Comments of
California Wind Energy Association
on
CAISO Revised Transmission Planning Process (RTPP)
Amendment to CAISO Tariff (5/19/2010)

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The California Wind Energy Association ("CalWEA") appreciates the opportunity to submit these comments on the California Independent Transmission System Operator, Inc.'s ("CAISO") May 19, 2010, draft "Revised Transmission Planning Process Amendment to Tariff."

We continue to support the CAISO's transmission planning reform initiatives, but also continue to have deep concerns with the failure to include tariff language to make the least regrets approach a cornerstone of the transmission planning process for policy-driven upgrades, which otherwise lack any objective planning criteria to guide them. We believe the failure to include meaningful tariff criteria for policy-driven upgrades will not pass muster before the Federal Energy Regulatory Commission ("FERC"), or in a potential future court challenge.

In addition, the tariff should clarify that participating transmission owners ("PTOs"), or third parties, will be required to build, own and finance all RTPP-identified upgrades if they are selected in Phase 3 of the planning process. The RTPP will be of no consequence if it does not result in the expeditious expansion of the transmission grid.

We also believe that coordinated planning with other balancing authority areas must be required, and is not optional, as the draft tariff implies. Finally, we agree with the CAISO's decision to modify the language concerning location constrained resource interconnection facilities ("LCRIF") to allow new PTOs to sponsor construction of such lines themselves.

1. Least Regrets Transmission Planning Must be the Core of the RTPP

In our comments on the CAISO's "Draft Final Proposal," we expressed our concern with the CAISO's new "policy driven" transmission upgrades and the failure to articulate any sound analytic framework to define them. As we stated, the CAISO's approach essentially applies eight vaguely described "policy" considerations, and then

seems to use the study process to validate the choices, but here the draft tariff offers no clue about what that study process will be. This is inconsistent with the least regrets planning approach, which would use multi-scenario studies to analyze transmission solutions for each and then identify common transmission elements as the least regrets solution so as to minimize the risk of over-building and stranded investment. Using the objective criteria envisioned under this approach is essential to ensure that transmission customers realize benefits from policy-driven upgrades in rough proportion to their costs. Indeed, in a May 13, 2010, Memorandum of Understanding, the CAISO and the California Public Utilities Commission ("CPUC") agreed to use the least regrets approach in developing the annual statewide conceptual transmission plans which will be the starting point for the transmission planning process.

The CAISO's May 19, 2010, draft tariff sheets incorporate "Policy-Driven Elements" into the Unified Planning Assumptions and Study Plan (Section 24.3.1) with the policy-driven upgrades identified using the same eight vague criteria that we previously objected to. Section 24.4.6.6. The draft tariff does not mention the least regrets multi-scenario study approach either in identifying the inputs to the Unified Planning Assumptions and Study Plan, or in the form of objective criteria to be used to select policy-driven upgrades in the first place. This lack of objective criteria to define policy-driven upgrades is a critical defect in the draft tariff language.

Order No. 890's "transparency principle" requires utility tariffs to spell out "the basic methodology, criteria, and processes used to develop transmission plans . . . ."[1] For example, FERC accepted the CAISO tariff's provisions for reliability-driven projects because it specifies that the CAISO will apply applicable reliability criteria to identify the projects, and FERC accepted the tariff provisions for economic projects because the tariff states that the CAISO will consider the degree to which the benefits of a project outweigh the costs.[2] FERC thus found that the CAISO tariff complied with Order 890 for reliability and economic projects because for each of these types of upgrades "there are benchmarks and a process that is open and transparent."[3]

For policy-driven upgrades, there are no measurable "benchmarks" set out in Section 24.4.6.6. The eight listed factors for consideration are not objective analytic criteria that "reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans . . .,"[4] nor are these factors "benchmarks"

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1 *California Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,283, at P 40 (2008).

2 *Id*. at P 63.

3 *Id*. at PP 67-68.

