

143 FERC ¶ 61,057  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony Clark.

California Independent System Operator Corporation	Docket Nos. ER13-103-000
Pacific Gas and Electric Company	ER12-2709-000
San Diego Gas & Electric Company	ER13-87-000

ORDER ON COMPLIANCE FILING

(Issued April 18, 2013)

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Appendix A: List of Intervenors, Commenters, and Entities Submitting Answers  
Appendix B: Abbreviated Names of Commenters

1. On October 11, 2012, the California Independent System Operator Corporation (CAISO) submitted, pursuant to section 206 of the Federal Power Act (FPA),<sup>1</sup> revisions to its tariff<sup>2</sup> to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.<sup>3</sup> In this order, we accept CAISO's compliance filing, subject to a further compliance filing, as discussed below.

## **I. Background**

2. In Order No. 1000, the Commission amended the transmission planning and cost allocation requirements of Order No. 890<sup>4</sup> to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. Order No. 1000's transmission planning reforms require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its tariff to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities; and (4) improve coordination between neighboring transmission planning regions for new interregional transmission facilities.

3. Order No. 1000's cost allocation reforms require that each public utility transmission provider participate in a regional transmission planning process that has: (1) a regional cost allocation method or methods for the cost of new transmission facilities selected in a regional transmission plan for purposes of cost allocation; and (2) an interregional cost allocation method or methods for the cost of new transmission facilities that are located in two neighboring transmission planning regions and are jointly

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<sup>1</sup> 16 U.S.C. § 824e (2006).

<sup>2</sup> CAISO, eTariff (2.0.0).

<sup>3</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>4</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

evaluated by the two regions in the interregional transmission coordination procedures required by Order No. 1000. Order No. 1000 also requires that each cost allocation method satisfy six cost allocation principles.

4. The Commission acknowledged in Order No. 1000 that each transmission planning region has unique characteristics, and, therefore, Order No. 1000 accords transmission planning regions significant flexibility to tailor regional transmission planning and cost allocation processes to accommodate regional differences.<sup>5</sup> Order No. 1000 does not prescribe the exact manner in which public utility transmission providers must fulfill the regional transmission planning requirements.<sup>6</sup> Similarly, because the Commission did not want to prescribe a uniform method of cost allocation for every transmission planning region, Order No. 1000 adopts the use of cost allocation principles.<sup>7</sup> The Commission stated that it was acting to identify a minimum set of requirements that must be met to ensure that all transmission planning processes and cost allocation mechanisms subject to its jurisdiction result in Commission-jurisdictional services being provided at rates, terms and conditions that are just and reasonable and not unduly discriminatory or preferential, and it acknowledged that public utility transmission providers in some regions may already meet or exceed some requirements of Order No. 1000.<sup>8</sup>

## **II. Compliance Filing**

5. CAISO states that its current transmission planning and cost allocation provisions, as primarily set forth in section 24 of its existing tariff, already largely comply with the requirements of Order No. 1000. CAISO maintains that less than two years ago, it substantially reformed its transmission planning process to implement the types of improvements mandated by Order No. 1000.<sup>9</sup> CAISO states, however, that it is proposing certain changes and modifications to further align its tariff with Order No. 1000's requirements.

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<sup>5</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 61.

<sup>6</sup> *Id.* P 157.

<sup>7</sup> *Id.* P 604.

<sup>8</sup> *Id.* P 13.

<sup>9</sup> *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010), *order on reh'g*, 137 FERC ¶ 61,062 (2011) (RTPP Order).

6. CAISO seeks an effective date for its compliance filing of October 1, 2013. CAISO avers that if the Commission issues an order on the compliance filing after February 1, 2013, it would be impractical for CAISO to apply the compliance filing provisions to its 2012-2013 transmission planning process. Therefore, CAISO asserts that this effective date will enable it to apply the new tariff provisions to the 2013-2014 transmission planning cycle.

### **III. Notice of Filing and Responsive Pleadings**

7. Notice of CAISO's filing was published in the *Federal Register*, 77 Fed. Reg. 64,502 (2012), with interventions and protests due on or before November 9, 2012, which the Commission subsequently extended to November 26, 2012.

8. Motions to intervene were filed by Clean Line Energy Partners LLC (Clean Line); NRG Companies; E.ON Climate & Renewables North America, LLC (E.ON); Pacific Gas and Electric Company (Pacific Gas and Electric); the Imperial Irrigation District; Public Interest Organizations; LS Power Transmission, LLC (LS Power); Western Independent Transmission Group; Startrans IO, LLC (Startrans); State Water Contractors; Iberdrola Renewables, LLC; Exelon Corporation (Exelon); Southern California Edison Company (SoCal Edison); the Northern California Power Agency; the City of Santa Clara, California and the M-S-R Public Power Agency; the Transmission Agency of Northern California; Modesto Irrigation District; Transource Energy, LLC; Abengoa Transmission & Distribution, Inc; and the American Wind Energy Association (AWEA). The following entities filed motions to intervene out-of time: California Department of Water Resources State Water Project (California State Water Project) and the National Rural Electric Cooperative Association (NRECA). The Public Utilities Commission of the State of California (California Public Utilities Commission) filed a notice of intervention.

9. In addition to motions to intervene, the following entities filed comments and/or protests: LS Power; Western Independent Transmission Group; Startrans; Clean Line; Exelon; E.ON; Pattern Transmission; Southern California Edison; AWEA; the Public Interest Organizations; and the California Public Utilities Commission.

10. Imperial Irrigation District and CAISO filed answers to protests. AWEA filed an answer to CAISO's answer.

### **IV. Discussion**

#### **A. Procedural Matters**

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

12. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant the untimely, unopposed motions to intervene of California State Water Project and National Rural Electric Cooperative Association given their interest in the proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

13. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest or an answer to an answer unless otherwise ordered by the decisional authority. We will accept Imperial Irrigation District's and CAISO's answers to protests and AWEA's answer to CAISO's answer because they have provided information that assisted us in our decision-making process.

## **B. Substantive Matters**

14. We find that CAISO's compliance filing partially complies with the regional transmission planning and cost allocation requirements adopted in Order No. 1000. Accordingly, we accept CAISO's compliance filing to be effective October 1, 2013, subject to a further compliance filing as discussed below. We direct CAISO to file the compliance filing within 120 days of the date of issuance of this order.

### **1. Regional Transmission Planning Requirements**

15. Order No. 1000 requires each public utility transmission provider to participate in a regional transmission planning process that complies with the identified transmission planning principles of Order No. 890 and that, in consultation with stakeholders, results in the development of a regional transmission plan.<sup>10</sup> The regional transmission plan will identify transmission facilities that meet the region's reliability, economic, and public policy requirements-related needs more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning processes.<sup>11</sup> A primary objective of the reforms in Order No. 1000 is to ensure that transmission planning processes at the regional level consider and evaluate, on a non-discriminatory basis, possible transmission alternatives and produce a transmission plan that can meet a transmission planning region's needs more efficiently and cost-effectively.<sup>12</sup>

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<sup>10</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 6, 11, 146.

<sup>11</sup> *Id.* PP 11, 148.

