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December 12, 2022

Honorable Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

**Re: *Northwest Power Pool d/b/a Western Power Pool*, Docket No. ER22-2762-00_
Response to Deficiency Letter**

Dear Secretary Bose:

Northwest Power Pool d/b/a Western Power Pool ("WPP") submits for filing this response to the letter[1] dated November 21, 2022, in this proceeding requesting additional information concerning WPP's August 31, 2022 filing[2] pursuant to section 205 of the Federal Power Act ("FPA")[3] of a tariff[4] to establish a Western Resource Adequacy Program ("WRAP") in the Western Interconnection. This response also transmits minor clarifying Tariff revisions to resolve questions raised in the November 21 Letter.

I. REQUESTED EFFECTIVE DATE AND ACTION DATE

WPP respectfully renews its request for an effective date of January 1, 2023 for the WRAP Tariff. Good cause exists to grant WPP's requested effective date. First, the Federal Energy Regulatory Commission ("Commission") often permits applicants to retain their original requested effective date when a filing is made in good faith to cure a deficiency.[5] Second, the August 31 Filing provided the required notice of the WRAP Tariff, and this filing gives notice of WPP's desire to retain that date. Third, while this

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1 *Northwest Power Pool*, Deficiency Letter, Docket No. ER22-2762-000 (Nov. 21, 2022) ("November 21 Letter").

2 Submission of Tariff to Establish a Western Resource Adequacy Program of Northwest Power Pool d/b/a Western Power Pool, Docket No. ER22-2762-000 (Aug. 31, 2022) ("August 31 Filing").

3 16 U.S.C. § 824d.

4 Western Resource Adequacy Program Tariff of Northwest Power Pool d/b/a Western Power Pool ("Tariff" or "WRAP Tariff").

5 *See, e.g.*, *Midwest Indep. Transmission Sys. Operator, Inc.*, 105 FERC ¶ 61,076 (2003) (granting originally requested effective date where a supplemental filing in response to deficiency letter included clarifications that required revisions to the originally filed language).

filing includes minor clarifying revisions to the WRAP Tariff to resolve the questions posed in the November 21 Letter, the revisions are taken from WRAP stakeholder decisional materials that provided the substantive source material for much of the Tariff, and that were unanimously endorsed—well before the August 31 Filing—by the prospective Participants[6] in the WRAP. As such, no party will be prejudiced by adoption of the originally requested effective date. Fourth, adoption of the originally requested effective date will send a strong Commission signal of support for the timely implementation of the WRAP.

WPP further respectfully requests that the Commission issue an order accepting the August 31 Filing, with the clarifying Tariff revisions in this filing, no later than February 10, 2023. This action date, which reflects the minimum notice required by the FPA, will provide much needed certainty to WPP, Participants, states, and other stakeholders on the continued timely implementation of the WRAP.

WPP clarifies that it will not transition to a new independent board (the prospective members of which have already been identified publicly) until the WRAP Tariff, and WPP's resulting public utility status, have been accepted and established by the Commission in an order free of unacceptable revisions or conditions. If WPP receives such an order by February 10, 2023, it will seat the new independent board as soon as practicable after issuance of that order.

WPP also notes that it is in the process of securing interim arrangements with Participants that will continue funding WPP's ongoing work on the WRAP initiative using terms that mirror the Tariff's administrative cost recovery provisions, and that will continue Participant review procedures which mirror the Tariff's Resource Adequacy Participants Committee ("RAPC") review and voting procedures. As WPP and stakeholders stand up additional committees, those bodies likewise will adopt the Tariff's proposed rules to govern their conduct. Commission adoption of the proposed January 1, 2023 effective date will thus facilitate this effort by WPP and the stakeholders to conduct these important implementation activities (i.e., project funding and stakeholder process) in a manner consistent with the proposed Tariff. WPP notes that these project development funding and stakeholder process rules, which are the same type of WRAP development activity that has been ongoing for several years, do not, standing alone, trigger the Commission's FPA jurisdiction, but WPP again urges the Commission to issue its final order on this filing by February 10, 2023, to provide needed certainty to the many stakeholders actively involved in the WRAP initiative.

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[6] Capitalized terms used in, but not otherwise defined in, this transmittal have the meaning provided by the Tariff.

II. RESPONSES TO THE NOVEMBER 21 LETTER'S SPECIFIC QUESTIONS[7]

November 21 Letter Question:

1. Under the operations program, participants will make and settle energy deployments (and the associated holdback requirement) bilaterally where the Tariff prescribes the price for these participant-to-participant transactions. WPP states that "entities will need to obtain, or have in place, market-based rate authority to engage in such transactions to the same extent they would require market-based rate authority if they conducted the same bilateral wholesale transaction for a non-WRAP purpose." Regarding the operations program, WPP states that transactions will occur under "the existing framework of Commission jurisdiction and market-based rate authority."

a. Please explain how the WRAP operations program will interact with existing market-based rate authority, including where a market participant has market-based rate mitigation or does not have market-based rate authority.

b. WPP explains that two of the mechanisms used to determine operations program compensation are the Total Settlement Price and the Make-Whole Adjustment, both of which are partly based on price indices. Given that the formula for both partly derive from applicable sub-regional price indices, please explain how the program design will accommodate WRAP participants without market-based rate authorization in a specific market, or with market-based rate mitigation.

c. Please identify any applicable Tariff provision(s) that addresses how participants with market-based rate mitigation or those without market-based rate authority will be treated in the WRAP operations program. To the extent these procedures are not described in the Tariff yet, please describe where WRAP might address the circumstances described above.

