1, 36.8.3.1.2, 36.8.3.1.3, 36.8.3.1.4, 36.8.3.2, 36.8.3.4, 36.8.3.5, 36.8.3.5.1, 36.8.3.5.2, 36.8.3.5.3, 36.8.3.5.4 and 36.8.3.6 to permit the allocation of short-term CRRs to external LSEs that are associated with historical wheel-through transactions. The CAISO explains that, under MRTU Tariff section 36.9.3, the external LSE's eligible quantities of short-term CRRs will be based on the lesser of: (1) the total historical hourly export data for all interties[108] submitted as CRR sinks, and (2) the hourly metered load for the external end-use customers served by the external LSE that were exposed to CAISO congestion charges. Under MRTU Tariff section 36.9.3, the external LSE also must demonstrate that it has firm transmission rights pursuant to the tariffs of intervening transmission providers from its intertie sink to the end-use customers in the external LSE's control area. The external LSE must support its data submission and the demonstration of transmission rights to its end-use customers with a sworn affidavit by an executive employee authorized to represent the external LSE and attest to the accuracy of the data and demonstration. In addition, the CAISO explains that, under MRTU Tariff

[108] Under MRTU, control area interties are referred to as Scheduling Points.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

section 36.9.1, a generating resource that is the external supply source for the external LSE can not be located in the same control area as the external LSE. The CAISO contends that these requirements will ensure parity between external LSEs that desire wheel-through CRRs and internal LSEs the desire import CRRs.

i. Comments

176. TANC protests the conditions that the CAISO has placed on external LSEs to receive long-term CRRs. TANC claims that the requirement that external LSEs demonstrate a need for long-term CRRs based upon its ownership of generation or participation in a bilateral energy contract with generation inside the CAISO Control Area discriminates against external LSEs that contribute to the CAISO's embedded costs. TANC argues that this condition is contrary to the Commission's holding that LSEs that contribute to the embedded cost of the transmission organization should receive a preference in the allocation of long-term CRRs.[109] TANC contends that, as a result of this requirement, external LSEs that contribute to embedded costs to the CAISO's system will receive their allocation preference right only after internal LSEs have received their long-term CRR allocation. SMUD argues that the CAISO has not explained why only external LSEs must demonstrate need in order to qualify for long-term CRRs. SMUD adds that the proposed long-term CRRs are not "equal to or superior" to OATT services as required under Order No. 890 because the CAISO unlawfully discriminates among LSEs based on their membership in the CAISO.

177. TANC and Imperial protest the requirements in MRTU Tariff section 36.9.2 that external LSEs (1) pre-pay for access charges to obtain seasonal and monthly CRRs and (2) make payments for annual wheeling access charges for each year of the term of a long-term CRR with annual payments made at the beginning of the annual CRR allocation process for the following year.[110] Imperial argues that the CAISO could over-collect the wheeling access charge payments for the same MWs, resulting in a double cost recovery. Imperial also contends that it would enhance the efficient use of resources to allocate CRRs to Imperial because its imports will provide counterflows that will increase the amount of CRRs available on the congested Southwest to southern California corridor. Modesto argues that the prepayment requirement is particularly inappropriate given that the large investment that external LSEs will place on long-term resources will

---

[109] TANC Feb. 23, 2007 Protest, Docket Nos. ER07-475-000 and ER07-475-001, at 8-9 (*citing* Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 80).

[110] NCPA also argues that the wheeling access charge prepayment requirement is discriminatory.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

reduce the risk that such an entity would renege on its agreement with the CAISO to pay for CRRs. Modesto claims that the lack of persuasive evidence to the contrary makes the prepayment requirement unnecessary and unduly discriminatory.

178. Modesto and M-S-R/Santa Clara argue that the wheeling access charge prepayment provision in MRTU Tariff section 36.9.2.1 contravenes the intent of the Commission's directive in the MRTU Rehearing Order because it places an undue financial burden on external LSEs. Modesto and M-S-R/Santa Clara request that the Commission direct the CAISO to delete the requirement that external LSEs prepay a lump-sum amount for the full 10-year term. Modesto and M-S-R/Santa Clara also request that the Commission allow creditworthy external LSEs to prepay their annual charges on a monthly basis for long-term CRRs, consistent with the MRTU Rehearing Order.

179. TANC requests that the Commission require the CAISO to permit external LSEs that contribute to the embedded cost of the CAISO-controlled grid to receive the same allocation preferences as internal LSEs. SMUD seeks an evidentiary hearing on the treatment of LSEs because it claims that there are several disputed issues of material fact: (1) whether an LSE's location inside or outside the CAISO Control Area makes the LSE more or less dependent on the CAISO grid to serve its load; (2) whether external LSEs are sufficiently different from internal LSEs to justify imposition of a prepayment obligation; and (3) whether the prepayment obligation unreasonably inhibits the development of renewable resources.

180. SMUD raises two concerns with respect to the tariff provision regarding CRR eligible quantities for the allocation of CRRs to external loads. First, SMUD argues that in MRTU Tariff section 36.9.3 the phrase "exposed to congestion charges" is unclear in the requirement that, to qualify for CRRs, an external LSE must demonstrate that "the prior year's hourly metered load for the end-use customers the [Out-of-Control Area Load Serving Entity] served outside the CAISO Control Area that were exposed to Congestion Charges for use of the CAISO Controlled Grid." SMUD requests that the Commission direct the CAISO to clarify that "exposed to congestion charges" means only that the external LSE was exposed to the risk of paying congestion charges, not that it actually incurred them during some prior period. Second, SMUD argues that the requirement in MRTU Tariff section 36.9.3 that the CAISO refund the wheeling access charge prepayment for CRRs not allocated "within a reasonable time" is ambiguous and susceptible to arbitrary application. SMUD requests that the Commission require the CAISO to provide refunds within 30 days.

181. SMUD disagrees with the CAISO claim that the ability of external LSEs to be allocated one-year seasonal CRRs for wheel-through transactions and to use the priority

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

nomination tier to renew such rights annually on par with internal LSEs should be sufficient to meet the needs of external LSEs for wheel-through CRRs.[111] SMUD requests that the Commission reject this position as inconsistent with the MRTU Rehearing Order[112] and the CAISO's representation that it would allocate wheel-through CRRs to external LSEs in a manner that treats those entities the same as internal LSEs, without giving either type of entity an advantage relative to the other in obtaining CRRs through the allocation process that utilize import capacity.[113]

182. SoCal Edison complains that the CAISO has given external LSEs allocations rights for wheel-through CRRs that are superior to those afforded internal LSEs. First, SoCal Edison argues that, unlike internal resources that will serve load outside the CAISO Control Area, external LSEs with wheel-through sources are not subject to an annual source showing (*i.e.*, in each year after the first year showing, the LSE should be asked whether it still has a resource that justifies the legitimate need for the CRR next year). Second, SoCal Edison argues that, inconsistent with the requirement to show a legitimate need, section 36.9.1 allows external LSEs to request CRRs from sources and sinks that were not demonstrated in the first year showing. SoCal Edison claims that this option will distort market behavior and must be eliminated. Finally, SoCal Edison contends that, unlike internal LSEs, after the first year, external LSEs are permitted to make wheel-through requests based on their previous year performance rather the initial showing in the first year. SoCal Edison claims that tying an external LSE's maximum request for import CRRs to its historical behavior (*i.e.*, the initial showing in the first year) will prevent external LSEs from changing future behavior simply to gain access to additional CRRs. SoCal Edison proposes language to add to sections 36.9.1, 36.8.3.5.1, 36.8.3.5.2, 36.8.3.5.3, 36.8.3.5.4, 36.8.3.6(a), 36.8.3.6(b), 36.8.4, 36.9.3 and 36.9.4 to remedy these problems. SoCal Edison also proposes language to add to section 39.1 to ensure that an external LSE verifies that it has transmission to the CAISO and to it load that corresponds in quantity and duration to the requested CRR.

183. In its March 12, 2007 answer, the CAISO states that these requirements mirror the requirements placed on external LSEs that will be allocated short-term CRRs. The CAISO states that the objections to these conditions were raised and resolved in the

---

[111] SMUD May 29, 2007 Protest, Docket No. ER07-869-000, at 10 (*citing* Kristov May 2007 Testimony at 44).

[112] *Id*. (*citing* MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 379).

[113] *Id*. (*citing* Kristov May 2007 Testimony at 37).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

MRTU Order.[114] The CAISO notes that the Commission determined that the prepayment of access charges was just and reasonable and not unduly discriminatory and that the legitimate need showing was appropriate.

184. In its June 14, 2007 answer, the CAISO states that, after considering the SoCal Edison's arguments, it is now less convinced that relying on the historical reference year source verification to discriminate between legitimate load-serving uses of intertie points is superior to the forward-looking showing of legitimate need. The CAISO points out that the source verification would provide no opportunity for the CAISO to verify that the external LSE has supply arrangements corresponding to the CRRs it wants to be allocated in future years. Therefore, the CAISO proposes to apply the forward-looking showing to all CRR nominations by external LSEs, including wheel-through CRR nominations, in conjunction with the rules for demonstrating eligible quantities of load for CRR allocation in accordance with proposed MRTU Tariff section 36.9.3. In addition, the CAISO argues that it is prudent to limit the year-to-year increase in any external LSE's eligible CRR quantities to reflect a reasonable two percent rate of load growth, consistent with the typical rate of load growth for internal LSEs.

185. The CAISO agrees with SMUD that the phrase "exposed to congestion charges" in MRTU Tariff section 36.9.3 should be clarified. The CAISO proposes that the phrase read as follows: "the LSE's metered load that was not served from sources other than what was exported to them from the CAISO." The CAISO states that SMUD is correct that the requirement is not that the external LSE has to show actual congestion charges paid in the past, but rather a demonstration of the external LSE's net load that depended on exports from the CAISO.

ii. <u>Commission Determination</u>

186. In the Final Rule Rehearing Order, the Commission determined that an LSE is entitled to a priority in the allocation of LTTRs where the transmission organization plans and constructs its transmission system to support the LSE's needs and the LSE contributes to these costs.[115] By extension of this principle, the Commission concluded that entities serving load located outside the relevant transmission organization may be eligible for allocation of LTTRs, provided they pay a share of the embedded costs of the

---

[114] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 17 (*citing* MRTU Order, 116 FERC ¶ 61,274 at P 766-769).