<sup>12</sup> *Id.* PP 4, 6.

a. **Transmission Planning Region**

16. Order No. 1000 specifies that a transmission planning region is one in which public utility transmission providers, in consultation with stakeholders and affected states, have agreed to participate for purposes of regional transmission planning and development of a single regional transmission plan.<sup>13</sup> The scope of a transmission planning region should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions.<sup>14</sup> However, an individual public utility transmission provider cannot, by itself, satisfy the regional transmission planning requirements of Order No. 1000.<sup>15</sup>

17. In addition, Order No. 1000 requires that public utility transmission providers explain in their compliance filings how they will determine which transmission facilities evaluated in their local and regional transmission planning processes will be subject to the requirements of Order No. 1000.<sup>16</sup> Order No. 1000's requirements are intended to apply to new transmission facilities, which are those transmission facilities that are subject to evaluation, or reevaluation as the case may be, within a public utility transmission provider's local or regional transmission planning process after the effective date of the public utility transmission provider's compliance filing.<sup>17</sup> Each region must determine at what point a previously approved project is no longer subject to reevaluation and, as a result, whether it is subject to these requirements.<sup>18</sup>

18. Order No. 1000-A states that public utility transmission providers in each transmission planning region must have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region.<sup>19</sup> Each public utility transmission provider (or regional transmission planning entity acting for all of the public utility transmission providers in its transmission planning region) must include in its tariff a list of all the public utility and non-public utility transmission providers that have enrolled as

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<sup>13</sup> *Id.* P 160.

<sup>14</sup> *Id.* P 160 (citing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 527).

<sup>15</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

<sup>16</sup> *Id.* PP 65, 162.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

transmission providers in its transmission planning region.<sup>20</sup> A non-public utility transmission provider will not be considered to have made the choice to join a transmission planning region and thus be eligible to be allocated costs under the regional cost allocation method until it has enrolled in the transmission planning region.<sup>21</sup>

**i. CAISO's Filing**

19. CAISO states that its transmission planning region comprises the systems of the participating transmission owners who have turned transmission facilities over to CAISO's operational control by signing the transmission control agreement. CAISO maintains that the transmission control agreement, which is filed with the Commission and posted on CAISO's website, identifies all participating transmission owners. According to CAISO, all participating transmission owners are subject to CAISO's transmission planning process with respect to all transmission upgrades and additions, including both local and regional transmission facilities.<sup>22</sup>

20. CAISO states that the process by which a non-public utility or nonincumbent utility provider can become a participating transmission owner is set forth in its tariff and transmission control agreement. According to CAISO, if an entity that is not a participating transmission owner is assigned in CAISO's competitive solicitation process to construct and own a transmission project, it will become a participating transmission owner upon energizing the project and executing the transmission control agreement.<sup>23</sup>

21. CAISO adds that its tariff and agreements already contain an enrollment process that includes identification of the participants and is compliant with Order No. 1000-A.<sup>24</sup>

**ii. Protests/Comments**

22. Clean Line requests that the Commission direct CAISO to modify its regional transmission planning process to consider transmission projects that are connected solely to the CAISO system as regional projects for CAISO, even if the projects span another transmission planning region.<sup>25</sup> Clean Line gives, as an example, its Centennial West

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* PP 276-277.

<sup>22</sup> CAISO Transmittal Letter at 18-19.

<sup>23</sup> *Id.* at 19.

<sup>24</sup> *Id.* at 18.

<sup>25</sup> Clean Line Protest at 7.

high voltage direct current transmission line, which it states will extend from generators located in the WestConnect transmission planning region, but will electrically connect only to the CAISO system.<sup>26</sup>

23. Exelon, LS Power, Pattern Transmission, Startrans, and Western Independent Transmission Group request that the Commission act on CAISO's proposed tariff revisions (subject to their own comments) by February 1, 2013 or as soon as possible, so that the revisions will apply to phase 3 of the 2012-2013 planning process.<sup>27</sup> Pattern Transmission notes that early implementation of the compliance filing will make the benefits of a competitive, open solicitation process available for all categories of transmission facilities.<sup>28</sup> Pattern Transmission further argues that CAISO should begin implementation of uncontested changes following the expiration of the comment period, rather than waiting for issuance of a Commission order.<sup>29</sup> Finally, LS Power questions why CAISO cannot implement the changes for phase 3 of 2012-2013 planning cycle, even if the Commission makes significant modifications to the filing. It asserts that making such modifications should not be a Herculean task for CAISO, given that any issues giving rise to modifications were previously raised in the stakeholder process.<sup>30</sup>

**iii. Answer**

24. CAISO argues that the type of transmission line Clean Line describes – i.e., a high voltage direct current transmission line that draws on new generation in New Mexico and Arizona and would not directly connect to the surrounding grid – appears to be a generation interconnection facility comprised of a long generator tie line.<sup>31</sup> CAISO asserts that such a line is not a network transmission facility and should be evaluated as part of the generator interconnection process.

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<sup>26</sup> *Id.*

<sup>27</sup> Exelon Protest at 4; LS Power Protest at 47; Pattern Transmission Protest at 6-7; Startrans Protest at 10; and Western Independent Transmission Group Protest at 11-12.

<sup>28</sup> Pattern Transmission Protest at 7.

<sup>29</sup> *Id.*

<sup>30</sup> LS Power Protest at 47.

<sup>31</sup> CAISO Answer at 94.

iv. **Commission Determination**

25. We find that the scope of the transmission planning region, the description of facilities that will be subject to the requirements of Order No. 1000, and the enrollment process specified in CAISO's filing complies with the requirements of Order No. 1000. In Order No. 1000, the Commission stated that every public utility transmission provider has already included itself in a region for purposes of complying with Order No. 890, and that these existing regional processes should guide public utility transmission providers in formulating transmission planning regions to comply with the requirements of Order No. 1000.<sup>32</sup> CAISO, a Commission-approved independent system operator, has a footprint reflecting a regional scope that complies with Order No. 890.<sup>33</sup> There has been no reduction in CAISO's scope since the Commission made this finding. Accordingly, we find that the scope of CAISO's transmission planning region complies with the requirements of Order No. 1000.

26. Order No. 1000-A also requires that each public utility transmission provider (or regional transmission planning entity acting for all of the public utility transmission providers in its transmission planning region) include in its tariff a list of all the public utility and non-public utility transmission providers that have enrolled as transmission providers in its transmission planning region.<sup>34</sup> CAISO's transmission control agreement identifies all participating transmission owners, including non-public utility transmission providers.<sup>35</sup> The transmission control agreement is, as CAISO states, filed with the Commission and posted on CAISO's website. We conclude, therefore, that CAISO's proposal complies with this requirement of Order No. 1000.

27. Order No. 1000-A requires public utility transmission providers in each transmission planning region to have a clear enrollment process that defines how entities, including non-public utility transmission providers, make the choice to become part of the transmission planning region.<sup>36</sup> CAISO's enrollment procedures, set forth in its transmission control agreement and tariff, define how entities, including non-public utility transmission providers and nonincumbent transmission developers, make the

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<sup>32</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 160.

<sup>33</sup> Order on Compliance Filing, 123 FERC ¶ 61,283 at P 13.

<sup>34</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 275.

<sup>35</sup> CAISO Transmission Control Agreement, § 2.2.5.

<sup>36</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 275-276.

choice to become part of the transmission planning region.<sup>37</sup> CAISO states that only those transmission providers that choose to join the transmission planning region will be obligated and eligible to participate in the regional cost allocation process. We find that this proposed enrollment process complies with the requirements of Order No. 1000 and ensures that enrollees will be subject to cost allocation if the transmission provider is a beneficiary of the new transmission facilities selected in the regional transmission plan for purposes of cost allocation.

28. We decline intervenors' request that the compliance tariff revisions apply to the 2012-2013 transmission planning process. As CAISO has attested, the 2012-2013 planning cycle is nearing completion and it would be impractical for CAISO to apply compliance tariff revisions to the 2012-2013 planning cycle. Moreover, the Commission recognized that issuance of Order No. 1000 would likely fall in the middle of a transmission planning cycle and, therefore, each transmission planning region is to determine at what point a previously approved project is no longer subject to reevaluation and thus subject to Order No. 1000.<sup>38</sup> Therefore, public utility transmission providers were provided flexibility in establishing an effective date for their Order No. 1000 compliance filing. As a result of this flexibility, we find that CAISO has identified a reasonable effective date for its compliance filing to be fully integrated into the 2013-2014 transmission planning cycle. Accordingly, we accept CAISO's requested effective date of October 1, 2013.