WPP Response to Subpart (a):

As detailed below, the WRAP Operations Program "interact[s] with existing market-based rate authority," by encouraging Participants to resort to the existing bilateral market—where Commission-jurisdictional sellers already have market-based rate authority or Commission-approved market power mitigation—to source their needs. For Participants

[7] For ease of reading, the internal citations in the November 21 Letter are omitted from the copies of those questions in this response. To be clear, however, WPP's responses are to the questions as posed in the November 21 Letter.

that must rely on the Operations Program on a given day, the Operations Program design contains several features, such as reliance on established liquid price indices and cost-based components (via the Make Whole Adjustment based on opportunity costs), to check the ability of *all* selling Participants, whether they possess market-based rate authority or not, to exercise market power or influence over the price, quantity, or obligation to provide Energy Deployments when needed.

1. *The Commission's Well-Established Policy Is that Sales Are Permitted at Market-Based Rates if Sellers Do Not Have Market Power or Market Power Is Adequately Mitigated.*

The Commission's longstanding policy is to "allow[] power sales at market-based rates if the Seller and its affiliates do not have, *or have adequately mitigated*, horizontal and vertical market power."[8] The Commission's analysis focuses on "whether a market-based rate seller or any of its affiliates has market power in generation or transmission and, if so, *whether such market power has been mitigated.*"[9] Important within that policy is that sellers have the opportunity to make sales at market-based rates even if they fail the Commission's market power screens, so long as the Commission's concerns about the potential for market power abuse can be mitigated through the adoption of certain mitigation mechanisms. While the Commission's default mitigation measure for sellers with market power is cost-based rates, "the Commission's policy allows 'applicants to propose case-specific *mitigation tailored to their particular circumstances* that eliminates

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8 *See, e.g.*, *Refinements to Horizontal Market Power Analysis for Sellers in Certain Regional Transmission Organization and Independent System Operator Markets*, Order No. 861, 168 FERC ¶ 61,040, at P 5 (2019) (emphasis added) (citing *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, 119 FERC ¶ 61,295, at PP 62, 399, 408, 440, *clarified*, 121 FERC ¶61,260 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055, *clarified*, 124 FERC ¶ 61,055, *order on reh'g*, Order No. 697-B, 125 FERC ¶ 61,326 (2008), *order on reh'g*, Order No. 697-C, 127 FERC ¶ 61,284 (2009), *order on reh'g & clarification*, Order No. 697-D, 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Mont. Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011)), *order on rehearing & clarification*, Order No. 861-A, 170 FERC ¶ 61,106 (2020).

9 Order No. 697 at P 3 (emphasis added).

the ability to exercise market power,'"[10] and "the alternative mitigation…could include cost-based rates *or other mitigation that the Commission may deem appropriate*."[11]

Indeed, in adopting its policy as set forth in Order No. 697, the Commission expressly authorized sellers to propose "market-based" mitigation measures, "*such as the use of an index* or [a locational marginal price] proxy, for Commission consideration on a case-by-case basis based on their particular circumstances,"[12] rather than simply defaulting to cost-based rates. Thus, the Commission's policy for market power mitigation contemplates the possibility that a seller with market power could mitigate its market power by making sales at an index-based price rather than adopting default cost-based rates.

2. *The Operations Program Design Mitigates Market Power by Preventing Sellers from Exercising Control Over the Material Elements of WRAP-Required Transactions.*

The WRAP by design mitigates the ability of sellers to exercise market power in the relevant "products" implicated by the Commission Staff's question—i.e., Holdback Requirements and Energy Deployment. As WPP explained in its transmittal letter and the Affidavit of Mr. Ryan Roy, Director of Technology, Modeling and Analytics, the design of the WRAP Operations Program "prevents sellers from exercising control over price, quantity, or the Tariff-triggered obligation to make the sale,"[13] all of which, if left up to a seller's control, could be used to exercise of market power.

As the Tariff makes clear, "Participants *shall* provide energy during an hour . . . in accordance *with WPP's calculation* of the Energy Deployment for such hour."[14] The Tariff further provides that "*WPP shall advise* each Participant with a required Energy Deployment for an hour of *the required MWh quantity and delivery point of such Energy Deployment* by no later than ninety minutes before the start of such hour."[15] Likewise,

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10 *Id.* at P 625 (emphasis added) (quoting 107 FERC ¶ 61,018, at P 148); *see also id.* at P 622 (stating that the Commission will "allow[] sellers to propose case-specific tailored mitigation, or adopt the default cost-based rate" (citing 107 FERC ¶ 61,018, at P 148)).

