

December 5, 2007

(Via e-mail and mail)
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California Independent System Operator
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Re CAISO Proposed Filing in Respect of FERC Order 890 Compliance (Final Rule: Preventing Undue Discrimination and Preference in Transmission Service, FERC Docket Nos. RM05-25-00, RM05-17-00)

Dear Sir or Madam:

To comply with the Federal Energy Regulatory Commission's (FERC) Order 890 (Final Rule: Preventing Undue Discrimination and Preference in Transmission Service, FERC Docket Nos. RM05-25-00, RM05-17-00), the CAISO has posted for comment draft language for inclusion in its MRTU Tariff and its Business Practice Manual (BPM) for the Transmission Planning Process. It has conducted a stakeholders process to consider the draft language which is now contained in two documents supplied by the CAISO:

- ? Revised Draft MRTU Tariff Language for Transmission Planning - <http://www.caiso.com/1c94/1c9412ba0364f0.doc>
- ? Revised Draft BPM for the Transmission Planning Process (Attachment K) (Version 3.0) - <http://www.caiso.com/1c95/1c95a6f38ea0.pdf>

Citizens Energy Corporation, is a participant in certain ongoing transmission expansion activities of the CAISO (*see e.g.*, CAISO Board approval on August 3, 2006 of Citizens' participation in activities to interconnect the southeastern California to San Diego and the rest of the CAISO Grid). Citizens has participated in the stakeholders process, including the CAISO's November 14, 2007 meeting. Citizens raised a question at the November 14 meeting about the proposed language.

The purpose of this comment is to seek confirmation from the CAISO that the BPM language on page 48 which Citizens questioned is, indeed, not

intended to restrict for inclusion in a Participating Transmission Owner's (PTO) Transmission Revenue Requirement (TRR) only those transmission additions and upgrades which are within the CAISO's *physical control*.

The language for which Citizens sought clarification appears at page 48 of version 3.0 of the aforementioned BPM for the Transmission Planning Process. It would require a PTO to have physical control over facilities for them to be included in a PTO's TRR. The objectionable language is highlighted in the following extract from page 48:

In fact, any transmission additions or upgrades under CAISO controlled area constructed pursuant to Section 24 of the CAISO Tariff must be transferred to the CAISO's Operational Control for inclusion in the CAISO Controlled Grid. As a result, regardless of ownership, *the transmission upgrade or addition* included in the CAISO Controlled Grid *must be operated and maintained by a PTO* after that PTO has entered into a TCA.
[Emphasis supplied]

In seeking clarification, Citizens noted that the indicated BPM language would significantly alter Section 24.10.1 of the CAISO's draft Revised MRTU Tariff, which does not contain any such explicit limitation. The relevant, restriction free CAISO Tariff provision reads:

"Where the need for a transmission addition or upgrade is determined by the CAISO, the cost of the transmission addition or upgrade shall be borne by the Participating TO that will be the owner of the transmission addition or upgrade and shall be reflected in its Transmission Revenue Requirement."

There is no requirement in Section 24.10.1 of the Tariff that a PTO must maintain *physical control* over facilities for them to be included in the PTO's TRR. Indeed, for such a requirement to be read into the CAISO's Tariff would contravene well established precedent of the Commission that the CAISO Tariff does not require the CAISO to exercise physical control over facilities for them to be included in a PTO's TRR. *See City of Anaheim, California*, Opinion No. 483-A, 114 FERC ¶61,311 (aff'g *City of Anaheim, California*, Opinion No. 483, 113 FERC ¶ 61,091 (2005) and 110 FERC ¶

63,023 (2005) (Initial Decision)). The BPM's language is so broad and out of character with the existing CAISO Tariff and precedent that it could even implicate additions and upgrades to facilities *already* reflected in certain PTOs' TRRs.

When Citizens pointed this out to the CAISO Staff during the November 14 stakeholders meeting, a CAISO Staff representative responded that the language must be "holdover language" from some previous BPM draft and was not intended as limiting language. Citizens seeks to confirm that the above quoted language from the CAISO's draft BPM is not intended to limit what facilities qualify for treatment in a PTO's TRR under Section 24 of the CAISO's Tariff to be filed with FERC in the CAISO's Order 890 compliance filing. Further, since the sentence is irrelevant to the surrounding discussion in the BPM (which is aimed the obligations to build transmission and at third party sponsors of transmission projects), Citizens recommends that the confusing language on page 48 of the BPM be deleted altogether, as follows.

In fact, any transmission additions or upgrades under CAISO controlled area constructed pursuant to Section 24 of the CAISO Tariff must be transferred to the CAISO's Operational Control for inclusion in the CAISO Controlled Grid. As a result, regardless of ownership, the transmission upgrade or addition included in the CAISO Controlled Grid must be operated and maintained by a PTO after that PTO has entered into a TCA.

Citizens appreciates the opportunity to reiterate its concerns here and looks forward to receiving formal confirmation that the forgoing BPM language is not intended to limit the facilities which might otherwise qualify for treatment in a PTO's TRR under Section 24 of the CAISO's Tariff, as amended in the CAISO's Order 890 compliance filing with FERC.

Respectfully submitted:

/S/ Donald R. Allen

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