29. With respect to Clean Line's argument that transmission facilities that are proposed to be connected solely to the CAISO controlled system but span another transmission planning region, such as its Centennial West transmission line, should be considered as regional transmission projects for CAISO, we note that Order No. 1000 defines a regional transmission facility as one that is "located solely within a single transmission planning region."<sup>39</sup> CAISO did not propose in its compliance filing to expand the definition of regional transmission facilities beyond that established in Order No. 1000 and Order No. 1000 does not require it to do so. Therefore, we reject Clean Line's argument and find that it is outside the scope of this Order No. 1000 compliance proceeding.

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<sup>37</sup> CAISO Transmission Control Agreement, § 2.2.

<sup>38</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 65.

<sup>39</sup> *Id.* P 63.

b. **Regional Transmission Planning Process General Requirements**

30. Order No. 1000 requires that each public utility transmission provider participate in a regional transmission planning process that produces a regional transmission plan and that complies with certain transmission planning principles of Order No. 890 identified in Order No. 1000.<sup>40</sup> Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>41</sup> Public utility transmission providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.<sup>42</sup> The procedures must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's needs.<sup>43</sup> The process used to produce the regional transmission plan must satisfy the following Order No. 890 transmission planning principles: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; and (7) economic planning.<sup>44</sup>

31. Application of these transmission planning principles will ensure that stakeholders have an opportunity to participate in the regional transmission planning process in a timely and meaningful manner. Stakeholders must have an opportunity to express their needs, have access to information, and an opportunity to provide information, and thus have an opportunity to participate in the identification and evaluation of regional solutions.<sup>45</sup> In addition, when evaluating the merits of alternative transmission solutions,

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<sup>40</sup> *Id.* PP 146, 151.

<sup>41</sup> *Id.* P 148.

<sup>42</sup> *Id.* P 149.

<sup>43</sup> *Id.* P 147.

<sup>44</sup> *Id.* P 151. These transmission planning principles are explained more fully in Order No. 890.

<sup>45</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 150. As explained in Order No. 1000, the term "stakeholder" means any interested party. *Id.* P 151 n.143.

proposed non-transmission alternatives must be considered on a comparable basis.<sup>46</sup> Public utility transmission providers must identify how they will evaluate and select from competing solutions and resources such that all types of resources are considered on a comparable basis.<sup>47</sup>

**i. CAISO's Filing**

32. CAISO states that the Commission has already found that its transmission planning process satisfies the Order No. 890 planning principles,<sup>48</sup> and because CAISO's existing structure and governance are consistent with the structure of a regional planning entity, reforms are not needed to satisfy this requirement of Order No. 1000.<sup>49</sup> In addition, CAISO proposes two revisions to sections 24.4.6.2 (reliability needs) and 24.4.6.4 (maintaining feasibility of long-term congestion revenue rights) to clarify how CAISO will evaluate both transmission and non-transmission alternatives.

**ii. Protests/Comments**

33. California State Water Project urges the Commission to recognize that more must be done to include non-transmission alternatives in CAISO's transmission planning process. It notes that consideration of non-transmission alternatives is limited to alternative proposals that address specific transmission needs identified in the transmission planning process.<sup>50</sup> California State Water Project adds that even if a proponent of a non-transmission alternative persuades CAISO that a particular transmission solution is not needed, the transmission planning process does not get the non-transmission alternative effectuated.<sup>51</sup> It gives as an example its submission of a Remedial Action Scheme<sup>52</sup> as an alternative to a Pacific Gas and Electric transmission

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<sup>46</sup> *Id.* P 148.

<sup>47</sup> *Id.* P 155.

<sup>48</sup> RTPP Order, 133 FERC ¶ 61,224.

<sup>49</sup> CAISO Transmittal Letter at 17.

<sup>50</sup> California State Water Project Protest at 8.

<sup>51</sup> *Id.*

<sup>52</sup> CAISO defines Remedial Action Schemes as protective systems that typically utilize a combination of conventional protective relays, computer-based processors, and telecommunications to accomplish rapid, automated response to unplanned power system events. CAISO, eTariff, Appendix A (Definitions), Remedial Action Schemes (1.0.0).

project. It states that even if CAISO approved the Remedial Action Scheme as a more cost-effective solution, it would still need to negotiate the Remedial Action Scheme and compensation for it, while Pacific Gas and Electric would have every incentive to favor its own transmission project.<sup>53</sup> California State Water Project further notes that CAISO has not identified a method by which wholesale demand response alternatives, such as pumping loads, which California State Water Project can disconnect from the grid in an emergency, might be compensated when used as a substitute for transmission.<sup>54</sup>

34. Public Interest Organizations support CAISO's proposal to add language to tariff sections 24.4.6.2 (reliability needs) and 24.4.6.4 (maintaining feasibility of long-term congestion revenue rights) that will determine the solution, transmission or non-transmission, that meets the identified reliability need in the most prudent and cost-effective manner.<sup>55</sup> They state that the revision will provide additional clarity regarding how CAISO assesses both transmission and non-transmission alternatives.<sup>56</sup> Citing CAISO's Transmittal Letter,<sup>57</sup> Public Interest Organizations also support CAISO's commitment to convene stakeholder meetings to consider additional ways in which CAISO can consider non-transmission alternative solutions.<sup>58</sup>

### **iii. Commission Determination**

35. On review of CAISO's filings in compliance with the transmission planning requirements of Order No. 890, the Commission found that CAISO's regional transmission planning process satisfied each of the transmission planning principles of Order No. 890.<sup>59</sup> The Commission's focus in this proceeding is therefore on the incremental changes to CAISO's regional transmission planning process developed to comply with the requirements of Order No. 1000. Our review of CAISO's tariff indicates that CAISO has not modified any of the provisions upon which we relied in addressing its Order No. 890 compliance filing, and we find that CAISO's compliance with these

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<sup>53</sup> California State Water Project Protest at 8.

<sup>54</sup> *Id.*

<sup>55</sup> Public Interest Organizations Comments at 7-8.

<sup>56</sup> *Id.* at 7.

<sup>57</sup> CAISO Transmittal Letter at 80 n.208.

<sup>58</sup> Public Interest Organizations Comments at 8.

<sup>59</sup> *California Independent System Operator Corp.*, 123 FERC ¶ 61,283 at P 13 (2008).

principles remain unchanged as part of the incremental changes to comply with Order No. 1000. Accordingly, we find that CAISO's regional transmission planning process continues to comply with the Order No. 890 transmission planning principles. We find that the amendments to the regional transmission planning process proposed in CAISO's filing, with the exceptions noted below, comply with the requirements of Order No. 1000 and are otherwise just and reasonable and not unduly discriminatory.

36. California State Water Project asks us to require CAISO to take further action regarding the incorporation of non-transmission alternatives into the transmission planning process. In Order No. 1000, we noted that non-transmission alternatives must be considered on a comparable basis with transmission solutions.<sup>60</sup> We found, however, that cost allocation for non-transmission alternatives is beyond the scope of Order No. 1000.<sup>61</sup> California State Water Project acknowledges that CAISO will consider a non-transmission alternative as part of the transmission planning process, but asserts that if a non-transmission alternative is selected, it must still resolve compensation issues. Although we recognize California State Water Project's concerns, such compensation issues relate to cost allocation for non-transmission alternatives, which are outside of the scope of Order No. 1000.