11 *Id.* at P 625 (emphasis added) (citing 107 FERC ¶61,018 at P 148 n.142).

12 *Id.* at P 698 (emphasis added).

13 August 31 Filing at 45; *see also id.*, Attachment F, Affidavit of Ryan L. Roy ¶ 27 ("Roy Aff.").

14 Tariff § 20.4.1 (emphasis added).

15 *Id.* § 20.4.4 (emphasis added).

settlement prices will be as dictated by the Tariff;[16] and *"[t]he WPP* will calculate and post settlement quantities and prices based on the Energy Deployment and Holdback Requirement."[17]

Participants do not submit offers for any of these WRAP-directed transactions; rather, Participants are required to provide Holdback Requirements and Energy Deployments based on their expected surplus during the hour of a Sharing Event, based on the Participant's WPP-calculated positive Sharing Calculation.[18] In other words, sellers have no ability to influence, through offers, the price to be paid for Holdback Requirements or Energy Deployments, because there are no such offers.

Similarly, sellers lack the ability to engage in withholding as to the Energy Deployment because the Tariff obligates them to comply with Energy Deployment directives or face substantial Delivery Failure Charges for failure to do so.[19]

In short, sellers do not control the key terms of transactions in the Operations Program, including the price, quantity, and obligation to sell. Each of these key levers to the potential exercise of market power are dictated by the Tariff and calculated by WPP and external price indices, rather than influenced by seller offers.[20] By removing the ability of a seller to influence these key components of the sale, the WRAP Tariff design mitigates the ability of sellers to exercise market power, even with respect to sellers the Commission previously has determined possess the ability to exercise market power in certain control areas for certain products within the geographic area that will comprise the WRAP Region.

3. *The WRAP Operations Program Design Also Mitigates Market Power by Incenting Participation in the Existing Bilateral Market (Including the Existing Market's Protections Against the Exercise of Market Power*.

As Mr. Roy explained in his affidavit, the Operations Program is intended to be a *last resort*, with prices designed to encourage deficient Participants to procure outside of the WRAP the energy and capacity they need to serve their load, by utilizing the existing bilateral markets in the West, which are subject to the Commission's market-based rate regime.[21] The Tariff explicitly states that Operations Program pricing is "designed to

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16 *See id.* § 21.2.

17 *Id.* § 21.1.3 (emphasis added).

18 *See id.* § 20.1

19 Roy Aff. ¶ 24; *see* Tariff § 20.7.

20 Roy Aff. ¶¶ 5, 24.

21 *Id.* ¶ 23.

incent Participants to resolve any forecast Operating Day deficiencies before the Operating Day, including through transactions outside the Operations Program";[22] and *presumes*, before setting any Holdback Requirement[23] or any Energy Deployment[24] that a Participant calculated to be deficient *will* resolve its deficiency *outside* the Operations Program. The Holdback and any associated Energy Delivery made available in the WRAP Operations Program is thus intended to be a backstop to Participants' ability to access the wholesale bilateral market where the Commission has a robust framework to perform market power analysis and establish market-based rate authority or appropriate mitigation.

Consistent with this intended reliance on transactions outside the Operations Program, WPP is required to provide indicative results starting seven days in advance of the Operating Day,[25] giving deficit Participants ample time to utilize the bilateral market. The WRAP settlement is designed to *encourage the use of the bilateral market* (in which all Commission-jurisdictional sellers are required to have market-based rates or acceptable mitigation), *not* to *shift* supply and counterparties *away from the bilateral market*.

4. *The Proposed WRAP Pricing Is Based on Index Price and Opportunity Cost Features that the Commission Has Previously Found Adequately Mitigate Market Power.*

The Operations Program design further protects against the exercise of market power by prescribing prices—when Energy Deployments *do occur* under the program—that are based on approaches the Commission has previously found adequately mitigate market power, i.e., reliance on competitive price indices and recognition of legitimate opportunity costs.[26]

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[22] Tariff § 18.3.

[23] *See id.* § 20.2.1 (precondition to WPP determining a Holdback Requirement is that "the Participant(s) found to be deficient for such hour(s) by the Sharing Calculation confirms to the WPP . . . such Participant's need for capacity for such hour(s).").

[24] *See id.* § 20.4.2 (precondition to WPP determining an Energy Deployment for any hour of an Operating Day is that the Participant calculated to need such assistance "confirm[s], by no later than 120 minutes before the start of such hour, the quantity of Energy Deployment for which it requires delivery for such hour"; and if the Participant does not so confirm, it "will be deemed to waive all deliveries of Energy Deployment under the Operations Program for such hour.").

[25] *Id.* §§ 18.2, 19.1.