[115] Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 78.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

transmission organization's transmission system.[116] Because the Final Rule is a rulemaking of general applicability, the Commission declined to draw a broad conclusion that it may never be reasonable to treat external and internal load differently in allocating LTTRs.[117]

187. We note that the long-term CRR proposal adopts many of the allocation rules already accepted by the Commission, and we agree with the CAISO's decision to integrate the long-term CRR proposal with the CRR proposal for the allocation of short-term CRRs filed in the MRTU proceeding. We are not persuaded by arguments that certain allocation rules, such as the prepayment obligation for external loads, should be modified under the long-term CRR proposal. As explained in the MRTU Rehearing Order, the requirement that external loads prepay the wheeling access charge is appropriate because external loads are not similarly situated with respect to either their membership in the CAISO or their ongoing reliance on the CAISO grid.[118] Additionally, the Commission has found that "the CAISO has reasonably tailored the additional requirements external load must meet to obtain CRR allocation – the obligation to pay a fixed annual amount of wheeling access charges and demonstration of legitimate need – to the CAISO's aim of ensuring that CRRs are allocated to entities that will continue to pay the embedded cost of the transmission system and intend to use the CRR as a hedge against congestion costs."[119] The Commission explained that the legitimate needs test is appropriate because "external load might only use the CAISO transmission system to serve part of its load, and accordingly, external load would pay CAISO-related transmission charges for a fraction of its load."[120] There is nothing in the instant proceeding that would indicate that the rules for establishing an external LSE's eligibility

---

[116] *Id.* P 79-80. The Final Rule Rehearing Order provided two examples of load serving entities serving load located outside the transmission organization that could qualify for allocation of LTTRs: (1) load serving entities with existing agreements for paying embedded costs on a long-term basis; and (2) load serving entities that will contribute, on a long-term basis, towards the embedded cost of the transmission system, by paying either pancaked or non-pancaked rates. *Id*.

[117] *Id.* P 81.

[118] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 370. We note that, in this order, we direct the CAISO, consistent with the Commission's action in the MRTU proceeding, to permit external loads to meet their 10-year prepayment obligation by paying on a monthly basis. *See supra* P 56.

[119] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 369.

[120] *Id*. P 371.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

to nominate and be allocated long-term CRRs should be structured differently than short-term CRRs. We also find that there were no issues of material fact that necessitate an evidentiary hearing.

188. Consistent with the Commission's determination in the MRTU Rehearing Order,[121] we find that, if external LSEs meet the requirements set forth in the MRTU Tariff and demonstrate their continuing commitment both to utilize the CAISO transmission grid to serve their load and to contribute to the embedded costs of the transmission system, external LSEs should be permitted to participate in the CRR allocation process in a manner similar to internal LSEs. In compliance with the MRTU Rehearing Order,[122] the CAISO's proposal permits external LSEs to nominate short-term CRRs associated with wheel-through transactions. Consistent with the Commission's prior ruling,[123] we direct the CAISO to provide external LSEs with the opportunity to nominate long-term CRRs associated with wheel-through transactions in the CRR allocation process.[124] We direct the CAISO to make a compliance filing, within 10 days of the date of this order, revising the MRTU Tariff accordingly.

189. We recognize the concerns raised by both the CAISO and protestors that these CRR nominations must be tied to the congestion charges that external LSEs actually incur when serving their load. We also recognize that import capacity and the ability to hedge congestion costs at interties is critically important to internal LSEs. As discussed in prior orders,[125] the allocation of CRRs is intended to provide LSEs with a means to hedge congestion costs incurred while using the CAISO transmission system to serve their load. Furthermore, external LSEs are situated differently than internal LSEs because external LSEs may have the option of not using the CAISO transmission

---

[121] *Id*. P 368-69, 379.

[122] *Id*. P 379.

[123] *Id*.

[124] We need not address the concerns related to external LSEs access to wheel-through CRRs raised in the protests, SMUD's motion for partial summary judgment and motions in support and opposition to SMUD's motion filed in Docket Nos. ER07-475-000 and ER07-475-001 because, in its amended filing in Docket No. ER07-869-000, the CAISO proposed tariff language to address this issue in response to the Commission's directive in the MRTU Rehearing Order. Therefore, these concerns are now moot. Herein, we do address, however, the concerns raised in Docket No. ER07-869-000 with respect to the wheel-through provisions proposed by the CAISO in its amended filing.

[125] *E.g.*, MRTU Order, 116 FERC ¶ 61,274 at P 704.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

system.[126] Therefore, in order to support the CAISO in the process of evaluating whether external LSEs are utilizing its system, we accept the CAISO request to modify its proposal, in response to SoCal Edison's concerns, to incorporate a mechanism through which it can verify an external LSE's on-going reliance on the CAISO transmission system. We find that the inability to verify on-going usage of the transmission system could result in the allocation of wheel-through CRRs to external entities that are no longer using the CAISO transmission system to serve their load, which is inconsistent with allocating CRRs to LSEs to hedge the actual congestion cost they incur. Accordingly, we find that the CAISO's proposal to apply the "forward-looking showing to all CRR nominations" in conjunction with MRTU Tariff section 36.9.3 is just and reasonable. As such, we direct the CAISO to make a compliance filing, within 10 days of the date of this order, revising MRTU Tariff section 36.9.1 accordingly. We note that "all CRR nominations" now includes not only short-term CRRs associated with wheel-through transactions but also long-term CRRs associated with wheel-through transactions. Therefore, as specified in MRTU Tariff section 36.9.1, an external LSE's eligibility to nominate wheel-through CRRs will be subject to a forward-looking showing of determination of need. With respect to the CAISO's proposal to limit external LSEs' eligible quantity increases due to load growth to two percent per year, we find that the CAISO has not sufficiently justified this proposal. We will allow the CAISO the opportunity to justify in a compliance filing submitted within six months after the start of MRTU markets: (1) the use of this limit; (2) the reasonableness of setting this limit using a constant percentage rather than the amount of actual load increase; and (3) why, if a constant limit is reasonable, a two percent, as opposed to some other percent, limit is appropriate.[127]

190. In regard to Modesto's and M-S-R/Santa Clara's concerns regarding the wheeling access charge prepayment provision, consistent with the MRTU Rehearing Order,[128] as noted in the discussion of Guideline 2, we direct the CAISO to modify MRTU Tariff section 36.9.2.1 to allow creditworthy external LSEs to prepay their wheeling access charges for long-term CRRs on a monthly basis.

191. We find that the CAISO's proposed clarification to the phrase "exposed to congestion charges" in MRTU Tariff section 36.9.3 is just and reasonable and accept the

---

[126] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 679.

[127] With respect to attempting to justify the appropriate percent of allowable increase, the CAISO could submit, for example, historical data demonstrating the average rate of demand increase, particularly for throughput.

[128] *Id*. P 378.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

modification. In regard to the refund of the wheeling access charge prepayment, we agree with SMUD that the phrase "within a reasonable time" is ambiguous. Therefore, we direct the CAISO to modify MRTU Tariff section 36.9.3 to refund the wheeling access charge prepayment for CRRs not allocated within 30 days following the completion of the relevant CRR allocation process. Accordingly, we direct the CAISO to make a compliance filing, within 10 days of the date of this order, modifying MRTU Tariff section 36.9.3 in these two respects.

g. Assignment of Residual Long-Term CRRs to LSEs and non-LSEs

i. Comments

192. PG&E requests that the CAISO offer some additional long-term CRRs (including long-term CRRs arising from new facilities) in an auction, similar to the monthly and annual CRRs auctions, because LSEs or other market participants may want to obtain long-term hedges in addition to the allocated long-term CRRs to support the development of long-term supply resources or to serve load. PG&E states that these additional long-term CRRs will give parties flexibility to hedge long-term transactions that are not covered by allocated long-term CRRs.

193. WPTF argues that residual long-term capacity should be made available in a public auction, similar to the CAISO's process for annual and monthly CRRs, consistent with the Final Rule.[129] WPTF claims that not making LTTRs available to non-LSEs is discriminatory because it requires non-LSEs to find rights through less-efficient secondary means. WPTF states that this issue is important in light of the high percentage of the transmission system capacity that will be made available for long-term CRRs. WPTF states that, to the extent that some of this capacity is not allocated in the long-term CRR process, it could be auctioned without jeopardizing the level of assurance intended for these long-term CRRs. WPTF requests that the Commission direct the CAISO to (1) work with market participants to develop mechanisms that do not discriminate against non-LSEs, including conducting a stakeholder process to design a mechanism to make residual long-term CRR capacity available and to conduct an auction for the release of this capacity; and (2) preferably complete implementation of this mechanism by the initial allocation process.

---

[129] WPTF Feb. 23, 2007 Comments, Docket No. ER07-475-001, at 4 (*citing* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 326).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

194. CAC/EPUC and DC Energy argue that the CAISO proposal is unduly discriminatory toward non-LSEs and exceeds the Commission's guidelines because it only allows LSEs to obtain long-term CRRs. CAC/EPUC claim that this proposal will create a disincentive for entities that might build the additional generation capacity needed in California because they will only be able to rely on short-term transmission rights. CAC/EPUC request that the Commission direct the CAISO to permit non-LSEs to utilize the long-term CRRs that may remain after LSEs have designated a portion of their CRRs as long-term (following the Tier 1 allocation) and to designate some of their CRRs obtained in later allocations as long-term.

195. DC Energy argues that the lack of a long-term auction, combined with the restriction of long-term CRR allocation requests to LSEs, will restrict the ability of market participants to participate in LTTR products and hedge their congestion risks. DC Energy requests that the Commission direct the CAISO and its stakeholders to develop a long-term CRR auction open to creditworthy market participants in the context of MRTU and after implementation of convergence bidding. Pending the establishment of a long-term CRR auction, DC Energy encourages a thorough review of the allocation of long-term CRRs to LSEs under the instant proposal to ensure the availability of short-term CRRs in auctions is not unduly limited.

196. In its March 12, 2007 answer, the CAISO continues to believe that limiting the direct allocation of long-term CRRs to LSEs is consistent with the Final Rule.[130] The CAISO states that its proposal does not preclude or hinder non-LSEs from holding long-term CRRs in the form of bilateral arrangements external to the CAISO with either LSEs who have obtained long-term CRRs or third parties who wish to offer financial instruments that are equivalent to long-term CRRs.

197. The CAISO also states that, although it is not proposing an auction for long-term CRRs, it is possible under the proposal for long-term CRR holders to sell one-year seasonal portions of their long-term CRRs in the annual auction processes or sell monthly portions of their long-term CRRs in the monthly auctions. The CAISO adds that, while it has not ruled out the possibility of conducting an auction for long-term CRRs at a later date, it is not possible to implement it by the time the first long-term CRR allocation is scheduled to occur. The CAISO states, however, that it has added a long-term CRR auction to its list of possible post-MRTU start-up, CRR enhancements that it will discuss further with stakeholders.

---

[130] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 21 (quoting Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 27).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

ii. Commission Determination

198. As the CAISO has pointed out, non-LSEs may enter into bilateral agreements and purchase long-term CRRs through the secondary market. Also, under MRTU, non-LSEs will be able to purchase short-term CRRs in the annual and monthly auction process. Nonetheless, we agree that the implementation of a long-term CRR auction for residual long-term CRRs may be a market enhancement that the CAISO and its stakeholders should consider. We recognize that there are many factors to consider when deciding how much long-term capacity to release to non-LSEs. We encourage the CAISO to initiate the stakeholder process proposed and to file tariff language to implement an auction for residual long-term CRRs in MRTU Release 2.