37. We also find that CAISO's proposed revisions to sections 24.4.6.2 and 24.4.6.4 to its tariff are reasonable and agree with Public Interest Organizations that they provide additional clarity as to how CAISO will evaluate transmission and non-transmission alternatives.

**c. Requirement to Plan on a Regional Basis to Identify More Efficient or Cost-Effective Transmission Solutions**

38. Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.<sup>62</sup> Public utility transmission providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-

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<sup>60</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

<sup>61</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 765.

<sup>62</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

effectively.<sup>63</sup> In addition, whether or not public utility transmission providers within a transmission planning region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is a more efficient or cost-effective solution to their needs.<sup>64</sup>

39. Public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer<sup>65</sup> must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.<sup>66</sup>

40. Finally, the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's needs.<sup>67</sup> Order No. 1000 does not require that the resulting regional transmission plan be filed with the Commission.

**i. CAISO's Filing**

41. CAISO asserts that according to Order No. 1000, all independent system operators and regional transmission organizations already conduct a regional planning analysis and develop the type of regional transmission plan contemplated by the rule. CAISO further asserts that it is a regional planning entity and that the participating transmission owners in its footprint are participants in an Order No. 1000 compliant transmission planning process.

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<sup>63</sup> *Id.* P 149.

<sup>64</sup> *Id.* at P 331.

<sup>65</sup> Order No. 1000 defines merchant transmission projects as projects "for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates." Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 119. The Commission noted in Order No. 1000 that "a merchant transmission developer assumes all financial risk for developing its transmission project and constructing the proposed transmission facilities. . . ." *Id.* P 163.

<sup>66</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

<sup>67</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

42. CAISO states that, pursuant to its Commission-approved revised transmission planning process (RTPP), it already selects the most prudent and cost-effective transmission (or non-transmission) solution when evaluating alternative transmission and non-transmission solutions to meet an identified need.<sup>68</sup> Among other things, in phase 2, participating transmission owners must, and other parties may, submit proposed solutions to identified reliability needs.<sup>69</sup> All regional transmission solutions, other than upgrades and additions to existing facilities, are open to the competitive solicitation process in phase 3.<sup>70</sup> CAISO states that under its 3-phase planning process it determines the most efficient or cost-effective solution during phase 2 of the planning process, and selects a transmission developer to build and own the selected transmission facilities during the phase 3 competitive solicitation.<sup>71</sup> CAISO is proposing to add language to tariff sections 24.4.6.2 and 24.4.6.4 to make the selection of the most prudent and cost-effective solution an express requirement in the tariff.<sup>72</sup> CAISO asserts that its proposal is consistent with Order No. 1000.<sup>73</sup>

43. CAISO also added language to section 24.4.5 of its tariff to make it clear that CAISO's planning process will determine whether a regional solution is more efficient or cost-effective than any local solution(s). In doing so, CAISO states it will also assess whether it can replace any individual local project or multiple local projects with more efficient, cost-effective regional projects, which could be open to competition. CAISO states that the planning process does this today, but further clarification was warranted.<sup>74</sup>

44. As part of CAISO's phase 2 request window,<sup>75</sup> the CAISO will accept proposals for merchant transmission facilities. All projects submitted during this phase 2 request

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<sup>68</sup> RTPP Order, 133 FERC ¶ 61,224.

<sup>69</sup> CAISO, eTariff, §§ 24.4.2 (Submission of Reliability Driven Needs) (1.0.0) and 24.4.3 (Phase 2 Request Window) (1.0.0).

<sup>70</sup> CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0). *See also* CAISO Answer at 16.

<sup>71</sup> CAISO Transmittal Letter at 59.

<sup>72</sup> *See* CAISO, eTariff, § 24.4.6.2 (Reliability Driven Projects) (5.0.0) and § 24.4.6.4 (Projects to Maintain the Feasibility of Long Term CRRs) (5.0.0).

<sup>73</sup> CAISO Transmittal Letter at 60.

<sup>74</sup> *Id.* at 36.

<sup>75</sup> CAISO will open a request window during phase 2 for the submission of proposed solutions, transmission or non-transmission, for reliability-driven needs  
(continued...)

window must use the forms and satisfy the information and technical requirements set forth in the Business Practice Manual.<sup>76</sup> CAISO will determine whether each of these solutions will be considered in the development of the regional transmission plan. CAISO will notify the party submitting the proposed solution of any deficiencies in the proposal and provide the party an opportunity to correct the deficiencies.

**ii. Protests/Comments**

45. AWEA believes that CAISO's planning horizon of ten years is too short, and will prevent the region from evaluating transmission plans that would meet needs more efficiently or cost-effectively than plans produced under a longer planning horizon. AWEA notes that the Commission acknowledged in Order No. 1000 that transmission planning requires a lengthy time horizon that can extend out twenty, thirty years, or more.<sup>77</sup> Accordingly, AWEA asks the Commission to require CAISO to extend the time horizon in its proposal to a length that would be needed to ensure the evaluation of the most efficient and cost-effective plans.<sup>78</sup>

46. AWEA asserts that CAISO's proposal falls short of Order 1000's intended goals by establishing separate transmission planning processes for reliability, economic, and public policy driven transmission, when in reality nearly all transmission serves multiple purposes.<sup>79</sup> It claims that CAISO's use of these categories will result in sub-optimal cost effectiveness and efficiency in the transmission planning process. It therefore asks the Commission to require that CAISO revise its proposal to adopt an integrated planning process for transmission needs.<sup>80</sup>

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identified in the studies, proposed location constrained resource interconnection facility projects, demand response or generation solutions proposed as alternatives to transmission additions or upgrades to meet reliability needs, proposals for merchant transmission facility projects, proposed transmission solutions needed to maintain the feasibility of long-term congestion revenue rights, and efficient or cost-effective regional transmission facility alternatives for meeting identified needs.

<sup>76</sup> CAISO, eTariff, § 24.4.3(b) (Phase 2 Request Window) (1.0.0).

<sup>77</sup> AWEA Comments at 16 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 565).

<sup>78</sup> AWEA Comments at 17.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.* 17-18.

47. AWEA further claims that CAISO's proposed transmission planning process fails to account for the benefits transmission provides in improving power system reliability.<sup>81</sup> It asserts that a primary benefit of many transmission projects is a reduced need for reserves, and that the savings can include reduced capacity costs and operating costs. AWEA also argues that many transmission projects reduce the risk of customer outages, reduce the quantity of load not served, and reduce losses on the transmission system.<sup>82</sup> It contends that the failure to account for these benefits in the transmission planning process will tend to bias the selection away from some transmission projects, potentially resulting in undue discrimination. AWEA states that by not including these benefits in the process CAISO fails to address the Commission's planning principle of "economic planning studies."<sup>83</sup>

48. Clean Line further argues that CAISO's transmission planning process effectively excludes consideration of participant funded merchant transmission projects. It asserts that CAISO's process for submission of proposals during the request window does not accommodate merchant transmission projects that seek to fund their projects through direct charges to customers, and are therefore shut out of the transmission planning process. Clean Line asks that the Commission require CAISO to modify the eligibility criteria associated with its request window to allow projects to be considered in the regional transmission plan even if they do not desire cost allocation.<sup>84</sup>

49. Western Independent Transmission Group and Startrans request that the Commission require CAISO to adopt more specific rules in its tariff that set forth the metrics by which a proposed transmission solution will be evaluated to determine whether it is an economic project and how decisions of whether to include such facilities in a regional transmission plan will be made.<sup>85</sup> They argue that CAISO's evaluation factors for economic studies and mitigation solutions are generic, non-binding, and merely illustrative, and do not explain how a proposed transmission solution will be evaluated and why it may or may not be selected in the regional transmission plan. Western Independent Transmission Group and Startrans also assert that CAISO includes

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<sup>81</sup> *Id.* at 18.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.* at 19.