[26] Roy Aff. ¶¶ 25-26.

As Mr. Roy explains, seller compensation for both Holdback Requirements and Energy Deployments is derived from the Total Settlement Price.[27] The Total Settlement Price, in turn, is patterned directly on the maximum import bid pricing that the Commission approved for the California Independent System Operator ("CAISO").[28] CAISO's approved proposal sets the maximum bid price for certain imports into California by taking the greater of the Mid-Columbia ("Mid-C") or Palo Verde ("PV") index prices, multiplying the index by an hourly shaping ratio, and multiplying that number by 110%.[29] CAISO supported its proposed use of the Mid-C and PV price indices on the grounds that "they are the primary liquid trading hubs for bilateral transactions in the Western Interconnection and provide representative electric prices for the bilateral market outside CAISO's balancing authority area."[30] WPP agrees[31] with CAISO's characterization of the Mid-C and PV indices, and intends to use those two indices to set the Total Settlement Price, with the only difference that WRAP will use an average of those two indices as the basis for determining the Total Settlement Price.[32]

The Commission's acceptance of use of the Mid-C and PV hubs in *CAISO* to set prices for resources located in the WECC area outside California is consistent with the Commission's prior recognition of those two trading hubs as having sufficient liquidity to represent competitive prices at those two hubs.[33]

WPP's two proposed adjustments[34] to these index prices are identical to the adjustments the Commission found just and reasonable in *CAISO*, i.e., the hourly shaping factor and

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27 *Id.* ¶ 13.

28 *Id.*

29 *Id.*

30 *See Calif. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,076, at P 8 (2021) ("*CAISO*").

31 August 31 Filing at 39.

32 Roy Aff. ¶ 14.

33 *See, e.g.*, *El Paso Elec. Co*., 148 FERC ¶ 61,051, at P 7 (2014) (showing use of PV price to set imbalance charges); *Idaho Power Co*., 121 FERC ¶ 61,181, at P 27 (2007) (showing use of Mid-C price to set imbalance charges); *PacifiCorp*, 95 FERC ¶ 61,145, at 61,465 (2001) (including Mid-C and PV in group of "four major western interfaces" used to set energy imbalance rate); *Pinnacle W. Energy Corp*., 92 FERC ¶ 61,248, at 61,791 (2000) (showing use of PV price to set prices for affiliate transactions because the PV index is a recognized market hub with competitive prices).

34 *See* Tariff § 21.2.6.

the 110% multiplier. As in *CAISO*, the 110% multiplier reasonably captures some of the potential variations between published electric price indices and individual transactions.[35] The hourly shaping factor, which divides the day-ahead market system marginal energy cost for the CAISO Balancing Authority Area ("BAA") by the average day-ahead market system marginal energy cost in all on-peak hours of the same previous representative trading day, reasonably scales the hourly price up or down relative to the daily hub price in hours where the system marginal energy cost is, respectively, greater or lesser than the daily average.[36] The Commission found that CAISO's resulting pricing approach "represents a balanced approach between allowing high prices during times when prices in the Western Interconnection are high and ensuring bids by resource adequacy resources reflect prevailing market conditions."[37] Notably, CAISO specifically proposed this approach—which WPP is adopting here—to address concerns that certain import bids "could exercise system-level market power."[38]

Aside from this reliance on competitive price indices, the only other element of the WRAP settlement pricing which could increase compensation paid to sellers is the Make-Whole Adjustment.[39] But that adjustment, as Mr. Roy explained, is "a textbook example of an opportunity cost";[40] and, as the Commission itself has observed, it "has long recognized opportunity costs as a legitimate component of just and reasonable rates."[41]

More specifically, the Commission has recently adopted an opportunity cost framework to mitigate the potential exercise of market power, which requires a demonstration that the seller "had an opportunity to sell power above the [price otherwise permitted] that it declined to make in favor of the consummated sale."[42] In particular, "the opportunity cost framework requires evidence of[: (1)] alternative sales options, including details on the

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35 *See CAISO* at P 9.

36 *See id.* at P 7 n.16.

37 *Id.* at P 43.

38 *Id.* at P 5.

39 *See* Tariff § 21.2.5.

40 Roy Aff. ¶ 17.

41 *ConocoPhillips Co.*, 175 FERC ¶ 61,226, at P 16 (2021) (citing *Cal. Indep. Sys. Operator Corp.*, 163 FERC ¶ 61,211, at P 11 (2018) (approving default energy bid formulas for hydro resources [in CAISO] with storage take into account these resources' opportunity to sell energy outside of CAISO)).

42 *Id.* at P 17.

timing, location, quantity, and likely price of the alternative sale[; and (2)] the ability to deliver at the time of the actual transaction to the point of sale."[43]

The Make-Whole Adjustment satisfies these principles. The Tariff prescribes[44] that the Make-Whole Adjustment

> is applied in the event that the settlement revenue and the estimated value of the non-dispatched energy is less than the estimated revenues the selling entity would have received had such entity not been subject to a Holdback Requirement and had sold a day-ahead block of energy with a MW value equal to the maximum amount of Holdback Requirement for the hours in the block.