6. Guideline 6

> [An LTTR] held by a [LSE] to support a service obligation should be re-assignable to another entity that acquires that service obligation.

199. The Commission stated that Guideline 6 is intended to comply with section 217(b)(3)(A) of the FPA which requires transmission rights be transferable to successors ensuring that they follow migrating load. Noting that rules governing the reassignment of firm transmission rights that follow migrating load already exist, the Final Rule provides transmission organizations and stakeholders flexibility to determine the specific rules. The Final Rule states that this reassignment issue relates to transmission rights that are allocated preferentially to an LSE in accordance with Guideline 5 and not to rights acquired by an LSE via auction or direct assignment of funding an upgrade.[131] Guideline 6 also stated that it allows for the trading of transmission rights.

Proposal

200. The CAISO states its proposal retains the MRTU rules requiring CRRs to follow the load in the case of load migration. The CAISO states that the proposal adheres to the basic principle that CRRs are assigned to LSEs as custodians for the load they serve.

201. The CAISO states that MRTU Tariff section 36.8.5.1.1, as revised November 20, 2006, requires an LSE that loses load through direct access load migration during the annual CRR allocation cycle to transfer a portion of its allocated seasonal CRRs for the

[131] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 357.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

remainder of the annual cycle, or the financial equivalent, to the LSE that gained the load. The CAISO states that the same requirement applies to allocated long-term CRRs, with two modifications. First, the CAISO explains that the option to transfer the financial equivalent of long-term CRRs rather than the revenue derived from the CRR will be limited to the calendar year in which the load is transferred or to the next calendar year if the annual CRR allocation process for that year's seasonal CRRs has already been completed. The CAISO states that, beyond this period, the LSE who loses load must transfer the actual CRRs and cannot transfer a financial equivalent. The CAISO asserts that this rule is consistent with a limitation on the registered transfers of bilateral sales of long-term CRRs unrelated to load shifts.

202. Second, with respect to load migration to another LSE, the CAISO states that stakeholders have requested that it take on the responsibility of performing the transfer of long-term CRRs according to clearly-specified procedures. In response to these comments, the CAISO states that it will develop the details and mechanics of such a proposal with stakeholders and that it anticipates filing a proposal with the Commission at the start of the second quarter of 2007.

a. Method to Track and Reallocate Long-Term CRRs Due to Load Migration

i. Comments

203. The CPUC notes that the CAISO has raised with stakeholders the need for a load migration tracking and reallocation mechanism. The CPUC supports the stakeholder suggestion to tie the calculation of accurate load share for long-term CRR reallocation to the CPUC's resource adequacy load share calculation. The CPUC believes that the incentives of each program (*i.e.*, the incentive to minimize resource adequacy procurement requirements and the incentive to maximize load share and/or migration to gain long-term CRRs and a more valuable hedge product) will negate each other and thus result in a relatively accurate calculation. The CPUC adds that an accurate calculation best supports the resource adequacy program and MRTU market function.

ii. Commission Determination

204. We find that the CAISO's proposal is reasonable and complies with Guideline 6 of the Final Rule, subject to the modification directed herein, because long-term CRRs are re-assignable to another entity that acquires that service obligation. We direct the CAISO to file proposed tariff language, within 10 days of the date of this order, implementing stakeholders' request that the CAISO take on the responsibility of performing the transfers according to clearly-specified procedures. While the CPUC's

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

recommendation to tie load share for long-term CRR reallocation to the CPUC's resource adequacy load share calculation may be reasonable, we will reserve our judgment until the CAISO's proposal is before the Commission. Additionally, we note that, in the MRTU Order, the Commission stated that "CRRs should follow load migrations as closely as realistically possible."[132] Therefore, in its compliance filing, we direct the CAISO to include details demonstrating how the timing of the resource adequacy load ratio share calculation will be synchronized with the need to make mid-year adjustments to CRR holdings.

b. Reassignment of Long-Term CRRs Due to Load Migration

i. Comments

205. SoCal Edison notes that it has previously argued that the transfer of CRRs due to load migration should be based upon the CRRs that were originally allocated, adjusted for prior load migration, rather than based upon an entity's current holdings.[133] SoCal Edison states that the CAISO agreed to make the changes. SoCal Edison argues that, although the CAISO has modified the original MRTU "holdings" language in MRTU Tariff section 36.8.5.2, those changes are not complete. SoCal Edison argues that "adjusted for prior load migration" should be added to this provision so that it reads as follows: "LSEs that have been allocated Seasonal CRRs or Long Term CRRs and that lose Load through Load Migration must transfer allocated Seasonal CRRs and Long Term CRRs, adjusted for prior load migration, in accordance with this Section 36.8.5.2. An LSE that receives shares of allocated CRRs due to Load migration must meet all requirements applicable to CRR Holders."

206. PG&E argues that the reassignment of long-term CRRs due to load migration should be based on the actual load that migrates, rather than a *pro rata* formula. PG&E contends that it is appropriate, when the CRRs have only a one year term, to reassign a *pro rata* percentage of the CRRs of the LSE losing load to the LSE gaining load (*i.e.*, not examine the source of the migrating load or attempt to match the CRRs that are reassigned to the load that is migrating). PG&E argues that this approach is not appropriate for long-term CRRs with 10-year terms. PG&E requests that the Commission direct the CAISO to develop a process with the LSE losing load to ensure that the reassigned long-term CRRs are related to the migrating load.

---

[132] MRTU Order, 116 FERC ¶ 61,274 at P 789.

[133] SoCal Edison Feb. 22, 2007 Comments, Docket No. ER07-475-000, at 10.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

207. AReM argues that, like LSEs holding expiring ETCs, the CAISO should allow LSEs gaining load through load migration to request CRRs in the priority nomination process (which takes place in Tier 1 beginning in CRR year two). AReM states that LSEs gaining load through migration are not currently given this preference, even though (1) in MRTU Tariff section 36.8.6, they are allowed to adjust their loads for the monthly CRR allocations, and (2) in MRTU Tariff section 36.8.5.2, the LSE losing load is obligated to transfer its seasonal and long-term CRRs or make financial arrangements to the LSE gaining load during the course of the year as load migrates. AReM suggests two alternative modifications to MRTU Tariff section 36.8.5.1 to address this issue: (1) treat LSEs with expiring ETCs the same as LSEs gaining load by specifying that ETC holders with expiring contracts are only eligible to request the associated CRRs in Tiers 2 and 3, or (2) allow LSEs gaining load to have the option to request the CRRs in Tier 1 associated with the sources and sinks that were transferred by the LSE losing load.

208. In its March 12, 2007 answer, the CAISO contends that PG&E's suggestion is based on the incorrect assumption that certain supply resources and associated CRR sources can be associated with specific loads. The CAISO notes that a load-losing LSE that owns generation generally does not transfer *pro rata* portions of its supply portfolio when load migrates. But the CAISO argues that the point of the CRR transfer is to transfer not only a *pro rata* share of CRR MW to the new LSE but also to transfer a *pro rata* share of CRR value to the new LSE. The CAISO contends that, if the load-losing LSE were allowed to select specific CRRs from its allocated portfolio to transfer, there would need to be some mechanism to ensure that the load-gaining LSE received the appropriate share of the value of the first LSE's allocated CRR holdings. The CAISO states that, for seasonal CRRs and the first year of long-term CRRs, reliable estimates of the value of the required CRR transfer can be derived from the auction prices from the most recent annual CRR auction. In the first year of long-term CRRs, the CAISO explains that, for that reason, it allows financial payments to substitute for the revenue derived from holding the actual allocated CRR. In subsequent years of long-term CRRs, the CAISO proposes to require load losing LSEs to transfer a *pro rata* share of the value of their allocated long-term CRR portfolio because there are not estimates of value to support financial payments. The CAISO adds that it does not believe it is appropriate to allow a load-losing LSE to select which long-term CRR it wishes to transfer. The CAISO states that the requirement to transfer *pro rata* shares of allocated long-term CRRs is based upon the principle that CRRs are the property of the load itself, CRRs are allocated to LSEs only as custodians of these financial instruments for the load they serve and, when load migrates to another LSE, its share of the value of the allocated CRR portfolio should transfer with it. The CAISO does not see a workable alternative to this approach.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

209. The CAISO states that it has included in its CRR stakeholder process AReM's proposal to place LSEs gaining load through migration on the same footing in the priority nomination process as expiring ETCs. The CAISO states that it is vetting the proposal with stakeholders. Although the CAISO states that it would propose any rule change resulting from AReM's proposal in its May 2007 amended filing, the CAISO did not include or mention that issue in its amended filing in Docket No. ER07-869-000. Instead, in the amended filing, the CAISO states that it will file rules for load migration and outage modeling with the Commission by August 2007.

210. In its June 14, 2007 answer, the CAISO states that it believes adopting AReM's proposal will achieve appropriate and sufficient parity in the treatment of LSEs who participate in retail direct access. The CAISO explains that it has neither rejected nor adopted AReM's proposal because it prefers to defer discussion until the upcoming stakeholder process dealing with the rules for CRR transfers to reflect load migration.

ii. Commission Determination

211. We agree with SoCal Edison that MRTU Tariff section 36.8.5.2 should include the phrase "adjusted for prior load migration;" accordingly, we direct the CAISO to make a compliance filing, within 10 days of the date of this order, to include this language. We disagree with PG&E's proposal to reassign long-term CRRs. In the MRTU Order, the Commission conditionally-accepted tariff provisions implementing mid-year CRR adjustments to CRR holdings due to load migration and the CAISO's proposal to base these mid-year adjustments on the overall value of the load-losing LSE's CRR holdings.[134] PG&E's proposal to transfer specific long-term CRRs is inconsistent with the value-based transfer conditionally accepted by the Commission. Furthermore, PG&E's proposal assumes that the long-term CRRs will be sourced at a location conducive for the load-gaining LSE. We find that the value based transfer (*i.e.*, a *pro rata* share of all allocated long-term CRRs) is a reasonable mechanism to ensure that load-gaining LSEs are appropriately compensated, and we are not persuaded by the argument that long-term CRRs should be transferred in a different manner.

212. We find that the CAISO's suggestion to include the discussion of AReM's proposal in the upcoming stakeholder process addressing rules for CRR transfers to reflect load migration is reasonable. If the CAISO and its stakeholders do not ultimately

[134] If the transfer requirement were solely based on the quantity of CRRs held by the load-losing LSE, the load-losing LSE may be incented to transfer the least valuable CRRs.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

adopt AReM's proposal, we direct the CAISO to make a compliance filing with the Commission no later than August 3, 2007 that explains why it was not appropriate to do so.

7. Guideline 7

> The initial allocation of the [LTTR] shall not require recipients to participate in an auction.