<sup>84</sup> Clean Line Protest at 5-7.

<sup>85</sup> Western Independent Transmission Group Comments at 10; Startrans Comments at 10.

the specific procedures and criteria for evaluating economic projects in the Business Practice Manual rather than the tariff, contrary to the Commission's requirements.<sup>86</sup>

**iii. Answer**

50. In response to AWEA's concerns regarding its planning horizons, CAISO notes that neither AWEA nor its California subsidiary, California Wind Energy Association (CalWEA), submitted comments in the stakeholder process. Further, CAISO argues that AWEA's concerns are beyond the scope of Order No. 1000.<sup>87</sup> With respect to AWEA's specific concern that CAISO's proposed ten-year planning horizon is too short, CAISO asserts that the Commission declined to set a particular planning horizon in Order No. 1000, and left that determination up to the individual transmission planning regions. Specifically, CAISO notes that the Commission rejected requests by certain commenters to establish twenty- or thirty-year planning horizons. As such, CAISO asserts that AWEA's request is a collateral attack on Order No. 1000.<sup>88</sup>

51. CAISO further asserts that AWEA incorrectly argues that CAISO's transmission planning process is not integrated. Rather, CAISO explains, its transmission planning process is integrated and considers all needs in sequence.<sup>89</sup> It explains that it first considers reliability needs, since meeting reliability needs is a transmission provider's first priority. According to CAISO, this analysis takes into consideration any merchant plants which may meet reliability needs.<sup>90</sup> Second, CAISO takes location-constrained resource interconnection facilities, projects to maintain the feasibility of long-term congestion revenue rights and needed generator interconnections into account.<sup>91</sup> It explains that it takes policy-driven needs into account third, but does not do so in isolation from the previously considered needs. CAISO states, for example, that if a policy-driven solution can also resolve a reliability need or can be expanded to resolve that reliability need, then CAISO will abandon the previously identified reliability-driven solution. CAISO further notes that section 24.2(a) of its tariff, which remains unchanged, requires it to "coordinate and consolidate in a single plan the transmission needs of the

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<sup>86</sup> Western Independent Transmission Group Comments at 8-10; Startrans Comments at 8-10.

<sup>87</sup> CAISO Answer at 22.

<sup>88</sup> *Id.* at 23.

<sup>89</sup> *Id.* at 24.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

CAISO Balancing Authority. . . .”<sup>92</sup> CAISO asserts that it meets this requirement for integrated planning through its sequential approach.

52. Regarding AWEA’s assertion that the proposed approach does not account for the many benefits that transmission provides for improving power system reliability, CAISO responds that it does not understand the argument and AWEA failed to point out where any such failure exists. CAISO specifically points to section 24.4.6.2 of its tariff, which requires it to identify the need for any transmission upgrades or additions to maintain system reliability.<sup>93</sup>

53. CAISO disputes the claim of Clean Line that CAISO’s annual transmission plan excludes consideration of participant-funded merchant transmission projects. It asserts that Clean Line has overlooked provisions in CAISO’s tariff and misinterpreted the Business Practice Manual.<sup>94</sup> Specifically, CAISO contends that under the tariff, merchant projects are simply projects not proposed for regional cost allocation, but rather are those funded by project proponents. CAISO further points out that merchant transmission projects may recover costs not only through Congestion Revenue Rights, but also through direct charges to customers.<sup>95</sup> CAISO states that, contrary to Clean Line’s assertions, its existing transmission planning process provides opportunities for merchant transmission facilities to participate and be included in the regional transmission plan, if certain conditions are met.<sup>96</sup> A merchant developer that proposes a project must demonstrate the financial capability to pay the full cost of construction and must mitigate all operational concerns identified by the ISO as well as any impacts on the feasibility of long-term congestion revenue rights.<sup>97</sup>

#### **iv. Commission Determination**

54. We find that the regional transmission planning process specified in CAISO’s filing partially complies with the requirements of Order No. 1000, subject to a further modification, as discussed below. CAISO conducts a transmission planning process in consultation with stakeholders that produces a comprehensive transmission plan that

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<sup>92</sup> *Id.* at 25.

<sup>93</sup> *Id.* at 26.

<sup>94</sup> *Id.* at 91.

<sup>95</sup> *Id.* at 91-92.

<sup>96</sup> *Id.* at 92.

<sup>97</sup> *Id.*

meets the needs of CAISO's region more efficiently and cost-effectively. Specifically, with respect to the requirement to plan on a regional basis to identify more efficient or cost-effective transmission solutions, we find that CAISO will analyze the need for transmission upgrades and additions in accordance with the methodologies and criteria set forth in section 24 of its Tariff, the Transmission Control Agreement, and the applicable Business Practice Manual. Under its current planning framework, CAISO develops a comprehensive transmission plan, with stakeholder participation, by considering both the local and the regional needs of load-serving entities and determines the appropriate local or regional transmission facilities (or non-transmission alternatives) to meet those needs. This enables CAISO to identify cost-effective regional transmission solutions that can displace local transmission facilities and plan an integrated system that will use all local and regional transmission facilities in the most efficient manner. Therefore, consistent with Order No. 1000, CAISO evaluates through its regional transmission planning process, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than transmission solutions identified by individual public utility transmission providers in their local transmission planning process. Nevertheless, the tariff language in section 24.4.5 reads "more efficient or cost effective," while the language in section 24.4.6.2 and 24.4.6.4 reads "in the most prudent and cost effective manner." We, therefore, direct CAISO to modify the tariff to make it consistent with the Order No. 1000 standard of "more efficient or cost-effective."<sup>98</sup>

55. Moreover, we find that CAISO's production of the comprehensive transmission plan satisfies Order No. 1000's requirement that the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's transmission needs.<sup>99</sup>

56. We find that CAISO has complied with Order No. 1000's requirement to propose what information and data a merchant transmission developer must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region. CAISO's tariff provides that during phase 2 of the transmission planning process, CAISO will open a request window during which various proposals, including merchant transmission proposals, may be submitted.<sup>100</sup> All facilities

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<sup>98</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

<sup>99</sup> *Id.* P 147.

<sup>100</sup> CAISO, eTariff, § 24.4.3 (Phase 2 Request Window) (5.0.0).

proposed during the request window must use the forms and satisfy the information and technical requirements set forth in the Business Practice Manual. Section 4.4.3.1 of CAISO's Business Practice Manual outlines the request window process and highlights the data requirements for proposing a merchant project.<sup>101</sup> CAISO may include a transmission addition or upgrade in the comprehensive transmission plan if a developer proposes a merchant project and demonstrates the financial capability to pay the full cost of construction and operation. The project must mitigate all operational concerns identified by CAISO, in consultation with the participating transmission provider in whose service territory the project will be located.<sup>102</sup>

57. We disagree with AWEA that the proposed ten-year planning horizon is too short and will prevent the region from evaluating transmission plans that would meet regional needs more efficiently or cost-effectively than plans assessing a longer planning horizon. Order No. 1000 did not establish a minimum long-term planning horizon for regional transmission planning,<sup>103</sup> and we are satisfied that the proposed planning timeframe is consistent with planning horizons used to comply with the North American Electric Reliability Corporation (NERC) Transmission Planning Standards.<sup>104</sup> Therefore, we find that a ten-year planning horizon is a reasonable timeframe for use in the regional transmission planning process.