The Tariff's formula[45] and Mr. Roy's affidavit[46] provide additional details and explanation for the Make-Whole Adjustment. As can be seen, the Tariff uses the same Applicable Price Index, i.e., the same pricing hub, for both the WRAP-required sale and the foregone day-ahead market sale. The timing of the two sales is the same—i.e., the foregone block sale must include the hour of the Energy Deployment sale—and the quantity is the same—i.e., the day-ahead block sale must have a megawatt ("MW") value equal to the maximum amount of Holdback Requirement for the hours in the block. Similarly, the WRAP provisions that require a seller to have firm transmission[47] also establish "the ability to deliver at the time of the actual transaction to the point of sale"[48] as contemplated by the Commission's opportunity cost framework. The Make-Whole Adjustment also is careful to recognize and account for the factors that would reduce the seller's opportunity costs from foregoing the day-ahead block sale, such as revenue opportunities in the real-time market.[49]

Mr. Roy provides solid support for basing these opportunity costs on a forgone block sale. As he explains, "day-ahead sales are commonly made in the form of multiple hour blocks during the Operating Day; [and] the on-peak (sixteen hour) and off-peak (eight hour)

43 *Id.* at PP 18-19.

44 Tariff § 21.2.5.

45 *Id.*

46 Roy Aff. ¶¶ 16-17.

47 *See* Tariff § 20.6.

48 *ConocoPhillips* at P 19.

49 *See* Roy Aff. ¶ 16.

blocks are among the most liquidly traded products in the day-ahead energy markets for both Mid-C and PV."[50]

In sum, when a Participant with a deficit on the Operating Day has no other recourse but a WRAP Energy Deployment, WRAP's settlement pricing is just and reasonable and relies on elements—competitive index prices and legitimate opportunity costs—that the Commission has found adequately mitigate the potential exercise of market power. This mitigation, by definition, is sufficient whether or not the affected seller has market-based rate authority for its sale to the affected buyer: mitigation of such potential market power is precisely the point of using these mitigation approaches to cap allowable prices.

5. *Requiring a Different Mitigation Approach, i.e., the Seller's Production Cost, Would Seriously Undermine Important WRAP Objectives.*

Because the proposed Operations Program already includes the important elements detailed above that mitigate the potential exercise of market power, the Commission does not need to order WPP to adopt the remaining mitigation approach the Commission has recognized as a means to justify sales prices, i.e., basing price on the seller's generation production costs. Indeed, ordering WPP to adopt that mitigation approach in lieu of the mitigation approaches discussed above could, and likely would, seriously undermine important WRAP objectives.

First, setting a price for WRAP settlements that disregards the relevant index prices and the applicable legitimate opportunity costs would almost certainly result in a WRAP settlement price that is below—perhaps far below—the price a Participant with a deficit for an Operating Day would pay in the bilateral market to resolve its deficiency. The prices for bilateral market sales in the WRAP Region are highly likely to be influenced by the dominant trading hub index prices in the northern and southern (or eastern) parts of that region, i.e., Mid-C and PV, respectively. Moreover, because on-peak and off-peak blocks tend to be the most liquid products at these hubs,[51] the buyer seeking to resolve its deficit would likely face a cost that is significantly influenced by that trading reality. Adopting instead a mitigation approach that is based on an individual seller's cost of production would very likely result in a lower cost for a buyer with a supply deficit to resolve that deficit through WRAP than to resolve it through the bilateral market. That would be directly opposed to the fundamental character[52] of WRAP settlement as a sale of last resort, not a sale of first resort.

Second, that approach would, as applied here, be manifestly unjust and unreasonable. In the Operations Program, the seller assigned a Holdback Requirement or an Energy

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[50] *Id.* at ¶ 17.

[51] *See id*.

[52] *See id*. ¶ 23.

Deployment *has no choice in taking on that Holdback Requirement or that Energy Deployment*. The Operations Program mandates the quantity, timing, location, and price for that transaction. In any other circumstance where price mitigation is applied, a seller would have an opportunity to decide whether it wants to make a particular sale, at a particular time, at a particular location based on its cost of production. The Operations Program does not allow a seller that type of choice.[53]

Third, such an alternative mitigation approach would create a substantial disincentive to certain Participants joining the program. Why would a seller to which such production-cost mitigation might be applied join a program that compels it to make a below-market sale during the very time when adverse demand or supply conditions are causing elevated prices? That would be a very hard sell, and could result in substantial gaps in the area served by the WRAP, in terms of both supply/load diversity and available transmission, thereby diminishing the value of the program for all Participants.