213. Guideline 7 does not preclude a transmission organization from using an auction to allocate LTTRs; rather, it only precludes requiring an LSE to submit a winning bid in an auction in order to acquire an LTTR. The Final Rule described a number of different methods for allocating LTTRs.

a. Proposal

214. The CAISO proposes to allocate long-term CRRs to LSEs directly, through the nomination process described above.[135] Therefore, the proposal does not require LSEs to participate in an auction to receive long-term CRRs.[136]

b. Comments

215. The CPUC believes that the allocation of long-term CRRs to LSEs will provide the necessary market certainty with a new transmission rights product.

c. Commission Determination

216. We find that the CAISO's proposal is just and reasonable and complies with Guideline 7 of the Final Rule because long-term CRRs will be directly allocated to eligible LSEs.

---

[135] CAISO Jan. 29, 2007 Transmittal Letter, Docket No. ER07-475-000, at 22.

[136] *Id*.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

8. Miscellaneous Issues

a. Transmission Planning and Expansion

217. The Final Rule requires each transmission organization to implement a planning process that will accommodate the LTTRs that are awarded by ensuring that they remain feasible over their entire term. The Commission further stated that appropriate planning for LTTRs is essential to ensure that any charges to market participants to meet the full funding requirement of Guideline 2 do not become unjust, unreasonable or unduly discriminatory.[137] The Final Rule requires each transmission organization to make its planning and expansion practices and procedures publicly available.

i. Comments

218. TANC[138] and Santa Clara note that the CAISO proposes to provide the details of its transmission planning process a year after long-term CRRs commence. TANC argues that the transmission planning process should not impair the value of long-term CRRs. Santa Clara encourages the CAISO to coordinate with its market participants and other regional entities to ensure that the future service obligations and LSEs' corresponding need for transmission and projected generation development are adequately considered. TANC requests that the transmission planning process accommodate unique issues in the West (*e.g.*, the multiplicity of control areas in California) and include coordination with adjacent markets in order to eliminate seams issues. TANC urges the CAISO to develop its proposal with stakeholders. SMUD seeks an evidentiary hearing on whether the CAISO's planning provisions provide sufficient levels of long-term firm service to accommodate the needs of LSEs. CMUA requests that the Commission condition approval of the CAISO's LTTR proposal on the CAISO fully satisfying its transmission planning requirements prior to MRTU start-up.

219. NCPA argues that the Commission should require the CAISO to fully develop and file the new planning process proposed in a 2005 White Paper, which gives the CAISO a proactive planning role,[139] and implement that process in time to ensure the continued feasibility of long-term CRRs. NCPA adds that the joint planning procedures should

---

[137] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 453.

[138] Modesto supports TANC's protest and adopts TANC's protest and comments. M-S-R concurs with TANC's protest and requests for relief.

[139] NCPA Feb. 23, 2007 Protest, Docket Nos. ER07-475-000 and ER07-475-001, at 19.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

include: (1) needs defined on a comparable basis based on an analysis of all projected LSE loads and resources and published, consistently-applied standards and agreement on goals (such as minimization of local capacity requirements); (2) opportunities for all LSEs to participate in the joint planning process and validate and gain confidence in transmission planning models; (3) cost/benefit analyses supporting decisions to build or prioritize projects; (4) colorblind selection of plans to be implemented; (5) a dispute resolution process; and (6) transparent plans and data inputs.

220. The CPUC requests that the CAISO periodically meet with stakeholders interested in MRTU and transmission planning and make a filing summarizing the details of how the CAISO will continue to assure the feasibility of allocating long-term CRRs.

221. In its March 12, 2007 answer, the CAISO states that it understands the critical role of transmission planning in ensuring the long-term sufficiency and efficiency of electricity supply in California and the long-term reliability of the western power grid. The CAISO states that it is working diligently to improve its transmission planning process and the transparency of that process and will fully comply with Order No. 890[140] in the timeframe prescribed in that proceeding.

ii. Commission Determination

222. We support the CAISO's efforts to initiate a collaborative and transparent transmission planning process. As the CAISO acknowledges in its answer, any such planning process will also be subject to the requirements of Order No. 890, within the timeframe prescribed therein. Accordingly, in a timeframe consistent with the CAISO's compliance obligations under Order No. 890 or within six months after the start of MRTU markets, whichever is sooner, we direct the CAISO to make a compliance filing in this proceeding that explains how its transmission planning process will help to ensure that long-term CRRs remain feasible over their entire term. We also find that there are no issues of material fact that necessitate an evidentiary hearing.

b. Alternative Designs for LTTRs: Options vs. Obligations

223. The CAISO proposes that the long-term CRRs, like the short-term CRRs conditionally accepted by the Commission, will be obligations. In the Final Rule, the Commission did not preclude alternative designs for LTTRs, including departures from existing market designs. One such design issue concerns the specification of LTTRs as

[140] FERC Stats. & Regs. ¶ 31,241.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

options. An obligation right is modeled with the "counterflow" of all other rights, while an option right is not. As a result, an obligation right requires the holder to pay LMP price differences if the prices at the source point(s) in the transmission right are higher than those at the sink point(s). An option right does not carry this obligation. However, if the holder of the obligation right can follow the schedule implied in its transmission right (*i.e.*, the MWs injected and withdrawn), then it will collect in negative congestion charges (*i.e.*, payments from the RTO) what it owes in CRR obligation payments. Moreover, in most transmission networks, the modeling of counterflows greatly increases the quantity of transmission rights that are simultaneously feasible.

i. Comments

224. NCPA, SMUD and CMUA object to the CAISO's refusal to issue long-term CRR options. They argue that obligation long-term CRRs do not satisfy the Final Rule because they are not equivalent to physical rights and are too speculative, especially for intermittent resources. SMUD seeks an evidentiary hearing on this issue because it claims that there is a disputed issue of material fact as to whether the lack of long-term CRR options renders the proposal unable to provide customers long-term firm financial rights equivalent to the physical rights required under FPA section 217. NCPA argues that an obligation long-term CRR could inhibit future generation investment because to site a generator in a beneficial location NCPA would have to undertake multiple years of long-term CRR obligation payments (and corresponding collateral requirements) to ensure that it has access to the associated hedging instruments for transmission access when the generator comes on-line.

225. In its March 12, 2007 answer, the CAISO continues to believe that providing long-term CRR obligations, rather than options, is the appropriate and prudent approach for several reasons. First, the CAISO explains that the process for allocating long-term CRRs has been integrated into the allocation process for seasonal CRRs in order to accommodate the diverse preferences of LSEs to obtain their preferred mix of long-term and seasonal CRRs without creating a bias toward one or the other. The CAISO states that, as a result, long-term CRRs cannot be a fundamentally different instrument than seasonal CRRs. Second, the CAISO argues that there is no risk to holding a CRR obligation when a party has a day-ahead schedule that matches the CRR source, sink and MW quantity.[141] The CAISO contends that, even if such schedules vary in MW quantity from hour to hour, if the average MW schedule is close to the CRR MW quantity over the

[141] CAISO Mar. 12, 2007 Answer, Docket Nos. ER07-475-000 and ER07-475-001, at 23 (*citing* Pope January 2007 Testimony at 20, 73).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

term of the CRR, the risk is relatively small. Third, the CAISO also argues that a CRR option is a higher-value instrument than a CRR obligation and should not be allocated on the same basis as CRR obligations.[142] The CAISO explains that, although it intends to consider offering CRR options in the future, CRR options should be offered only when there is a mechanism, such as an auction, through which the recipients of CRR options pay an appropriate market price for them.

ii. Commission Determination

226. We find that obligation long-term CRRs satisfy the Final Rule. In the Final Rule, the Commission did not preclude alternative designs for LTTRs, including both obligations and options; it explored the implications for market efficiency and equity that flow from each type of right. While the Commission has noted that obligation CRRs may result in a negative payment stream to the CRR holder, the Commission has also explained that obligation CRRs tend to make more CRRs available to market participants than option CRRs.[143] Furthermore, the Commission has found that the allocation of LTTR option rights would present equity problems in most organized electricity markets.[144] Each approach has well known advantages and disadvantages; therefore, a hearing is not necessary because it would not add value to the record on this issue. As for concerns regarding the need to provide LTTRs equivalent to physical rights, we have addressed that issue below in detail.[145] Finally, as noted in the MRTU Rehearing Order, the Commission has previously accepted the CAISO's proposal to allocate obligation CRRs.[146] We note that, under the CAISO's proposal, the availability of seasonal and time-of-use CRRs helps to reduce the potential for obligation payments and a party that submits a physical schedule that matches its obligation CRR will face little risk of negative payments. Accordingly, we find that the CAISO's proposal continues to be just and reasonable.

---

[142] *Id*. (*citing* Pope January 2007 Testimony at 72).

[143] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 475; MRTU Rehearing Order at P 405.

[144] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 475

[145] See section addressing LTTR issues raised on rehearing of MRTU Order.

[146] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 405 (*citing Cal. Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,140, at P 177 (2003)).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

c. Exemption of Long-Term CRRs from Marginal Losses

i. Comments

227. SMUD argues that the CAISO has failed to consider the inclusion of mechanisms to hedge the risk of marginal losses. SMUD contends that, unlike *Atlantic City*,[147] here the CAISO has not shown that there will be any cost savings from applying marginal losses to long-term CRRs or that any savings would outweigh the implementation costs of the marginal loss mechanism or the harm to long-term power markets from the imposition of an unhedgeable risk. SMUD adds that marginal losses are not an inherent component of day-two markets.[148] SMUD claims that, because marginal loss exposure poses at least as great a risk to long-term transactions as the absence of a congestion hedge,[149] the CAISO's failure to consider stakeholders' views on this issue renders the filing unreasonable.

228. Imperial similarly argues that marginal losses present acute problems for long-term energy purchase arrangements and may cause greater barriers to trade than the risks of fluctuating congestion charges because marginal losses are hard to predict and cannot be hedged.[150] Imperial states that, under the CAISO's marginal loss regime, over-collection of marginal loss revenues are refunded first but not in direct relation to the overcharges to each customer. Imperial suggests that instead the CAISO create two buckets for marginal loss over-collections. In the first bucket, the CAISO would record revenues that would be refunded to Scheduling Coordinators that schedule into the EZ Gen Hub or the LAP. In the second bucket, the CAISO would return over-collections back to Scheduling Coordinators that scheduled their source and sink from and to specific nodes.

ii. Commission Determination

229. We deny SMUD's requested marginal loss hedge because the Commission already decided in the Final Rule that transmission organizations are not required to provide

---

[147] *Atlantic City Elec. Co. v. PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,132, at P 23 (2006).

[148] SMUD Feb. 23, 2007 Protest, Docket Nos. ER07-475-000 and ER07-475-001 at 17 (*citing* MRTU Order, 106 FERC ¶ 61,274 at P 147).

[149] *Id.* (*citing* Exh. SMD-2, Docket No. ER06-615, at 12-14).

