

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Investigation on the Commission's Own Motion to actively promote the development of transmission infrastructure to provide access to renewable energy resources for California.

Investigation 08-03-010
Filed March 17, 2008

Order Instituting Rulemaking on the Commission's Own Motion to actively promote the development of transmission infrastructure to provide access to renewable energy resources for California.

Rulemaking 08-03-009
Filed March 17, 2008

**COMMENTS OF THE CALIFORNIA WIND ENERGY ASSOCIATION AND
CONCENTRATED SOLAR POWER COMPANIES**

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April 16, 2008

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I. INTRODUCTION

Pursuant to Rules 5.2 and 6.2 of the California Public Utilities Commission ("Commission") Rules of Practice and Procedure ("Rules"), and the Order Instituting Investigation ("OII") and Order Instituting Rulemaking ("OIR") issued by the Commission on March 17, 2008, the California Wind Energy Association ("CalWEA") and the Concentrated Solar Power Companies ("CSPC")¹ respectfully submit these comments on the OII/OIR. These comments respond to the Commission's request for input on the current problems facing the development of transmission infrastructure to provide access to renewable energy resources, as well as how the Commission, along with other agencies, can eliminate these problems. CalWEA and CSPC comments include a new proposal for

¹ The CSPC companies include Ausra, Inc., Brightsource Energy, Inc., and Solel, Inc. All of these companies are actively involved in developing solar generation projects for the California market and the State's Renewables Portfolio Standard program.

transmission planning and development in California that will facilitate resolution of the problems currently plaguing the process. CalWEA's and CSPC's comments and proposed solution are detailed below.

II. ARGUMENT

A. Streamlining the Transmission Process is Necessary

CalWEA and CSPC support the Commission's efforts to streamline the process to review and approve transmission expansion projects. Already, various stakeholders and agencies, including the Commission, have taken positive steps to facilitate the development of adequate transmission infrastructure to provide access to renewable resources in California, such as the Commission's proactive management of the approval process for the Tehachapi Transmission Project and the reform of the Large Generator Interconnection Process ("LGIP") currently underway by the California Independent System Operator ("CAISO"). Still, there is much room for improvement in order to achieve California's Renewables Portfolio Standard ("RPS") goals. This OIR/OII is necessary and laudable.

Currently, the Commission's Certificate of Public Convenience and Necessity ("CPCN") process is labor-intensive in and of itself, and when combined with other agency transmission requirements, the result is a process that is too cumbersome. Individual agencies sequentially review the proposed project, repeating prior need assessments and studies. Any proposed transmission solution should include concurrent agency review processes, if possible, and not consecutive reviews. If concurrent processes are not feasible, then the process should be as functionally concurrent as possible. In particular, needs assessments should not be repeated in the process.

B. Summary of CalWEA/CSPC Proposal

CalWEA's and CSPC's proposal seeks to eliminate the duplication delay inherent in the current transmission planning and permitting process. The CAISO should determine the need for transmission, using information from the Commission, California Energy Commission ("CEC") or the Legislature as to required renewable energy procurement levels and after consultation with the Transmission Planning Process ("TPP") stakeholders. Using the CAISO's determination of need, which becomes a rebuttable presumption in the CPCN process, the Commission should focus on identifying the optimal transmission routes with the Participating Transmission Owners ("PTOs") and public participation. The CAISO would then assign the obligation to finance and build to the PTO in whose service territory the line will be located. The new line will be under CAISO's Balancing Authority control, and the local PTO will maintain and operate the line hardware. CalWEA and CSPC proposed that this process would eliminate the costly duplication of study and effort that currently plagues the transmission planning process and would promote least-cost transmission development.

C. Questions Posed by OIR/OII – Improvements to the Planning and Permitting of Renewable Transmission

i. What factors are currently slowing down the planning or permitting of transmission to support the development of renewable resources for California?