Fourth, that alternative approach to mitigation could significantly undermine the Program's proposed optimized use of available transmission in the most efficient manner by preventing in many cases the "nearest neighbor cluster" element of the buyer-seller matching algorithm in the Operations Program.[54] This is because sellers with locational limits on their market-power authority usually have such limits as to sales to buyers in their own BAA or in an adjacent BAA. But those are the very transactions that can make the most efficient use of the region's available transmission. And that type of efficient matching reduces the overall cost of meeting resource adequacy objectives, to the general benefit of all Participants.

<u>WPP Response to Subpart (b):</u>

As explained in WPP's response to subpart (a), the Operations Program design will accommodate WRAP Participants without market-based rate authorization in a specific market or with market-based rate mitigation through the multiple features that will adequately mitigate the potential exercise of market power, e.g., removing from a seller the ability to influence the quantity, price, location, and counter-party to its sale, and using prices capped at the prices set by liquid price indices, with just and reasonable price adjustments, or by the seller's legitimate opportunity costs, when a sale must occur.

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[53] While Participants can transfer their Holdback Requirement or Energy Deployment obligations, they need a willing counter-party to do so. But any counter-party would presumably be just as loath as the first seller to make a below-market sale at times when demand is high and supply is low.

[54] *See* Tariff § 20.4.1.2.

WPP's Response to Subpart (c):

WPP's response to subpart (a) identifies and discussed in detail the applicable Tariff provisions that address how Participants with market-based rate mitigation or those without market-based rate authority will be treated in the WRAP Operations Program.

November 21 Letter Question:

2. Under the proposed forward showing program, participants must demonstrate that they have secured firm transmission service rights sufficient to deliver at least 75% of the MW quantity of the participant's forward showing capacity requirement. Participants may include in their forward showing submittal a request for an exception to this requirement, which WPP will grant or deny. WPP states that, for two of the exceptions (i.e., the Enduring Constraint and Future Firm ATC Expected exceptions), participants will be limited to having the exceptions for one year under certain circumstances.

a. Please clarify what the time limitation is for each exception and identify whether the limitations are specified in the Tariff. If the limitations are not specified in the Tariff, please explain where they would be specified, and why it would be appropriate to specify the limitations outside of the Tariff.

WPP Response:

The question slightly misstates the concern at issue, as WPP understands it. The exceptions to the FS Transmission Requirement do not have a time limitation. Participants must show they satisfy the FS Transmission Requirement for each Binding Season and must do so in their Forward Showing Submittal that must be provided seven months before the Binding Season. Participants that cannot meet the FS Transmission Requirement for a Binding Season may seek an exception. Any exception requested, therefore, is specific to the FS Transmission Requirement for a particular Binding Season and does not apply to any other Binding Season.

The Tariff describes certain parameters of an exception request, including that a Participant need only show that it sought, but could not obtain, firm transmission service for a duration of one year or less. In other words, if the only firm transmission service available is for a duration of more than one year, the Participant can still qualify for the exception even if it chose not to obtain that longer-term service. Implicitly, however, a Participant should not be permitted an automatic recurring waiver if it is disregarding reasonable alternative options available to the Participant to meet the FS Transmission Requirement. For this reason, if a Participant obtains an exception for the Binding Season in one year even though transmission service with a duration of more than one year was available at that time, that choice—to not take available longer-term service—should be taken into account if the Participant still lacks necessary transmission service for the same season the following year, and seeks the same exception for that year. If longer duration service remains an option for that second year, it is reasonable to expect the Participant to obtain that longer-term service to resolve what is clearly a longer-term deficiency. This is not a time limitation or sunset on the availability of an exception. Rather, it is a particular scenario where a reasonable option is available to address what is evidently an ongoing transmission deficiency—that is, the purchase of longer-term service—and the Participant is declining to take that option. In those circumstances, the balance should favor the exercise of the longer-term option to ensure the Participant is satisfying its responsibility to ensure firm deliverability of its Qualifying Resources—just as all other Participants are doing. On this set of facts, granting a waiver under the WRAP diminishes the value and importance of the firm transmission requirement to ensuring the resource adequacy objectives of the program.

In short, when evaluating a transmission exception request, WPP should be able to consider whether a Participant is submitting routine or repeated requests for exceptions that the Participant could have avoided by taking advantage of reasonably available alternatives.

That said, in response to the Commission's question, WPP proposes to resolve the specific type of repeated exception requests at issue here by adding language to the two relevant transmission exceptions in the Tariff addressing this particular scenario. In both exceptions, WPP proposes to add two sentences following the provision that states the Participant need only show that transmission service with a duration of one year or less was not available. The first added sentence makes explicit what that provision logically implies, i.e., if transmission service is only available for more than one year, the Participant can still qualify for the exception and does not need to obtain that longer duration firm service. The second added sentence provides a caveat to that general rule, i.e., that if the Participant declines to take available longer-term service in one year, and receives an exception, it cannot obtain the exception for the following year if longer term service is still available.