[150] Imperial Feb. 20, 2007 Protest, Docket No. ER07-475-000, at 8-9.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

marginal loss hedges.[151] As the Commission concluded in the Final Rule, EPAct 2005 does not require a marginal loss hedge.[152] The Commission further explained that, due to the nature of marginal losses, it is much more difficult to design a hedge for marginal losses than it is to create one for congestion costs.[153] Consequently, while theoretically possible, to date no one has designed a workable marginal loss hedge, so no transmission organization has been able to implement one.[154] It would be unreasonable to direct the CAISO to provide a mechanism that is not required and does not yet exist. The Commission reached the same conclusion in the MRTU proceeding, and we reaffirm it here.[155] Notwithstanding this determination, we continue to encourage the CAISO to explore methods by which it can assist LSEs and others to obtain a hedge for marginal losses.[156]

d. Schedule for Unresolved Issues

230. The CAISO has identified a number of issues that remain unresolved and require further vetting with stakeholders: (1) credit requirements for CRRs and long-term CRRs; (2) procedures for tracking load migration; (3) CRRs for transmission upgrades and expansion; (4) issues related to trading hubs; (5) source verification issues related to the historical reference period; (6) transmission planning process public documentation; (7) modeling of outages; and (8) intertie capacity set asides.

i. Comments

231. SoCal Edison requests that the Commission establish a date, prior to the implementation of MRTU, by which the CAISO must resolve all these issues, except the

---

[151] *See* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 478; Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 105-106.

[152] *Id.*

[153] Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 105.

[154] *Id.; see also* MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 42.

[155] *See Id.* P 446 (finding that the lack of a marginal loss hedge does not render the MRTU Tariff unjust and unreasonable).

[156] *E.g.*, Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 106; MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 446.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

transmission planning issue, and make a filing with the Commission. SoCal Edison is concerned that these unresolved issues may have a negative impact on how long-term CRRs are allocated and/or transferred with the commencement of MRTU.

232. In its March 12, 2007 answer, the CAISO proposes a timeline for the CAISO and stakeholders for resolution of these issues: (1) on March 9, 2007, file template for Transmission Rights and Transmission Curtailment instructions; information provision, collection and verification; and candidate CRR registration and CRR entity agreement; (2) on March 30, 2007, file CRR dry run report; (3) on April 19, 2007, file CRR source verification historical reference period and rules; (4) on May 2, 2007, file CRR source nominations at trading hubs in CRR allocation process, set-aside of import capacity on inter-ties for CRR auction, methodology for determining CRRs for merchant transmission upgrades, CRR credit requirements and tariff language to be incorporated from the CRR business practice manual; and (5) on August 3, 2007, file modeling of transmission outages in the CRR network model for release of monthly CRRs, use of common forecasts for monthly CRR eligibility and monthly resource adequacy showings and frequency of monthly allocation and auction process.

ii. Commission Determination

233. The Commission has relied upon the representations and assurances of the CAISO that it can timely implement the long-term CRRs prior to the start of the MRTU markets scheduled for January 31, 2008. The CAISO has represented to the Commission that it can meet the envisioned deadline for MRTU start-up by proposing what it believes to be a reasonable timetable to ensure that result. Nevertheless, we note that CAISO has failed to meet its April 19, 2007 and May 2, 2007 deadlines. In this order, the Commission is providing additional guidance and is requiring that the CAISO make certain additional compliance filings on an expedited basis to keep the CRR process moving forward. It is imperative that the CAISO abide by its representation and adhere to the rest of its proposed timeline so that MRTU can be implemented as scheduled.

e. Testing and Simulation of Simultaneous Feasibility Test, Limited Second CRR Dry Run and Future Evaluation of LTTR Proposal

i. Comments

234. Six Cities urges the Commission to require the CAISO to undertake sufficient simulation and testing of the long-term CRR multi-period simultaneous feasibility test algorithm to allow for the identification and correction of any latent design flaws. Six

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Cities states that, if the Tier LT process occurs after seasonal CRRs are fully allocated, the additional simulation and testing can be performed without affecting the availability of long-term CRRs at MRTU start-up.

235. Six Cities also requests that the Commission require a limited second CRR dry run prior to MRTU start-up to give market participants additional experience with the revisions that have been made and assist them in making appropriate nominations when the actual CRR allocation process commences. NCPA argues that another dry run is needed to assess the impact of the CRR rule changes proposed in the amended filing. The CPUC requests that, if for any reason the implementation of MRTU is delayed beyond the current expected start date, the Commission direct the CAISO to hold a supplemental dry run process.

236. CMUA requests that the Commission require a formal evaluation of the long-term CRR design elements after 12 to 24 months of experience under MRTU. CMUA argues that the allocation of option instruments and the quantities of long-term CRR available should be considered in this evaluation. CMUA acknowledges that a party could file a FPA section 206 complaint if aggrieved by the long-term CRR design outcome or the CAISO could make a FPA section 205 filing. However, CMUA argues that it would not be reasonable to place the burden of proof on a market participant to re-examine a design choice that was made well before market start-up and show that it was not just and reasonable. As for a FPA section 205 filing by the CAISO, CMUA claims that the formal evaluation will provide the tools to consider market performance and the efficacy of the long-term CRR design and to collect the appropriate data. CMUA requests that stakeholders participate in shaping the issues to be considered and data to be collected.

237. In its March 12, 2007 answer, the CAISO states that it intends to test the simultaneous feasibility test algorithm before deploying it for CRR year two. But the CAISO adds that, because this feature requires software that will not be available or needed until CRR year two, the testing should not stand in the way of approval and successful launch of the long-term CRR program. The CAISO disagrees that another CRR dry run is needed because the long-term CRR proposal does not substantially alter the CRR process tested through the CRR dry run (which tested the full allocation approach and provided participants with ample opportunity to explore the intricacies of the CRR design). The CAISO contends that Tier LT does not add any significant complexity for participants. The CAISO adds that the initial results of the CRR dry run aided and influenced the design of the long-term CRR program and there is no guarantee that conducting another dry run will yield any significant benefits. The CAISO notes that another CRR dry run would unnecessarily delay MRTU implementation.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

ii. Commission Determination

238. In the second year and beyond, the multi-period algorithm may result in a more optimal allocation of long-term CRRs.[157] We agree with Six Cities that this algorithm along with any modification to the simultaneous feasibility tests needs to be tested sufficiently. Therefore, if the CAISO and its stakeholders choose to implement the multi-period algorithm, we direct the CAISO to make a compliance filing with the Commission, within 30 days of deciding to implement the multi-period algorithm, explaining the reasons for the change, how the change will affect long-term CRR nominations and how the change has been tested.

239. While we agree with commenters that the CAISO has made a number of modifications to its LTTR proposal, we find that another CRR dry run is unnecessary because, as discussed under Guideline 5, the CAISO has agreed to adopt a "go slow" approach to the allocation of long-term CRRs. This approach will provide market participants with the opportunity to gain experience under MRTU and, if necessary, give stakeholders time to reevaluate elements of the long-term CRR design. While we will not require a formal evaluation of the CAISO's proposal, as CMUA requests, we expect that the stakeholder process will identify any problems encountered with the current proposal and that the CAISO will file with the Commission any modifications the CAISO and stakeholders conclude are necessary.

LTTR Issues Raised on Rehearing of MRTU Order

240. In the MRTU Rehearing Order, the Commission declined to reach the merits of rehearing requests concerning the CAISO's implementation of long-term CRRs because there were no proposed tariff sheets on long-term CRRs before the Commission for evaluation in that proceeding.[158] Instead, the Commission declared that it would address all substantive long-term CRR issues raised on rehearing of the MRTU Order when it acts on the CAISO's compliance filing with the Final Rule.[159] We determined that consolidation of issues in one proceeding, *i.e.*, this compliance filing, would enhance administrative efficiency and conserve parties' time and resources. Accordingly, we address these rehearing requests below.

---

[157] Kristov January 2007 Testimony at 45-46.

[158] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 419.

[159] *Id.*

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

241. To provide context, we briefly summarize the relevant determinations in the MRTU Order. The MRTU Order required the CAISO to comply with the Final Rule and file tariff provisions to implement LTTRs according to the timetable set forth in the rulemaking proceeding.[160] In addition, while discussing transmission rights (or CRRs) in general, the Commission noted that it had already approved the institution of financial transmission rights, and concluded that neither EPAct 2005 nor the Final Rule required return to a pure physical rights model.[161] In addition, the Commission concluded that the MRTU congestion management scheme, with its combination of physical and financial rights, was superior to a pure physical rights approach to congestion management. In particular, the Commission found that MRTU's congestion management scheme will provide greater flexibility to accommodate changes in the usage of the transmission system over time, more accurate price signals, and an opportunity to receive congestion revenue from CRRs or to sell them.[162]

A. Financial Rights' Equivalency with Physical Rights

242. On rehearing of the MRTU Order, several parties raise issues concerning the provision of LTTRs under MRTU, and challenge aspects of the Final Rule as well. Bay Area Municipal Transmission Group (Bay Area Municipals); City of Redding, California; Santa Clara and M-S-R (Cities/M-S-R); Lassen Municipal Utility District (Lassen); Modesto; NCPA; and TANC argue that the Commission's determination that MRTU's financial rights, called CRRs, are equivalent to physical firm transmission rights is arbitrary and capricious. They argue that this determination is incorrect both as a general matter, and in the particular context of the MRTU Tariff. In their view, the assertion that financial rights are equivalent to physical rights is illogical and contrary to section 1233 of EPAct 2005.[163] Specifically, they agree that, while EPAct 2005 permits the use of financial rights "equivalent" to firm, presumably physical rights, the Commission should not disregard the "firm" and "equivalent" concepts found in the statute. They complain that the Commission failed to engage in any reasoned analysis explaining the equivalency of the financial rights with physical firm transmission rights. They assert that that MRTU Tariff's financial rights are qualitatively different from physical firm transmission rights and, therefore, not equivalent to physical firm transmission rights. These parties argue that, whereas physical firm transmission rights

---

[160] *See* MRTU Order, 116 FERC ¶ 61,274 at P 890.

[161] *Id.* P 900.

[162] *Id.*

[163] Pub. L. No. 109-58, § 1233, 119 Stat. 594, 958.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

are hedged against both congestion and marginal losses, financial rights do not fully hedge against marginal losses, thereby exposing LSEs to unreasonable and unhedgeable risks with no proven net efficiency benefits.