58. With respect to AWEA's assertion that CAISO's proposal falls short of Order No. 1000's intended goals by establishing separate transmission planning processes for reliability, economic, and public policy driven transmission, we disagree and conclude that CAISO's transmission planning process is already integrated. As an initial matter, Order No. 1000 provides public utility transmission providers with the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.<sup>105</sup> CAISO has established a regional transmission planning process in which it considers different categories of transmission needs in a sequential manner. However, CAISO does not consider these categories in isolation; instead, CAISO subsequently reevaluates whether a

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<sup>101</sup> CAISO Business Practice Manual for the Transmission Planning Process, Ver. 9.0, Aug. 10, 2012 (Business Practice Manual) at 7.

<sup>102</sup> CAISO, eTariff, § 24.4.6.1(Categories of Transmission Projects) (5.0.0).

<sup>103</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 157.

<sup>104</sup> *Pub. Serv. Co. of Colorado.*, 142 FERC ¶ 61,206 (2013).

<sup>105</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 149.

particular transmission solution would also solve other transmission needs. For example, CAISO states, that if a policy-driven solution can also resolve a reliability need, then the expanded policy-driven solution will replace the previously identified reliability-driven solution.

59. We disagree with AWEA that CAISO's regional transmission planning process fails to account for many of the benefits that transmission provides. In Order No. 1000, the Commission did not prescribe a particular definition of "benefits," but instead explained that the benefit used by public utility transmission providers in a regional cost allocation method or methods must be an identifiable benefit.<sup>106</sup> In defining benefits, Order No. 1000-A clarified that the Commission intended to allow flexibility to accommodate a variety of approaches which can advance the goals of Order No. 1000.<sup>107</sup> CAISO's regional transmission planning process identifies the need for any transmission additions or upgrades required to ensure system reliability consistent with applicable reliability criteria and CAISO planning standards. CAISO also considers alternatives to building transmission, such as acceleration or expansion of existing projects, demand-side management, storage facilities, etc.<sup>108</sup> CAISO identifies the reliability needs, posts the results of its study, and opens a request window under which parties may submit reliability solutions. We find that this approach reasonably captures the reliability benefits that can be expected to result from the development of new regional transmission facilities, particularly given the flexibility that Order No. 1000 provided to public utility transmission providers in defining benefits. Moreover, AWEA provides no details as to how CAISO would account for the benefits it describes. It is not possible for the Commission to assess a theoretical assertion of generalized system benefits without specific details regarding CAISO's transmission system or the compliance filing.

60. We dismiss Clean Line's request that the Commission direct CAISO to modify its proposal to permit a transmission developer to submit a merchant transmission project for consideration in the regional transmission planning process. Clean Line correctly notes that Order No. 1000 requires a transmission developer proposing a merchant transmission project to "provide adequate information and data to allow public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region."<sup>109</sup> Order No. 1000 further states that the public

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<sup>106</sup> *Id.* P 625.

<sup>107</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 678.

<sup>108</sup> CAISO, eTariff, § 24.4.6.2 (Reliability Driven Projects) (5.0.0).

<sup>109</sup> Clean Line Protest at 6-7.

utility transmission providers in each transmission planning region, in the first instance, should propose what information would be required.<sup>110</sup> Accordingly, CAISO proposes to evaluate merchant transmission projects pursuant to the method currently detailed in its tariff and Business Practice Manual. Merchant transmission developers must provide the required general, technical, planning level cost, and miscellaneous data to initiate the request window process.<sup>111</sup> CAISO may include a transmission addition or upgrade in the comprehensive transmission plan if a developer proposes a merchant project and demonstrates the financial capability to pay the full cost of construction and operation.<sup>112</sup> The merchant project must mitigate all operational concerns identified by CAISO, in consultation with the participating transmission owner(s) in whose service territory the project will be located.<sup>113</sup> We find that this practice complies with the merchant information requirement of Order No. 1000, as discussed above.

61. Further, while Order No. 1000 established the information requirement discussed above, the Commission also concluded that, because a merchant transmission developer assumes all financial risks for developing its transmission project and constructing the proposed transmission facilities, a merchant transmission developer is not required to participate in a regional transmission planning process for purposes of identifying the beneficiaries of its transmission project that would otherwise be the basis for securing eligibility to use a regional cost allocation method.<sup>114</sup> Thus, a transmission developer is not required to submit a merchant transmission project into the regional transmission planning process, and the regional transmission planning process is not required to evaluate a merchant transmission project for potential selection in the regional transmission plan for purposes of cost allocation.<sup>115</sup> However, a transmission developer may submit its transmission project into the regional transmission planning process for potential selection in the regional transmission plan for purposes of cost allocation. In that case, the regional transmission planning process would evaluate the proposed transmission project as it would any other proposed project and, if the transmission project is selected in the regional transmission plan for purposes of cost allocation, it would be eligible to use the regional cost allocation method. If the proposed transmission

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<sup>110</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 164.

<sup>111</sup> CAISO Business Practice Manual at 7.

<sup>112</sup> CAISO, eTariff, § 24.4.6.1 (Categories of Transmission Projects) (5.0.0).

<sup>113</sup> *Id.*

<sup>114</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 163.

<sup>115</sup> *Id.* P 165; Order No. 1000-A, 139 FERC ¶ 61,132 at P 297.

facility is not selected in the regional transmission plan for purposes of cost allocation, then the transmission developer could choose to move forward as a merchant transmission facility through the interconnection process.

62. We also disagree with Western Independent Transmission Group's and Startrans' requests that CAISO include additional detail related to methods and metrics by which it evaluates economic projects in the tariff. CAISO's tariff already outlines the type of economic analysis CAISO conducts and how it assess the cost and benefits of an identified transmission solution.<sup>116</sup> These parties have not explained why CAISO's open and transparent transmission planning process does not sufficiently inform them of CAISO's economic assessment methodology and what metrics and methods need to be further elucidated in the tariff. As a result, we will not require CAISO to make any further modifications to address this issue.

**d. Consideration of Transmission Needs Driven by Public Policy Requirements**

63. Order No. 1000 requires public utility transmission providers to amend their tariffs to describe procedures that provide for the consideration of transmission needs driven by public policy requirements in the local and regional transmission planning processes.<sup>117</sup> The Commission clarified in Order No. 1000-A that Order No. 1000 requires that transmission needs driven by public policy requirements be considered just as transmission needs driven by reliability or economic concerns are also considered.<sup>118</sup> Public policy requirements are requirements established by local, state or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).<sup>119</sup> As explained further below, Order No. 1000 specifies that the

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<sup>116</sup> Per tariff section 24.4.6.7, CAISO will conduct studies to identify transmission needed to address congestion, local area resource requirements, congestion projected to increase over time, or integration of new generation resources or load on an aggregate or regional basis. In determining whether any additional transmission is needed, CAISO will consider the degree to which benefits outweigh the costs.

<sup>117</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

<sup>118</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at PP 204, 206, 208-211, 317-319.

<sup>119</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

consideration of transmission needs driven by public policy requirements means: (1) the identification of transmission needs driven by public policy requirements; and (2) the evaluation of potential solutions to meet those identified needs.<sup>120</sup>

64. To comply with the requirement to identify transmission needs driven by public policy requirements, public utility transmission providers, in consultation with their stakeholders, must establish procedures in their tariffs to identify at the local and regional level those transmission needs driven by public policy requirements for which potential transmission solutions will be evaluated.<sup>121</sup> The process for identifying transmission needs driven by public policy requirements must allow stakeholders, including, but not limited to, those responsible for complying with the public policy requirements at issue and the developers of potential transmission facilities that are needed to comply with one or more public policy requirements, an opportunity to provide input and to offer proposals regarding the transmission needs they believe are driven by public policy requirements.<sup>122</sup> Public utility transmission providers must explain in their compliance filings how the procedures adopted give all stakeholders a meaningful opportunity to submit what the stakeholders believe are transmission needs driven by public policy requirements.<sup>123</sup>

65. In addition, public utility transmission providers, in consultation with stakeholders, must establish a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of this larger set of needs, those needs for which transmission solutions will be evaluated.<sup>124</sup> Public utility transmission providers must explain in their compliance filings how their open and transparent transmission planning process determines whether to move forward regarding transmission needs driven by public policy requirements.<sup>125</sup> In addition, each public utility transmission provider must post on its website an explanation of: (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential solutions in the local and regional transmission planning processes; and (2) how other transmission needs driven by public policy requirements

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<sup>120</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 205.