Thus, for the "Enduring Constraints" exception, WPP proposes to add:

> In the event such transmission service rights are only available for a duration of more than one year (whether from the transmission service provider or through a secondary market) at the FS Deadline on the applicable segment for the Month(s) needed at the applicable Open Access Transmission Tariff rate or less, a Participant is not required to obtain such service in order to qualify for the Enduring Constraints exception hereunder. Notwithstanding the foregoing, if such Participant declines to obtain such available service and is granted the exception hereunder, such Participant shall not qualify for an exception hereunder for the same path (or across the same constraint) for the same season of the subsequent year if the Participant again declines to obtain such transmission service rights that are available for a duration of more than one year.

Similarly, for the "Future Firm ATC Expected" exception, WPP proposes to add:

> In the event ATC for such transmission service rights is only posted or available prior to the FS Deadline for a duration of more than one year (whether from the transmission service provider or through a secondary market) on the applicable segment for the Month(s) needed at the applicable Open Access Transmission Tariff rate or less, a Participant is not required to obtain such service in order to qualify for the Future Firm ATC Expected exception hereunder. Notwithstanding the foregoing, if such Participant declines to obtain such available service and is granted the exception hereunder, such Participant shall not qualify for an exception hereunder for the same path (or across the same constraint) for the same season of the subsequent year if the Participant again declines to obtain such transmission service rights that are available for a duration of more than one year.

As can be seen, the added language is nearly the same for both exceptions; the only differences are slight wording changes for the second exception, which concerns the posting of Available Transfer Capability ("ATC") prior to the FS Deadline.

WPP notes that in both cases, the added language makes clear that the limitation on seeking the exception applies only to the second year (and not all subsequent years). Theoretically this might permit a Participant to seek an exception every other year. Such conduct would be incompatible with the program's resource adequacy objectives, and with Participants' mutual reliance on one another to advance resource adequacy for the region. However, the Tariff clarifications proposed here are intended to be sufficient to encourage Participants to plan to meet their transmission needs on a sustained basis.

Importantly, these clarifying additions to both the "Enduring Constraints" and "Future Firm ATC Expected" exceptions track the agreements reached among all prospective Participants when the substantive FS Transmission Requirement and transmission exception rules were adopted. Specifically, the Transmission Demonstration and Exceptions Working Group included in its report[55] the following language as to both the "Enduring Constraints" exception and the "Future Firm ATC Expected" exception:

> If transmission service is only available for more than one year (either from TSP or through secondary market) at applicable OATT rate or less, participant can seek an exception, but if granted will be ineligible for an exception on the same path (or across same constraint) in following year.

The final report was endorsed unanimously by the RAPC on April 28, 2022.

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[55] *See* Resource Adequacy Participants Committee, *RAPC Meeting Minutes*, Western Resource Adequacy Program, Transmission Demonstration and Exceptions Draft Proposal, 3 (Apr. 28, 2022), https://www.westernpowerpool.org/private-media/documents/2022-04-28_RAPC_Meeting_Minutes.pdf.

November 21 Letter Question:

3. WPP explains that it intends to deny participants repeated exceptions to the transmission service requirement. WPP also states that "it is within the ambit of its discretion to consider 'other relevant data and information, in determining whether to grant or deny a transmission exception request,' which the Tariff contemplates will be 'more fully set forth in the Business Practice Manuals.'"

a. Please explain what "other relevant data and information" WPP will rely on when granting or denying exceptions to transmission service requirements.

WPP Response:

In the specific context here, it would be relevant to a request for an exception from the FS Transmission Requirement that a Participant with a claimed inability in successive years to obtain transmission had an opportunity to obtain longer term service in the first year that would have met its needs for firm transmission service for both years but chose not to do so. A Participant should not use an exception as a routine substitute for arranging for firm deliverability of its committed resources—particularly in the specific scenario contemplated by WPP's answer, i.e., where longer term firm transmission service was in fact available to the Participant in the prior year, and the Participant declined to purchase it.

Beyond that specific scenario, the proposal to allow WPP's exception review to consider "other relevant data and information" beyond the items listed in the immediately preceding Tariff language was simply intended to reflect that individual exception requests could to some extent be fact-specific, and so the preceding list of items WPP "may consider" was not intended to prohibit WPP from considering other data and information that may be relevant to the specific request. In context, "relevant" means information similar to the information more specifically noted in the Tariff, i.e., information about the transmission alternatives reasonably available to the Participant that would have allowed it to meet the FS Transmission Requirement instead of seeking an exception.

As explained in WPP's response to Question 2, WPP now proposes to add language to the Tariff to address explicitly the scenario raised in that question. If WPP's proposed Tariff language is accepted, WPP would no longer need to rely on the "other relevant data and information" clause to consider that specific scenario. But given that the November 21 Letter separately questions this clause, WPP is proposing here to add language making clear that it will consider other reliable information concerning the transmission alternatives that the Participant could have employed to meet the FS Transmission Requirement instead of seeking an exception.