Commission Determination

243. We deny rehearing because: (1) we have already found that, as a general proposition, financial rights can be the equivalent of physical rights;[164] and (2) we find here that the CAISO's LTTRs tariff provisions, as modified in this order, will provide LTTRs that are financial but are sufficiently firm to constitute the equivalent of physical rights.[165]

244. The Commission has determined that, in the context of LTTRs, "firmness" refers primarily to: (1) a fixed MW quantity of rights over the life of the right; and (2) "price certainty" for the LSE that seeks to hedge congestion charges associated with a particular generation resource or transmission path.[166] "Price certainty," we have explained, means "stability in the revenue stream from the right through full funding."[167] This means that, if the congestion revenues in any given hour in the transmission organization's market are not sufficient to pay LTTR holders the full LMP-based value of their LTTRs, the transmission organization will make up the insufficiency in an appropriate manner rather

---

[164] *See, e.g.*, Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 170, 473-74 ("[U]nder our guidelines financial rights are as firm as physical rights outside organized electricity markets[.]"). *See also Midwest Indep. Trans. Sys. Operator, Inc.*, 109 FERC ¶ 61,157, at P 140 (2004) (finding that "all parties in the [Midwest Independent Transmission System Operator, Inc. (Midwest ISO)] markets will receive sufficient [financial transmission rights] to hedge congestion charges such that net congestion charges will be comparable with the costs of redispatch and costs of curtailments due to [transmission loading line relief] associated with their existing transmission service"); *Pacific Gas & Elec., et al.*, 80 FERC ¶ 61,128, at 61,427 & n.40 (1997) (requiring CAISO to file LTTR plan but allowing the CAISO to chose physical and/or financial rights).

[165] Although parties' objections are a collateral attack on the Final Rule and the Final Rule Rehearing Order, in recognition of the importance of this issue, we will address them nevertheless.

[166] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 170, 473; Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 46.

[167] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 473; *see also* Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 46.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

than allow LTTR holders to suffer a payment shortfall. We have determined that these two features "roughly parallel the quantity and financial stability of long-term physical contracts."[168]

245. The CAISO's LTTRs tariff provisions, as modified herein, accomplish these objectives. With respect to the first aspect of firmness, the CAISO's proposal ensures that the MW amounts cannot be eroded over the term of the CRR. The CAISO allocates long-term CRRs that are determined to be feasible by the Simultaneous Feasibility Test, and are firm for a 10-year period.[169] Consistent with Guideline 2, the CAISO assures that, once allocated, the quantity of long-term CRRs will be stable for the duration of the long-term CRR. Modified MRTU Tariff section 36.4.1, which we accept in this order, provides that long-term CRRs that have been allocated will be modeled as fixed injections and withdrawals on the forward network model used in subsequent allocation processes. Further, the CAISO's market rules contain no provisions for reducing long-term CRRs anytime after allocation. This ensures that for the term covered, there will be no degradation in the MW coverage of allocated long-term CRRs due to changes in the underlying transmission grid or to future CRR allocations and auction processes. In addition, the CAISO represents that its market rules will include a provision to consider long-term CRRs in the transmission planning process and, if necessary, it will require transmission expansion or other mitigating action as necessary to maintain the feasibility of each long-term CRR.[170] Next, the CAISO satisfies the second aspect of firmness by ensuring that the MW amounts allocated will be fully funded. As discussed above in our analysis of the CAISO's full-funding proposal,[171] long-term CRRs will be fully funded through uplift based on measured demand,[172] with minimal exceptions for occasions when the CAISO is left revenue inadequate due to circumstances beyond the CAISO's control,[173] which we find in this order do not denigrate the goal of full-funding.

---

[168] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 473.

[169] Kristov January 2007 Testimony at 24-25.

[170] Pope January 2007 Testimony at 61-62.

[171] *See* discussion above of CAISO's proposal under Guideline 2.

[172] *See* Pope January 2007 Testimony at 25 (explaining how monthly true-up of the CRR balancing account will support full funding).

[173] These exceptions are: (1) system emergencies, as described in MRTU Tariff section 7.7.4; (2) an "uncontrollable force" as described in MRTU Tariff section 14, or (3) a PTO's withdrawal of facilities or entitlements from the CAISO-controlled grid as described in MRTU Tariff section 36.8.7 leaves the CAISO with inadequate revenues. *See* modified MRTU Tariff section 36.2.8.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

246. In addition to the above, we find that the "total package" of LMP and CRRs is superior to a pure physical rights regime. LMP will result in more efficient, least-cost dispatch, and signal where investment is needed in generation and/or transmission.[174] This efficiency, combined with long-term CRRs that will help provide increased certainty regarding the congestion cost risks of long-term transmission service in organized electricity markets, will help LSEs and other market participants make efficient investment decisions and long-term power supply arrangements.[175]

247. As for parties' assertion that physical firm transmission rights are superior because they provide a hedge against both congestion and marginal losses, we disagree. In the past, physical firm transmission rights were provided by contract, and those agreements generally assigned to transmission customers the cost of losses, or a percentage of losses, which were calculated on an average loss basis.[176] In the current approach, while customers will be charged marginal losses, they will also be eligible for refunds of the marginal loss surplus collected by the CAISO. This will dampen the marginal loss charge impact and it remains to be seen whether the financial outcome is substantially different from paying average loss charges. Hence, we disagree with challengers' assertion that the lack of a marginal loss hedge exposes LSEs to unreasonable and unhedgable risks with no proven net efficiency benefits. On the other hand, the benefits of using marginal losses are well-documented,[177] and we have approved similar marginal

---

[174] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 473 (Organized markets with LMP generally improve the firmness of physical transmission scheduling, by reducing the incidence of transmission loading relief (TLRs).); Order 890, FERC Stats. & Regs. ¶ 31,241 at P 625 ("We believe that LMP market designs can provide significant benefits to customers through more efficient use of the grid[.]").

[175] *See Long-Term Firm Transmission Rights in Organized Electricity Markets*, Notice of Proposed Rulemaking, 71 Fed. Reg. 6,693 at P 4 (Feb. 9, 2006), FERC Stats. & Regs. ¶ 32,598 (LTTR NOPR).

[176] *See, e.g.*, MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 448; *Southern Cal. Edison Co.*, 43 FERC ¶ 63,027, at 65,212-213 (1988), *aff'd in relevant part*, 50 FERC ¶ 61,138, at 61,406 & n.7 (1990).

[177] *See, e.g.*, CAISO Feb. 9, 2006 Transmittal Letter, Docket No. ER06-615-000, Attachment F: Kristov Testimony, at 25; CAISO Feb. 9, 2006 Transmittal Letter, Docket No. ER06-615-000, Attachment I: Rahimi Testimony at 40-46; *Midwest Indep. Trans. Sys. Operator, Inc.*, 102 FERC ¶ 61,196 at P 53 (*MISO*), *order on reh'g*, 103 FERC ¶ 61,210, at P 28-29 (2003); *Central Hudson Gas & Elec. Corp.*, 86 FERC ¶ 61,062 (*Central Hudson*), *order on reh'g*, 88 FERC ¶ 61,138, at 61,384-85 (1999); *New England*

(continued…)

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

loss provisions for the Midwest ISO, the New York ISO, and ISO New England, Inc. (ISO New England).[178] As we explained in the MRTU Rehearing Order, the use of a marginal loss mechanism will encourage least-cost dispatch because all suppliers will receive nodal prices that reflect the cost of marginal losses.[179] We will not reconsider this issue further here.

248. In sum, we conclude that the CAISO's long-term CRR instrument will help LSEs manage the congestion costs that arise in serving their load under long-term contracts or through generation investments. A party that procures energy at a given source, and obtains a long-term CRR from the source to the sink (LAP), will be well-protected against the congestion charges from the source to its LAP for the full MW quantity of the long-term CRR for the duration of the long-term CRR. We conclude that this instrument provides firmness that is equivalent or superior to that of a physical rights product.[180]

B. CRRs' Combined Physical and Financial Rights

249. Bay Area Municipals, Cities/M-S-R, Lassen, Modesto, NCPA, and TANC complain that the Commission's contention that it approved a "combined" aspect of physical and financial transmission rights is misleading and not based on reasoned decision-making. They argue that the MRTU Tariff's financial transmission rights fail in the most fundamental way to be "physical" firm transmission rights because the financial transmission rights do not grant access to physical transmission capacity. They argue that the lack of guaranteed access to any particular physical transmission path creates increased price uncertainty and fails to provide a hedge against congestion costs and losses that is comparable to truly physical transmission rights.

Power Pool, 100 FERC ¶ 61,287 (*NEPOOL*), *order on reh'g*, 101 FERC ¶ 61,344 (2002); *Northeast Util. Serv. Co.*, 105 FERC ¶ 61,122, at P 18-20 (2003) (*Northeast Utils.*), *reh'g denied*, 109 FERC ¶ 61,204 (2004); *Atlantic City Elec. Co. v. PJM Interconnection, L.L.C.*, 115 FERC ¶ 61,132 at P 4 (2006).

[178] *MISO*, 102 FERC ¶ 61,196 at P 53, 56; *Central Hudson*, 86 FERC ¶ 61,062 at 61,213-14; *NEPOOL*, 100 FERC ¶ 61,287 at P 64, 71; *Northeast Utils.*, 105 FERC ¶ 61,122 at P 18-20.

[179] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 37.

[180] We note that physical rights are not perfectly firm either, in that they are subject to TLR curtailment during system emergencies.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Commission Determination

250. We deny rehearing of this issue for all the reasons we have found in this and prior orders that financial rights are equivalent to physical rights, as discussed both above and further below.[181] We acknowledge, however, that there may be some semantic confusion surrounding the term "physical rights," and, therefore, we clarify that here. By "physical rights," parties generally refer to the right to physical capacity on a particular transmission path, which is a tradable right. In the MRTU Order, the "physical right" we described was "the ability to physically inject energy at a source and withdraw energy at a sink, through either submission of a self-schedule or a price bid that indicates a willingness to accept the spot market clearing-price."[182] Parties have this scheduling right now, and they will continue to have this right under MRTU, but this is not a tradable right,[183] nor is it a carve-out of transmission capacity and, therefore, our usage of the term "physical right" is distinct from the physical rights that challengers seek to acquire or retain.[184]

251. The point we endeavored to make in the MRTU Order and reiterate here is that the combination of physically scheduling, plus holding a financial transmission right with sources and sinks that correspond to the scheduled injection and withdrawal points, is equivalent, or arguably superior, to a pure physical rights approach to congestion management. This is because the CRR holder will be hedged against congestion charges between the source and sink of its CRR, and, even if it does not transmit electricity

---

[181] *See* Notice Inviting Comments on Establishing Long-Term Firm Transmission Rights in Markets with Locational Pricing and Staff Paper, Long-Term Transmission Rights Assessment, Docket No. AD05-7-000 (May 11, 2005); LTTR NOPR, FERC Stats. & Regs. ¶ 32,598; Final Rule, FERC Stats. & Regs. ¶ 31,226; Final Rule Rehearing Order, 117 FERC ¶ 61,201.

[182] MRTU Order, 116 FERC ¶ 61,274 at P 898.

[183] Financial rights of course are tradable via bilateral transactions and auctions.