Currently, CalWEA and CSPC view several factors as responsible for slowing down the transmission planning and permitting process. To begin, the Commission's CPCN process requires repeating the CAISO's need determination, which slows the permitting process by a year or more. The timing of the CPCN also creates delay because it mandates consecutive review, either environmental, need determination, or both, with federal and state agencies. The existing dysfunctional LGIP process has created an additional logjam in the transmission upgrade process, although reforms are underway. In addition, the Renewable Energy Transmission Initiative's

(“RETI”) current focus on promoting transmission for specific project areas based on uncertain data, rather than facilitating the approval of transmission projects that will promote competition among all promising project areas is likely to be counter-productive. A lack of any regional coordination or authority, both intra-state and inter-state, to approve transmission, combined with the Not-In-My-Back-Yard (“NIMBY”) objections of local residents, also adds to the gridlock. Finally, these factors not only slow the process, but also add costs to the process and, substantially, to renewable energy development.

ii. What needs to be done to address those factors; what CPUC processes should be changed and how; and do other agencies need to change any of their processes, and if so, how?

In an effort to address these three questions posed by the Commission in the OII/OIR, CalWEA and CSPC propose the following eight-step plan for transmission planning in California. The Commission would need to work with other entities to achieve this plan:

- **Step 1)** State law, as implemented by the Commission, publicly owned utilities, and possibly the CEC, will determine the levels of renewable energy (MWh per year) that are needed.
- **Step 2)** The RETI process will determine and share information about Promising Competitive Renewable Energy Zones (“CREZs”) – all of those areas in and around the state that could, based on the unfolding of a variety of factors, prove to be successful in utility procurement and local siting processes.²
- **Step 3)** The CAISO will kick off its annual Transmission Planning Process (“TPP”) using the information from Steps 1 and 2. CAISO then reviews the projects that have signed Interconnection Agreements (“IA”) to evaluate whether the state’s required renewable energy generation levels can be met by these new committed generators. If not, the CAISO would return to its queue (i.e., generators which are in the interconnection process but have not signed IAs) and add as many of those projects as necessary to achieve state renewable energy requirements. If there are

² See “Comments of the California Wind Energy Association, Concentrated Solar Power Companies, and the California Biomass Energy Alliance on the RETI Phase 1A Draft Report, April 4, 2008 ([posted at http://www.energy.ca.gov/reti/working-groups/phase1A/comments/](http://www.energy.ca.gov/reti/working-groups/phase1A/comments/)).

not enough generators in the queue, the CAISO takes into account available resources from the Promising CREZs.

- **Step 4)** CAISO then shares its TPP assumptions and data (including information gathered from Step 3) with its TPP stakeholders, considers their input and completes its transmission expansion plan. This will serve as the determination of need for transmission for all subsequent processes within the State, and can also serve to provide additional information at the federal level.

Note 1: The CAISO's determination of need should be adopted as a rebuttable presumption by the Commission. Alternatively, the State Legislature could amend state law to establish CAISO-determined need as a rebuttable presumption in the Commission's CPCN process.

Note 2: To avoid overbuilding transmission, CAISO must work with FERC/NERC/WECC to modify its deterministic planning criteria to probabilistic planning criteria

- **Step 5)** The Commission then takes the CAISO transmission plan and works with public participants, including environmental groups, and PTOs to develop potential transmission routes. To the extent possible, there should be multiple routes for every point-to-point transmission expansion developed in the CAISO TPP.
- **Step 6)** The affected PTOs then start with the list of acceptable routes and design the transmission expansion based on such routes. If the PTO must deviate from the route, the PTO returns to the Commission for additional guidance. The PTO is ultimately responsible for completing the design.
- **Step 7)** The CAISO would assign the obligation to finance and build to the PTO in whose service territory the line will be located.³
- **Step 8)** The new line will be under CAISO's Balancing Authority control, and the local PTO will maintain and operate the line hardware.

Note: This step may also require CAISO tariff modifications.

This eight-step process promotes an integrated agency-approval approach to transmission planning and permitting, which serves to streamline the process, avoid duplication, and reduce costs. Under the reformed Generation Interconnection Process Reform ("GIPR") process, a multi-purpose transmission plan will emerge from the CAISO's TPP. The CAISO currently proposes

³ CalWEA and CSPC believe that ultimately the most effective way to contain transmission costs is to move towards a model that accommodates competition to construct transmission expansions by independent transmission companies with full consideration of the incumbent PTOs' right of first refusal. However, this critical reform is beyond the scope of the immediately necessary reforms.

that, on a case-by-case basis, generators will finance a portion of the multi-purpose transmission upgrades that emerge from this TPP. CalWEA and CSPC believe the PTOs should be obligated to fund fully the upgrades developed as part of the CAISO TPP⁴ given that:

- 1) The PTOs are able to obtain timely cost recovery through Federal Energy Regulatory Commission (“FERC”) ratemaking;
- 2) PTO financing reduces total costs to ratepayers;
- 3) It will be difficult or impossible to assign a portion of the network transmission upgrades to generators, as those network upgrades will have been designed to meet multiple objectives (e.g., load growth, economic opportunities, LT-CRR feasibility maintenance, as well as generator interconnections);
- 4) If the Commission provides a means for the PTOs to recover these costs in a timely manner through retail rates (see II.C.iii, below), it will alleviate the financing burden on the PTOs and thereby eliminate the need for up-front financing by generators, which ultimately must be returned to the generators in any event.

This approach will promote essential investment in new transmission needed to accommodate renewable resources in furtherance of California’s policy goals. We urge the Commission to support us in this approach before FERC.

iii. Has the CPUC cost recovery regime been effective in supporting transmission to renewable resource areas? How could it be improved?

The Commission should create for PTOs a retail cost tracking mechanism in order to provide the PTOs a way to track and timely pass-through their transmission costs incurred under the FERC tariff. Other states, such as Kansas, have employed this cost-tracking device, thereby allowing the PTOs to recoup their costs at a much faster rate than in California, which has led to a

⁴ See 2-26-08 Wind-Solar Comments in the CAISO GIPR at [http://www.calwea.org/pdfs/publicFilings2008/CalWEA-Solar_GIPR_Comments_\(2-26-08\).pdf](http://www.calwea.org/pdfs/publicFilings2008/CalWEA-Solar_GIPR_Comments_(2-26-08).pdf)

significant increase in transmission investment to promote the interconnection of renewable resources. If necessary, the Commission should seek legislative authority to implement such a cost-tracking mechanism. In so doing, the Commission will help eliminate one of the major disincentives to new transmission investment in California — the lengthy cost recovery delays that add to PTO financing carrying costs and harm PTOs credit matrices.

Such retail cost-tracking is proving to be an effective means to both provide PTOs with incentives to build new transmission lines, and to ensure that PTO transmission rates accurately reflect current costs with both increases, as well as decreases, passed along to customers in a timely manner. The transmission owners with such formula rates on file with FERC uniformly have procedures in place to give customers and state commissions the opportunity to review audited costs and expenditures each year, and to raise prudence challenges if warranted. This process provides considerable comfort that PTO rates remain just and reasonable over time.

Conversely, timely cost recovery encourages new transmission investment because, unlike the situation with stated rates that adjust only in response to new rate proceedings, under formula rates PTOs do not have to bear the financing costs until they file new rate cases. This sometimes leads to multi-year delays between the time when the PTOs make the investment and when the utility places the facility into its rate base. Such delays adversely affect credit metrics monitored by rating agencies, leading to potential downgrades for utilities with large capital expenditure programs and long regulatory lags in cost recovery, which ultimately leads to higher borrowing costs and higher costs for consumers. Thus, in the final analysis, timely rate recovery is in the common interests of the PTOs, generators, and consumers. CalWEA and CSPC urge the Commission to support this approach.

In the event that current rate policies continue, the Commission should be more pro-active in its implementation of Public Utilities Code § 399.25, which permits the Commission to provide cost recovery assurance to utilities that finance transmission development that facilitates renewables

development. As CalWEA advised in the Commission's earlier implementation of this code section, the Commission should take a more expansive view of this important statutory provision.⁵ Rather than limiting its use to "last resort" situations, or situations where the existing cost recovery process *impedes* transmission line development, as the Commission previously did,⁶ the Commission should use the provision more proactively, to "ensure retail cost recovery, with respect to any facility which is necessary to facilitate achievement of RPS goals" as provided by § 399.25."⁷

iv. Would adoption of environmental criteria, such as an explicit policy favoring use of existing rights of way, be useful to the siting and permitting of transmission projects?

CalWEA and CSPC are not entirely sure what the Commission has in mind with respect to the nature and purpose of the potential environmental criteria. On one hand, published criteria that makes market participants aware of general Commission preferences and policies, such as the Commission's adoption of an explicit policy favoring the use of existing rights-of-way, could be useful to the siting and permitting of transmission projects. On the other hand, overly prescriptive or inflexible criteria that may not take into account the real-world characteristics of a given project or possible alternative projects may do more harm than good. Before rendering a specific opinion on this topic, CalWEA and CSPC would need more information.