<sup>121</sup> *Id.* PP 206, 207.

<sup>122</sup> *Id.* PP 207, 208.

<sup>123</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

<sup>124</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209.

<sup>125</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

introduced by stakeholders were considered during the identification stage and why they were not selected for further evaluation.<sup>126</sup>

66. To comply with the requirement to evaluate potential solutions to meet the identified transmission needs driven by public policy requirements, public utility transmission providers, in consultation with stakeholders, must also establish procedures in their tariffs to evaluate at the local and regional level potential solutions to identified transmission needs driven by public policy requirements.<sup>127</sup> These procedures must include the evaluation of transmission facilities stakeholders propose to satisfy an identified transmission need driven by public policy requirements.<sup>128</sup> Stakeholders must be provided an opportunity to provide input during the evaluation of potential solutions to identified needs.<sup>129</sup> In addition, the Commission and stakeholders must be able to review the record that is created by the process to help ensure that the identification and evaluation decisions are open and fair, and not unduly discriminatory or preferential.<sup>130</sup> The Commission will review the proposed evaluation procedures to ensure they comply with the objective of meeting the identified transmission needs more efficiently or cost-effectively.<sup>131</sup>

67. Public utility transmission providers must amend their tariffs to describe procedures that provide for the consideration of transmission needs driven by public policy requirements in the local and regional transmission planning processes.<sup>132</sup> There are no restrictions on the type or number of public policy requirements to be considered as long as any such requirements arise from local, state, or federal laws or regulations that drive transmission needs and as long as the requirements of the procedures required in Order No. 1000 are met.<sup>133</sup> In addition, Order No. 1000 does not preclude any public

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<sup>126</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>127</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

<sup>128</sup> *Id.*; *see also id.* n.191 (“This requirement is consistent with the existing requirements of Order Nos. 890 and 890-A which permit sponsors of transmission and non-transmission solutions to propose alternatives to identified needs.”).

<sup>129</sup> *Id.* P 220.

<sup>130</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 321.

<sup>131</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

<sup>132</sup> *Id.* P 203.

<sup>133</sup> *Id.* P 214; Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

utility transmission provider from considering in its transmission planning process transmission needs driven by additional public policy objectives not specifically required by local, state or federal laws or regulations. However, Order No. 1000 creates no obligation for any public utility transmission provider or its transmission planning processes to consider transmission needs driven by a public policy objective that is not specifically required by local, state or federal laws or regulations.<sup>134</sup> In addition, public utility transmission providers are not required to consider public policy requirements themselves as part of the transmission planning process.<sup>135</sup>

**i. CAISO's Filing**

68. CAISO states that its transmission planning process already includes mechanisms for considering public policy requirements and for approving transmission facilities needed to meet such requirements. CAISO states that stakeholders may identify public policy requirements for consideration in phase 1 of its transmission planning process, which occurs in the first quarter of each calendar year. CAISO maintains that among the specified inputs to the unified planning assumptions and the study plan, which are the foundation for each annual transmission planning cycle, are policy requirements and directives including, as appropriate, programs initiated by state and federal regulatory authorities. CAISO adds that the unified planning assumptions and study plan are developed in an open stakeholder process that provides stakeholders multiple opportunities to provide input regarding the consideration of policy directives and requirements.<sup>136</sup>

69. CAISO states that in phase 2 of the transmission planning process, it posts a conceptual statewide transmission plan that includes potential transmission upgrades or additional elements needed to meet state and federal policy directives and requirements. According to CAISO, stakeholders have the opportunity to submit comments on the conceptual statewide plan and suggest alternative solutions as to how CAISO should take state or federal policy initiatives into account. CAISO states that the tariff provides multiple opportunities to provide input regarding the consideration of policy directives and requirements.<sup>137</sup>

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<sup>134</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 216.

<sup>135</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 204.

<sup>136</sup> CAISO Transmittal Letter at 20-21 (citing CAISO, eTariff, § 24.3.3 (Stakeholder Input – Unified Planning Assumptions/Study Plan) (2.0.0)).

<sup>137</sup> CAISO Transmittal Letter at 21 (citing CAISO, eTariff, § 24.4.9 (Phase 2 Stakeholder Process)).

70. Moreover, CAISO proposes two enhancements to its public policy tariff provisions to facilitate stakeholder participation in the identification of relevant public policies and provide increased transparency regarding CAISO's consideration of public policy requirements: (1) new tariff language providing for a stakeholder opportunity to submit proposals regarding state and federal policy requirements or directives for consideration in the development of the draft uniform planning assumptions and study plan;<sup>138</sup> and (2) revisions requiring that the final posted unified planning assumptions and study plan include an explanation of the public policy requirements and directives that CAISO selected for consideration in the current transmission planning cycle and the reasons that CAISO did not select other suggested needs.<sup>139</sup>

71. Finally, CAISO proposes one additional change to the relevant tariff provisions to incorporate a stakeholder recommendation that CAISO establish a "baseline" of public policies, such that once those policies are identified they would not be subject to reconsideration each transmission planning cycle. CAISO states that as a result, stakeholders would not have to vie for the identification of the same policy each year. CAISO adds that it will also provide an explanation of any decision not to consider a previously identified public policy requirement or directive in the current transmission planning cycle. According to CAISO, this proposed revision will benefit stakeholders that might not be able to participate in the annual transmission planning process on a regular basis and will reduce the burden on stakeholders.<sup>140</sup>

## ii. Protests/Comments

72. Public Interest Organizations generally support the modifications that CAISO proposes to its regional transmission planning process concerning consideration of transmission needs driven by public policy requirements.<sup>141</sup> However, they request that the Commission order CAISO to revise its tariff to make clear that "public policy requirements or directives" include laws and regulations of political units within a state, such as municipal and county governments.<sup>142</sup> AWEA expresses a similar concern.<sup>143</sup>

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<sup>138</sup> See CAISO, eTariff, § 24.3.3(a)(iii) (Stakeholder Input – Unified Planning Assumptions/Study Plan) (2.0.0).

<sup>139</sup> See *id.* § 24.3.3(e).

<sup>140</sup> CAISO Transmittal Letter at 22.

<sup>141</sup> Public Interest Organizations Comments at 4.

<sup>142</sup> *Id.*

<sup>143</sup> AWEA Comments at 8.