[184] In designing guidelines for long-term financial rights, the Commission took into account the connection between physical scheduling needs and the design of the financial hedge. Specifically, the Commission fashioned Guideline 1 so that an entity could hedge the congestion costs that may be incurred in delivering the output of particular generators to particular loads; this supports LSEs' ability to obtain point-to-point LTTRs to hedge particular long-term power supply arrangements, consistent with the statute. *See* LTTR NOPR, FERC Stats. & Regs. ¶ 32,598 at P 45; Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 116.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

between its designated source and sink, the holder can profit by receiving congestion revenues from its CRR or from selling the CRR. In contrast to the physical rights paradigm, under MRTU, parties do not need to reserve capacity in order to receive transmission service. Under a physical right approach, if there is an outage on the line on which a customer has a capacity reservation, the electricity cannot be transmitted. Under a financial rights approach, however, if feasible, another generator can be dispatched, and the CRR holder will still receive the congestion revenue from its CRR.

252. Further, the use of redispatch[185] for congestion management will result in more accurate price signals that will promote more effective decisions concerning energy consumption, use of the transmission system, and investment in new transmission and generation upgrades.[186] In contrast to the inherent and improved right to physically schedule that MRTU provides, the physical carve-outs of transmission capacity that challengers ask the CAISO to provide could lower the uncertainty of transmission usage charges, but at the expense of diminishing the LMP signal. A diminished LMP signal would send an incorrect scheduling or dispatch incentive relative to the costs occasioned by the customer's use of the system.[187] Further, under an LMP system, physical carve-outs of transmission capacity would likely diminish the number of available CRRs, because the physical transmission rights would be considered as options from the perspective of financial rights. Consequently, we find, on balance, the combination of physical scheduling rights and financial transmission rights under the CRR regime are superior to a pure physical rights approach from both a short-term and long-term efficiency perspective (as discussed next).

C. Infrastructure Investment

253. These parties also assert that the Commission erred by failing to consider the implications for infrastructure investment that flow from a market design that lacks physical firm transmission rights. They charge that the Commission failed to recognize that financial rights do not provide long-term price certainty that is equivalent to that provided by physical rights. According to these parties, the absence of true physical rights in the CAISO's MRTU Tariff creates a significant disincentive to needed

---

[185] "Redispatch" means that, due to congestion, the utility changes the output of generators to maintain the energy balance. The output of some generators may be increased while the output of others may decrease.

[186] MRTU Order, 116 FERC ¶ 61,274 at P 897.

[187] LTTR NOPR, FERC Stats. & Regs. ¶ 32,598 at P 31.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

investment, and the Commission failed to engage in reasoned decision-making by ignoring the different implications on infrastructure investment that flow from a market design with financial versus physical congestion rights.

Commission Determination

254. We deny rehearing because we find that the totality of the MRTU market design – particularly LMP, congestion management via short and long-term CRRs, transmission planning and resource adequacy, together – will promote infrastructure investment.[188] As explained above, we disagree with protestors that financial transmission rights create increased price uncertainty. Furthermore, financial transmission rights coupled with LMP will allow the CAISO to manage the grid more efficiently. LMP and marginal losses will signal more accurately the location where new transmission and/or generation needs to be built and where investments in demand response should be made. These market design improvements will give investors greater confidence that their investments will be well-targeted to meet system needs and increase the likelihood that their investments will yield expected benefits. Consequently, contrary to challengers' assertions, MRTU's congestion management approach will likely increase infrastructure investment. In addition, resource adequacy requirements combined with the transmission planning required by the Final Rule to ensure continued feasibility of long-term CRRs,[189] as well as the regional transmission planning required by Order 890,[190] will help ensure the construction of necessary infrastructure.

255. In addition, Bay Area Municipals cite economist Bushnell for the proposition that "physical transmission rights reduce uncertainty by eliminating exposure to unhedgeable and unpredictable costs associated with financial transmission pricing policies."[191] Bay Area Municipals take this statement out of context and ignore Bushnell's assessment that "this security comes at a potentially high cost."[192] As Bushnell explains, these "high costs" or "potentially serious costs" relate to the ability to withhold capacity from the

---

[188] *See, e.g.*, Kristov January 2007 Testimony at 8.

[189] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 453-457.

[190] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 435-442.

[191] Bay Area Muncipals Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 30 & n.67 (*citing* J. Bushnell, *Transmission Rights and Market Power*, Electricity Journal (Oct. 1999) at 78).

[192] Bushnell at 1, www.ucei.berkeley.edu/ucei/PWP-062 (Apr. 1999).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

marketplace.[193] Under a very strict form of physical rights, he explains, owners could simply choose not to sell transmission capacity if they do not want to use it. Indeed, Bushnell focuses on how transmission rights can be used to withhold transmission capacity from the marketplace, and concludes that "methods for withholding transmission capacity are somewhat more convoluted, and probably more difficult, for owners of financial rights than for owners of physical rights."[194] Further, while some parties champion physical rights as superior to financial rights in terms of facilitating investment in transmission infrastructure, they ignore statistics that investment in transmission facilities "declined significantly" between 1975 and 1998,[195] at a time when a pure physical rights approach was in effect. While various factors may have contributed to this decline in investment, it is clear that the physical rights model has not stimulated transmission investment.

D. Timing of Implementation of LTTRs

256. SMUD argues that the Commission acted arbitrarily when it failed to address SMUD's objection that a delay in implementation of MRTU should not delay execution of LTTRs.[196] SMUD asserts that such a delay would contravene both new section 217 of the FPA and the Final Rule.[197] SMUD states that the CAISO wrongly interprets the Final Rule as being inapplicable to current CAISO markets based on the proposition that the Final Rule only applies to transmission providers operating "organized markets" and the current CAISO market is not an organized market.[198] SMUD argues that the CAISO's assertion is incorrect, quoting the MRTU Order's statement that "MRTU does not create

---

[193] *Id.* at 1, 5.

[194] *Id.* at 2.

[195] *See Promoting Transmission Investment Through Pricing Reform*, Order No. 679, 71 Fed. Reg. 43,294, at P 10 (July 31, 2006), FERC Stats. & Regs. ¶ 31,222, *order on reh'g*, Order No. 679-A, 72 Fed. Reg. 1,152 (Jan. 10, 2007), FERC Stats. & Regs. ¶ 31,236 (2006), *order on reh'g*, 119 FERC ¶ 61,062 (2007).

[196] SMUD Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 37 (*citing* SMUD Protest at 32).

[197] *Id.* (citations omitted).

[198] *Id.* at 38-39.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

organized markets in California. They already exist."[199] SMUD states that, on rehearing, the Commission should direct the CAISO to proceed with implementation of LTTRs expeditiously, without regard to the status of MRTU implementation.

Commission Determination

257. We deny rehearing. Although the CAISO operates an electricity market within its region, this market does not meet the precise definition of "organized electricity market" in the Final Rule until it includes a day-ahead wholesale energy market and uses LMP.[200] Since the CAISO will not operate a market until MRTU is in effect, the CAISO is not required to implement LTTRs until that time. Therefore, by definition, the implementation date of LTTRs is now coupled with the MRTU timetable. Furthermore, given the significant amount of time the CAISO and its market participants have devoted to the development of MRTU, and the fact that, once offered, the CAISO must be able to guarantee LTTRs for at least a 10-year period, we find it would be unreasonable to direct implementation of LTTRs independent of MRTU implementation. We elaborate on this last point in the determination below.

E. Interim Use of Physical Rights

258. SMUD argues that the Commission acted arbitrarily in rejecting the use of physical rights on an *interim* basis pending implementation of equivalent long-term financial rights, by mischaracterizing SMUD's position.[201] SMUD states that, without

---

[199] *Id.* (*quoting* MRTU Order, 116 FERC ¶ 61,274 at P 7).

[200] The Final Rule defines "Organized Electricity Market" as:

> [A]n auction-based day ahead and real time wholesale market where a single entity receives offers to sell and bids to buy electric energy and/or ancillary services from multiple sellers and buyers and determines which sales and purchases are completed and at what prices, based on formula rules contained in Commission-approved tariffs, and where the prices are used by a transmission organization for establishing transmission usage charges.

18 C.F.R. § 42.1(b)(4) (2006). We explained that the definition is intended to encompass transmission organizations with organized electricity markets using LMP and FTRs, consistent with our understanding of Congressional intent in section 1233(b) of EPAct. Final Rule Rehearing Order, 117 FERC ¶ 61,201 at P 125 & n.115.

[201] SMUD Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 41.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

any basis, the Commission attributed to SMUD the position that the only way to offer long-term firm service is through the use of physical rights.[202] However, SMUD asserts that it never said any such thing, but rather had argued that "the statutory directive is to implement long-term firm service, not the CAISO's version of MRTU."[203] SMUD states that it had argued that to meet the statutory imperative of EPAct 2005, "the CAISO should treat long-term firm service as it does firm service under ETCs, using encumbrances, and that the CAISO could and should do so *today*."[204]

259. In addition, SMUD argues that without any record basis, the Commission concluded that the CAISO is "less likely to have to invoke transmission loading relief procedures or service curtailments than would be the case under a pure physical rights model."[205] SMUD argues that, even assuming that this were true – which SMUD asserts it is not - it is not a response to SMUD's objection that long-term financial firm rights will not be available for several years under MRTU and that a physical rights solution is the *only* solution feasible *in the interim*.[206] SMUD argues that, on rehearing, the Commission should direct the CAISO to begin offering LTTRs on a physical basis as soon as practicable.

Commission Determination

260. We deny SMUD's request to require the CAISO to offer long-term physical transmission rights on an interim basis. MRTU implementation is imminent, scheduled to go into effect in less than a year, by January 31, 2008. Within the past several months, the CAISO has assiduously developed its LTTR proposal and accompanying tariff language. The CAISO timely submitted its compliance filing consistent with the Final Rule, which the Commission is acting upon in this proceeding, and the CAISO is actively working with stakeholders to further refine some outstanding details related to its proposal. Consequently, at this time, it appears that the CAISO will be able to effectuate LTTRs in conjunction with the inception of MRTU without delaying the start of MRTU. Given the challenge inherent in creating an effective LTTR product, and the complexity involved in melding these rights into transmission organization's market designs, the

---

[202] *Id.* at 41 (*citing* MRTU Order, 116 FERC ¶ 61,274 at P 893).

[203] *Id.* at 42 (*quoting* SMUD Protest at 32).

[204] *Id.* (emphasis in original).

[205] *Id.* (*citing* MRTU Order, 116 FERC ¶ 61,274 at P 899).

[206] *Id.* at 41-42

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

CAISO's implementation schedule for LTTRs comports with EPAct 2005.[207] In fact, we note that CAISO's implementation timetable is on par with that of other transmission organizations.[208]

261. Furthermore, we disagree with SMUD's contention that we lack any record basis/support to conclude that the CAISO is "less likely to have to invoke transmission loading relief procedures or service curtailments than would be the case under a pure physical rights model."[209] Rather, for transmission organizations managing congestion through LMP, all available resources can participate in redispatch for congestion management because they all receive the congestion price signal. Consequently, a transmission organization in a region with an organized electricity market (and not experiencing loop flows due to other factors) is less likely to have to invoke transmission loading relief.[210] Moreover, we have required transmission organizations to guarantee that LTTRs, once obtained, are firm for at least a decade. So, since LTTRs require a minimum of a 10-year term for long-term CRRs, implementing the pure physical rights or perfect hedge approach on an "interim" basis, as SMUD advocates, could have

---

[207] We note that the statute did not expressly require a specific date by which organized electricity markets must implement LTTRs. Rather, EPAct 2005 required the Commission to act within a year, *i.e.*, issue the Final Rule, and we have interpreted the Congressional directive as implying that transmission organizations should implement LTTRs as soon as practicable, consistent with their existing, or, in the case of the CAISO, emerging market designs. *See* MRTU Order, 116 FERC ¶ 61,274 at P 490.