⁵ See "Comments of the California Wind Energy Association on Opinion on Procedures to Implement the Cost Recovery Provisions of Public Utilities Code Section 399.25," May 15, 2006, in CPUC Investigation 05-09-005.

⁶ See CPUC D. 06-06-034 (June 15, 2006). (At p. 23: "[W]e remind parties that § 399.25 is intended to supplement the existing process in circumstances where that process impedes the development of transmission infrastructure necessary to facilitate the state's renewable energy goals.")

⁷ Indeed, even if the Commission moves toward a retail transmission cost tracker, § 399.25 can still be used to provide additional comfort to PTOs that they will be able to recover renewables-related transmission costs.

D. Questions Posed by OIR/OII: California Renewable Energy Transmission Initiative (RETI)

- i. How, and to what extent, should RETI findings/information be incorporated into CPUC transmission application proceedings; and should RETI findings/information be incorporated into other CPUC proceedings, and if so, which ones and why?**

In the RETI process, CalWEA and CSPC recently articulated the following concerns about the draft methodology: (1) RETI intends to rank individual projects according to a single Ranking Cost figure despite the substantial uncertainty in all the variables that underlie the Ranking Cost figure, which are acknowledged by the project consultant, and which call into question the accuracy of the ranking; and (2) RETI will attempt to plan transmission for the specific projects that rank highly in this process. As a result, RETI will effectively pick “winning” projects based on criteria never contemplated in existing state and federal laws, tariffs and procedures, including the RPS competitive solicitation process, FERC’s open access rules, and land use permitting procedures.⁸ CalWEA and CSPA have proposed that the RETI methodology and process be revised, consistent with our eight-step process above, to enable RETI to accelerate transmission expansion to support renewables development generally and promote competition, as follows:

1. Calculate the Ranking Cost for each renewable project or project area using a statistical analysis that is reflective of the actual uncertainties associated with the values that produce the Ranking Cost. Categorize projects and project areas based on the cost *ranges* that result, which will likely produce a significant amount of capacity and numerous CREZs falling within a few cost-range bands.
2. Provide the prioritized CREZ map to the CAISO and the Publicly Owned Utilities (POUs) to enable these entities to comprehensively plan for transmission expansions that meet the system’s reliability needs, take advantage of economic opportunities, and

⁸ See “Comments of the California Wind Energy Association, Concentrated Solar Power Companies, and the California Biomass Energy Alliance on the RETI Phase 1A Draft Report, April 4, 2008 ([posted at http://www.energy.ca.gov/reti/working-groups/phase1A/comments/](http://www.energy.ca.gov/reti/working-groups/phase1A/comments/)).

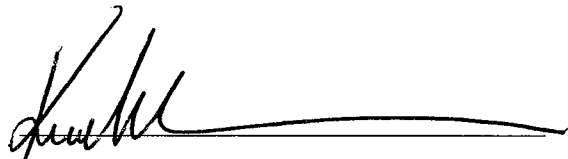
interconnect generators with interconnection agreements while supporting the development of CREZs. In this regard, the transmission plans should focus on the development of the backbone system, not only to ensure that projects that survive the competitive and siting processes can interconnect, but also to provide other system benefits.

3. Once upgrades are identified as needed to support multiple system objectives, the Commission can accept this determination as a rebuttable presumption of need in the CPCN process, which will reduce the CPCN processing time and enable the Commission and CEC to focus on routing the needed transmission facilities.

III. CONCLUSION

In sum, the current transmission planning and permitting process is labor-intensive, cumbersome, costly and repetitive. CalWEA and CSPC applaud the Commission's issuance of this OII/OIR to facilitate the development of a more efficient process. CalWEA and CSPC's proposed eight-step process, as detailed above, eliminates the duplication and agency overlap that plagues the current process.

Respectfully submitted,



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Certificate of Service

I hereby certify that I have this day served a copy of the

***Comments of the California Wind Energy Association
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on all known parties to I.08-03-010 and R.08-03-009 by sending a copy via electronic mail and by mailing a properly addressed copy by first-class mail with postage prepaid to each party named in the official service list without an electronic mail address.

Executed on April 16, 2008 at San Francisco, California.


Rosalie Marschall

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