4 *Id*. at P 40.

that "include a sufficient level of detail for customers and other stakeholders to understand how the CAISO will perform transmission planning . . . ."[5]

Vague selection criteria for policy-driven upgrades will lead directly to questions about whether such upgrades can satisfy FERC's cost-causation ratemaking principles because "FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits . . . ."[6] While all network upgrades presumably benefit the system, FERC is not permitted to use this presumption "to avoid the duty of 'comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.'"[7] We therefore think it unlikely that "a claim of generalized system benefits" as appears to underpin the policy-driven upgrades portion of the draft CAISO tariff will pass muster if there is "no evidence in the record that seeks to quantify this benefit, or even shows that such a benefit has occurred."[8] The CAISO should incorporate and articulate the least regrets planning approach based on multi-scenario analysis into the tariff so that policy-driven upgrades will provide demonstrable system benefits and thereby satisfy FERC's ratemaking criteria.

Therefore, we respectfully reiterate our earlier comments to make the least regrets planning approach based on a multi-scenario methodology the core criteria for policy-driven project selection. As we previously stated, the fundamental principle of least regrets planning must be clearly set forth in the tariff, including multi-scenario analysis and the pursuit of the upgrades that are common to most scenarios.

2. All Projects Identified in the RTPP Must Be Up-Front Funded by the Transmission Owners Assigned Responsibility to Build the Projects by the CAISO

Section 24.4.6.6 of the draft tariff continues to omit any requirement for existing or new PTOs to construct, own and finance policy-driven upgrades identified as part of the RTPP. Rather, the draft states that the CAISO will open sponsorship for such projects to bidding during Phase 3 of the process. We had been led to believe during stakeholder discussions that the CAISO will assign the responsibility to build, own and finance such projects to a PTO (whether an existing or a new PTO). We have no objection to the competitive solicitation process in Phase 3, per se, and believe that opening projects to competition will ultimately benefit consumers through lower costs and more timely construction. Nonetheless, Section 24.4.4 must be revised to clearly state the responsibilities of the selected PTO. Absent an obligation to build, own, and up-

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5 *Id*. at P 85.

6 *Illinois Commerce Comm'n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009).

7 *Id*. at 477 (quoting *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004)).

8 *Transcontinental Gas Pipe Line Corp.*, 112 FERC ¶ 61,170, at p. 61,924-25 (2005).

front fund all RTPP-identified upgrades, the benefits of RTPP will be lost and the exercise will have been pointless.

In addition, Section 24.4.6.6 states that projects separately identified through the large generator interconnection process will not be covered. The CAISO should eliminate this carve-out. It would be inequitable and contrary to the goals of RTPP to require generation developers to continue to foot the bill for policy-driven network upgrades just because they (or portions of them) happen to have also been identified through LGIP studies.

3. Regional Coordination Is Not Optional

Section 24.4.4 states that the conceptual statewide plan "may" be developed in coordination with other regional or sub-regional balancing authorities. Order No. 890 does not make the requirement for regional coordination voluntary. Indeed, FERC required the CAISO to amend Section 24.4 of its tariff "to ensure that, in performing a facilities study for an approved transmission project, the applicable participating transmission owner should coordinate with neighboring balancing authority areas . . ." and to amend Section 24.5 "to indicate that the participating transmission owner will coordinate with the balancing authority area operators to the extent that an upgrade or addition is located in or interconnected to those systems."[9] While FERC granted the CAISO some flexibility to determine which balancing authority is affected by an upgrade, FERC did not give the CAISO any discretion to coordinate with balancing authorities that are affected by an upgrade.[10] Moreover, CAISO is contractually bound to coordinate and share information with its neighbors.[11] The CAISO should, therefore, strike the word "may" in the draft section and instead state that CAISO "shall" coordinate with affected balancing authorities.

4. Generation Developer Rights to Build Trunk Lines

We agree with the CAISO's decision to strike the initial sentence from Section 24.4.6.3.3 which would have assigned the responsibility to construct LCRIF to the existing PTO into which the LCRIF interconnects. New PTOs should be permitted to construct such facilities themselves and seek rate treatments under the LCRIF tariff or otherwise applicable FERC policy.

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9 *California Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,172, at P 87 (2009).

10 *Id.* at P 99.

11 *Id.* at P 98.