Specifically, WPP proposes to delete "and other relevant data and information" and insert in its place "and data readily available to WPP from other reliable and validated sources concerning the duration, timing, firmness, and quantity of available transmission service or equivalent options (including transmission construction)." This language more clearly conveys what is meant by "relevant" data, and also reinforces the implicit assumption of the preceding Tariff language that "information from transmission service providers [and] OASIS data" is reliable, validated, and readily available to WPP, and therefore other data of the same nature that WPP may consider should meet those same standards of being "readily available to WPP from other reliable and validated sources."

November 21 Letter Question:

4. The Tariff provides that WPP will engage an independent evaluator to provide an independent assessment of WRAP's performance by conducting an annual review of prior year program performance, accounting and settlement, and program design. The independent evaluator will prepare an annual report and present its findings to WRAP committees and the Board of Directors.

a. Please clarify whether the independent evaluator's reports will be made public or available to stakeholders.

WPP Response:

The Independent Evaluator's annual reports are intended to be made public, subject to protections for any confidential information included in those reports. Proposed Tariff section 5.3 assumed this by stating that the reports "will be presented to the WRAP committees and the Board of Directors, subject to any necessary confidentiality considerations," given that the meetings of such bodies will typically be open. Reflecting this same assumption, the January 2022 WRAP Governance Proposal, which was approved by the RAPC unanimously on January 13, 2022, explicitly stated:[56]

> To be effective, independent program monitoring and evaluation must be transparent. Every effort should be made to aggregate data in order to preserve confidentiality, while still effectively communicating program results and performance to stakeholders. The non-confidential portions of the IE's annual report will be made available to the public.

To eliminate any doubt in this regard, WPP proposes to add to the end of section 5.3 a sentence stating that "[t]he Independent Evaluator's annual reports shall be available to the

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56 Resource Adequacy Participants Committee, *RAPC Meeting Minutes*, Western Resource Adequacy Program, 2 (Jan. 13, 2022), https://www.westernpowerpool.org/private-media/documents/2022-01-13_RAPC_Agenda_Minutes.pdf (stating in Ongoing Business Governance V4 was "[a]pproved unanimously at 10:40 for immediate posting to NWPP website").

public, except to the extent they contain information designated as confidential under this Tariff, or information designated as confidential by the Independent Evaluator." This coordinates the provision with the confidentiality provisions of the Tariff,[57] while also allowing for the possibility that the Independent Evaluator might independently have a need to designate as confidential some item (or items) of information it relied upon in preparing its report.

III. ADDITIONAL INFORMATION

A. Information Required by the Commission's Regulations[58]

1. *Documents Submitted with this Filing:*

In addition to these responses, the following documents are included:

Attachment A	Clean revised versions of the affected sections of the WRAP Tariff, with the clarifying revisions described in these responses; and
Attachment B	Redlined revised versions of the affected sections of the WRAP Tariff showing changes to the WRAP Tariff previously submitted in the August 31 Filing.

2. *Effective Date:*

As noted above, WPP requests that the Commission accept this filing effective January 1, 2023.

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57 *See* Tariff § 10.

58 To the extent necessary, WPP requests a waiver of the following requirements under the Commission's regulations: (1) 18 C.F.R. § 35.12(b)(1), estimates of the transactions and revenues under an initial rate schedule; (2) 18 C.F.R. § 35.12(b)(2)(ii), summary statement of all cost computations involved in arriving at the derivation of the level of the rate; (3) 18 C.F.R. § 35.12(b)(5) requirement to submit information required under 18 C.F.R. § 35.13(h)(37). WPP further requests waiver of any other Commission regulation the Commission deems necessary and appropriate. Good cause exists to grant these waivers as the information requested is not applicable to the WRAP Tariff, which sets forth the terms and conditions for the WRAP.

3. *Service:*

In addition to serving all persons on the Commission's service list for this proceeding, WPP will post a complete copy of this filing on the WPP web site: www.westernpowerpool.org.

4. *Description of Filing and Basis of Proposed Tariff:*

The description and justification of the sections of the of the WRAP Tariff that are proposed to be revised by this filing are set forth in the responses above.

5. *Requisite Agreements:*

Currently, there are none, but each Participant will be required to execute a Western Resource Adequacy Program Agreement to participate.

6. *Comparison of the Proposed Initial Rate with Other Rates of the Filing Utility:*

There are none.

7. *Specifically, Assignable Facilities Installed or Modified:*

There are none.

IV. CONCLUSION

For all of the foregoing reasons, WPP respectfully requests that the Commission accept these responses to the questions in the November 21 Letter as resolving the deficiencies that prompted the issuance of the November 21 Letter, and accept the proposed WRAP Tariff, as set forth in the August 31 Filing and as revised by this filing, as just and reasonable effective January 1, 2023, without modification or condition. WPP further requests that the Commission issue an order accepting this filing by February 10, 2023, which is 60 days after the date of this filing.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 12th day of December 2022.

/s/ Paul M. Flynn
Paul M. Flynn