[208] *See, e.g., Midwest Indep. Sys. Operator, Inc.* , 119 FERC ¶ 61,143, at P 1, 8 (2007) (conditionally accepting proposed LTTR tariff sheets with varied implementation dates ranging from June 2007 through May 2008, under which Midwest ISO will not offer LTTRs until after May 2008); New YorkISO's Feb. 5, 2007 Transmittal Letter, Docket No. ER07-521-000, at 41 (requesting December 1, 2007 tariff effective date so that LTTRs may be offered in Spring 2008); ISO New England and New England Power Pool's Jan. 29, 2007 Transmittal Letter, Docket No. ER07-476, at 64 (proposing earliest LTTR effective date of January 2009).

[209] SMUD Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 42 (*quoting* MRTU Order, 116 FERC ¶ 61,274 at P 899).

[210] LTTR NOPR, FERC Stats. & Regs. ¶ 32,598 at P 30; 2006 PJM State of the Market Report at 267-68 (Mar. 8, 2007) (stating that efficient redispatch displaced the less efficient congestion management of borders via TLR procedures and ramp limits).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

ramifications far into the future, well beyond the looming start-up date for MRTU. Consequently, we find here that, on balance, the short wait is acceptable and consistent with EPAct 2005.[211]

F. Priority for LSEs with long-term contracts

262. In its request for clarification/rehearing of the MRTU Order, the CPUC raises concerns about the Final Rule. Specifically, the CPUC asserts that the Commission determined in the Final Rule that ISOs/RTOs shall not grant priority in allocation of LTTRs to LSEs that have long-term power supply contracts. In the CPUC's view, not giving priority in allocation of LTTRs to LSEs that have long-term power supply contracts violates the FPA, EPAct 2005 and the ultimate purposes of this proceeding. Consequently, the CPUC requests rehearing of the MRTU Order's incorporation of the Final Rule's failure to require priority for LSEs with long-term power supply contracts and/or obligations.[212]

Commission Determination

263. At the outset, as we note in the MRTU Rehearing Order, the CPUC misstates the Final Rule. While the Final Rule did not require LSEs with long-term power supply arrangements to have priority over LSEs lacking such arrangements, it also did not preclude RTOs from giving LSEs with long-term power supply arrangements top priority, under certain circumstances. The Final Rule clarified that, "in cases where the transmission organization must limit the amount of existing capacity available for LTTRs to a level that cannot support the 'reasonable needs' of all LSEs, Guideline 5 allows the transmission organization to give priority to LSEs with long-term power supply arrangements in allocating the scarce capacity."[213] To the extent the CPUC challenges Guideline 5 as a general matter, its argument is more appropriately raised on rehearing of the Final Rule.[214]

---

[211] We note that, while the statute requires the Commission to act within a year, it does not include an express deadline by which transmission organizations must offer LTTRs.

[212] CPUC Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 13-16.

[213] Final Rule Rehearing Order, 117 FERC ¶ 61,201at P 65.

[214] We note that the CPUC also raised this issue on rehearing of the Long-Term Firm Transmission Rights Final Rule. *See Id*. at P 55.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

264. Next, we deny the CPUC's request for rehearing of what it describes as the MRTU Order's incorporation of the Final Rule's failure to require priority for LSEs with long-term power supply contracts and/or obligations.[215] First, since the MRTU Tariff failed to include LTTR provisions, all the MRTU Order did was require the CAISO to provide such rights.[216] Second, since there was an ongoing rulemaking proceeding determining required features for LTTRs, in the form of guidelines, the Commission reasonably did not prescribe any features for the CAISO's LTTRs, but rather left that level of detail to the CAISO's compliance filing with the Final Rule.[217] Third, upon evaluating the CAISO's proposal, we find that it strikes a reasonable balance between using a historical test year and requiring verification of sources during year 1 of CRR allocation, so that it initially allocates LTTRs to entities with existing needs, while affording the flexibility to accommodate future portfolio modifications.[218] The Final Rule Rehearing Order provides transmission organizations with the option of giving priority to LSEs with long-term power supply contracts when there is insufficient capacity to meet the "reasonable needs" of all LSEs, but does not require doing so.[219] As parties pointed out in the rulemaking proceeding, there are downsides to using long-term contracts as a "tiebreaker," including the danger of sham contracting[220] and the burden on administrative resources to verify contracts.[221] We find that, through the totality of its long-term CRR proposal, including its legitimate needs test, calculation of the adjusted load metric, and various caps on nominations, the CAISO has found a reasonable method for equitably allocating long-term CRRs to meet LSEs' reasonable needs; we require no more.

G. Treatment of External LSEs

265. SMUD argues that the Commission acted arbitrarily when it failed to direct the CAISO to offer long-term firm service to all LSEs irrespective of whether they are

---

[215] CPUC Oct. 23, 2006 Rehearing Request, Docket No. ER06-615-001, at 13-16.

[216] MRTU Order, 116 FERC ¶ 61,274 at P 890, 892.

[217] *Id.* P 892.

[218] *See supra* at P 135-141, 155-59.

[219] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 65.

[220] *Id.* P 310.

[221] *Id.* P 317.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

located inside the CAISO's Control Area.[222] SMUD states that the Final Rule requires such allocation, but the CAISO has voiced its intention to allocate rights to long-term firm service using its CRR allocation methodology, which SMUD states discriminates against external LSEs. SMUD points out that in its September 26 White Paper,[223] the CAISO stated its understanding that an LSE that has both an obligation to serve load within the CAISO Control Area *and* is required to contribute to the embedded cost of the transmission organization's system will be given first priority.[224] SMUD states that some RTOs/ISOs, such as PJM, have attempted to interpret the Final Rule as granting a clarification that LSEs serving load within a region should be granted priority access to long-term financial transmission rights over LSEs that take transmission service in one region to serve load outside that region.[225] SMUD argues the Final Rule did no such thing; rather, the Final Rule merely revised Guideline 5 to allow transmission organizations to "place reasonable limits on the amount of existing transmission capacity that [they] will make available for [LTTRs]."[226] SMUD argues that the plain language of the Final Rule and longstanding Commission precedent clearly proscribe such discriminatory action.[227]

Commission Determination

266. SMUD raised this same argument in the context of short-term CRRs in its rehearing request of the MRTU Order.[228] Since the CAISO's long-term CRRs are an extension of its short-term CRR proposal, and long-term CRRs are converted from short-term CRRs, we reach the same conclusion here, and incorporate by reference our

---

[222] SMUD Oct. 23, 2007 Rehearing Request, Docket No. ER06-615-001, at 4, 39-40.

[223] *Id.*

[224] *Id.* at 40 (*citing* September 26 White Paper at 4 (*citing* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 328)).

[225] *Id.* (*citing* PJM's Sept. 13, 2006 Motion for Leave to File Answer and Answer, Docket No. RM06-8, at 9-11).

[226] *Id.* (*citing* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 318).

[227] *Id.* (*citing* Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 321; *New England Power Pool, et al.*, 100 FERC ¶ 61,287, at P 85 (2002); *Mid-Continent Area Power Pool*, 87 FERC ¶ 61,075, at 61,309-10 (1999)).

[228] MRTU Rehearing Order, 119 FERC ¶ 61,076 at P 358.

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

reasoning in the MRTU Rehearing Order and extend it to long-term CRRs.[229] Specifically, we grant rehearing requests concerning the allocation of CRRs for wheel-through transactions and direct the CAISO to modify the MRTU Tariff to enable LSEs external to the CAISO Control Area to obtain long-term CRRs to serve external load from facilities located outside the CAISO Control Area on a similar basis as external load is eligible to obtain CRRs to hedge transmission of resources within the CAISO. We uphold the CAISO's requirement that, under MRTU, LSEs serving external load must assume the obligation to pay the wheeling access charge on an annual basis – although the actual payment may be made on a monthly basis – and make a showing of legitimate need to obtain CRRs.[230] We add here that the guiding principle is that, where the CAISO has planned and constructed its transmission system to support the external LSE's needs and the LSE has paid and continues to pay a share of the embedded costs of the transmission organization's transmission system, it should be eligible to obtain long-term CRRs.[231]

H. Provision of LTTRs

267. In addition, SMUD states that in its September 26 White Paper, the CAISO stated that it will be governed on whether to offer multi-year long-term firm service based on the majority view of its stakeholders.[232] SMUD argues that this violates both EPAct 2005 and the Commission's 1997 directive that the CAISO must offer multi-year LTTRs.[233]

Commission Determination

268. We deny the request for rehearing on this issue because it is moot now that the CAISO has submitted its long-term CRR proposal, which we act upon in this proceeding.

---

[229] *Id.* P 368-80.

[230] We note that the "showing of legitimate need" will need to be tailored to meet the specific needs of external LSEs seeking long-term CRRs from the CAISO.

[231] Final Rule, FERC Stats. & Regs. ¶ 31,226 at P 78-79.

[232] *Id.* at 41(*citing* White Paper at 14).

[233] *Id.* (*citing Pacific Gas and Elec. Co.* 80 FERC ¶ 61,128, at 61,427 (1997).

20070706-3038 Issued by FERC OSEC 07/06/2007 in Docket#: ER07-869-000

Transfer of CRR Provisions from Business Practice Manuals to the MRTU Tariff

269. The CAISO states that its amended filing in Docket No. ER07-869-000 contains some MRTU tariff changes that originated in the process of reconciling the material in the Business Practice Manuals CRRs and the MRTU CRR tariff language. The CAISO states that it has moved information from the CRR Business Practice Manuals into the MRTU Tariff in response to stakeholder comments. In Attachment F to its filing, the CAISO categorizes and describes each tariff change that is the result of this reconciliation process.

Commission Determination

270. We find that the tariff changes listed in Attachment F of the CAISO's amended filing in Docket No. ER07-869-000 are just and reasonable. No protests were filed with respect to these MRTU tariff changes. Accordingly, we accept them.

The Commission orders:

(A) The CAISO's proposed tariff revisions are hereby conditionally accepted for filing, to be effective on July 9, 2007, subject to further modification, as discussed in the body of this order.

(B) The CAISO is hereby directed to make the compliance filings specified in the body of this order, within the timeframe specified in the body of this order.

(C) The Commission hereby grants, in part, and denies, in part, the requests for rehearing raised in Docket No. ER06-615-001, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.