73. AWEA also notes that Order No. 1000 permits public utility transmission providers to adopt a broader definition of public policy requirements than that set forth in the order. AWEA maintains that CAISO should revise its tariff to expressly recognize that it intends to include future public policy requirements and objectives not specifically required by existing law and regulation.<sup>144</sup>

74. Public Interest Organizations also note that CAISO's solicitation of public policy requirements from stakeholders is limited to requirements "not inconsistent with the Federal Power Act." They claim that this phrase is unclear and that CAISO does not provide any guidance as to what it means. Accordingly, Public Interest Organizations ask the Commission to order CAISO to explain the phrase and how it intends to implement it.<sup>145</sup> AWEA and E.ON raise a similar issue. AWEA is concerned that the phrase "not inconsistent with the Federal Power Act" could be used to limit the federal and state requirements and directives that may be identified and evaluated in the transmission planning process. It requests that the Commission direct CAISO to remove the phrase from its tariff.<sup>146</sup>

75. E.ON asserts that by including the schedule for commenting on public policy requirements in a Business Practice Manual, CAISO has not complied with the requirement that the tariff should memorialize the process for stakeholders to comment on the identification and evaluation of transmission needs driven by public policy requirements.<sup>147</sup>

76. Public Interest Organizations also question CAISO's intent to create a baseline of public policies in its regional transmission planning policy.<sup>148</sup> They claim that the proposal is ambiguous as to whether CAISO will permit stakeholder comment on a decision by CAISO to remove a policy from the baseline in the future. According to Public Interest Organizations, failure to do so would deny stakeholders the opportunity for meaningful participation in the transmission planning process.<sup>149</sup> They urge the Commission to require CAISO to modify section 24.3.3(f) of its tariff to state that CAISO will include in its unified planning assumptions and study plans any proposed

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<sup>144</sup> *Id.* at 8-9.

<sup>145</sup> Public Interest Organizations Comments at 5.

<sup>146</sup> AWEA Comments at 7-8.

<sup>147</sup> E.ON Comments at 2.

<sup>148</sup> Public Interest Organizations Comments at 5-6.

<sup>149</sup> *Id.* at 6.

change to the public policy requirements baseline, along with an explanation for the action, so that stakeholders have the opportunity to comment on it.<sup>150</sup>

77. Finally, AWEA expresses concern over CAISO's proposal for a two-category approach in its transmission plan for public policy-driven elements.<sup>151</sup> It explains that CAISO will identify category 1 elements on a "least regrets" evaluation of alternative generation development scenarios, in order to minimize the risk of under-utilized transmission capacity. According to AWEA, because category 1 elements may not be sufficient to achieve the state's 33 percent renewable energy target, the regional transmission plan will identify additional transmission elements and classify them as category 2. AWEA also explains that, while CAISO will recommend category 1 elements to its Board of Governors for approval, the category 2 transmission elements will not be recommended, but instead be reassessed in the next transmission planning cycle.<sup>152</sup> AWEA is concerned that this two-category approach could result in non-comparable treatment for public policy requirements projects as compared to reliability or economic projects. It asks the Commission to require CAISO to provide further explanation of this different treatment.<sup>153</sup>

### iii. Answers

78. CAISO asserts that AWEA and Public Interest Organizations' request that the tariff specify that municipal or county directives could be included as a public policy is unnecessary because municipalities and counties derive their legal authority from the state and their directives are therefore "state" directives, albeit not applicable statewide.<sup>154</sup> In response to AWEA's contention that CAISO should consider public policies that have not yet taken effect, CAISO asserts that the phrase "public policy requirements or directives" is broad enough to consider policies or directives that are known and approved but not yet effective.<sup>155</sup>

79. In response to the concerns raised by E.ON and Public Interest Organizations, CAISO states that the public policies it will use are developed in phase 1 of each

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<sup>150</sup> *Id.*

<sup>151</sup> AWEA Comments at 12.

<sup>152</sup> *Id.*

<sup>153</sup> *Id.* at 13.

<sup>154</sup> CAISO Answer at 18.

<sup>155</sup> *Id.* at 19.

planning cycle, and the process by which stakeholders may submit public policies for consideration are delineated in proposed sections 24.3.1 to 24.3.3. CAISO therefore disagrees with E.ON's argument that too many details are included in the Business Practice Manual.

80. CAISO notes that E.ON, Public Interest Organizations and AWEA questioned the inclusion of section 24.3.3(a)(iii), which states that a public policy directive may not conflict with the Federal Power Act. CAISO maintains that it included this section because it is possible in some circumstance that a state policy or directive could conflict with the Federal Power Act.<sup>156</sup> CAISO explains that, for example, if policymakers in California disagreed with Arizona's immigration policies, they could issue a policy directive stating that power could not be imported from Arizona. CAISO also notes that the language tracks existing language in section 24.1 of its tariff. In further response to E.ON, CAISO explains that its tariff provides ample opportunity for stakeholder input.<sup>157</sup>

81. In response to Public Interest Organizations' concerns regarding the proposal to allow CAISO to decide to remove public policies from the baseline, CAISO notes that any such decision would be included in the draft study plan, such that stakeholders would have the opportunity to comment.<sup>158</sup>

82. Finally, with respect to AWEA's concerns regarding the "least regrets" analysis, CAISO asserts that AWEA is seeking to re-litigate an issue already resolved in the RTPP proceeding. CAISO asserts that AWEA's California subsidiary, CalWEA, challenged the "least regrets" analysis in the RTPP proceeding, and the Commission rejected CalWEA's concerns.<sup>159</sup> CAISO contends that nothing in the Order No. 1000 proceedings has indicated that these findings are called into question or require additional clarification or modification. CAISO further asserts that its tariff provisions are superior to the Order No. 1000 requirements.

83. AWEA responded to CAISO's answer, arguing that a conflict between a state policy or directive and the Federal Power Act is very unlikely and that the inclusion of the Federal Power Act clause can only do more harm than good. AWEA claims that CAISO's role is to plan the regional transmission grid to meet public policy needs – not

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<sup>156</sup> *Id.* at 17.

<sup>157</sup> *Id.* at 20-21.

<sup>158</sup> *Id.* at 21.

<sup>159</sup> *Id.* at 19 (citing RTPP Order, 133 FERC ¶ 61,224 at P 197).

to exert its judgment about whether a state or federal policy is or is not consistent with the Federal Power Act.<sup>160</sup>

#### iv. Commission Determination

84. The Commission finds that CAISO partially complies with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements. Order No. 1000 allows public utility transmission providers flexibility in developing proposals to consider transmission needs driven by public policy requirements.<sup>161</sup> In large part, CAISO's existing tariff provisions already address transmission needs driven by public policy requirements, although we require CAISO to make further revisions in a further compliance filing, as discussed below.<sup>162</sup>

85. As an initial matter, we require CAISO to modify in two respects its existing tariff language at section 24.1 and its proposed tariff language at section 24.3.3 to ensure that the range of transmission needs driven by public policy requirements that CAISO will consider in its regional transmission planning process is consistent with the definition of public policy requirements in Order No. 1000, as clarified in Order No. 1000-A. First, CAISO must revise its tariff to specifically state that municipal and county directives must be taken into account. CAISO's tariff refers to "state or federal policy requirements or directives" when setting forth the consideration of public policy requirements in the transmission planning process.<sup>163</sup> In Order No. 1000-A, we clarified that "public policy requirements established by state or federal laws or regulations include duly-enacted laws

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<sup>160</sup> AWEA Answer at 2-3.

<sup>161</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 220.

<sup>162</sup> Order No. 1000 requires public utility transmission providers to amend their tariffs to provide for the consideration of transmission needs driven by public policy requirements at both the regional and local levels. However, we note that in the CAISO transmission planning region, the three investor-owned utilities do not have local transmission planning processes separate from the regional transmission planning process governed by the CAISO tariff. Accordingly, this section of the order only addresses the requirement to consider transmission needs driven by public policy requirements at the regional level, consistent with Order No. 1000. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203 n.185 ("To the extent public utility transmission providers within a region do not engage in local transmission planning, such as in some ISO/RTO regions, the requirements of this Final Rule with regard to Public Policy Requirements apply only to the regional transmission planning process.").

<sup>163</sup> *See, e.g.*, CAISO, eTariff, § 24.1 (Overview) (2.0.0).

or regulations passed by a local government entity, such as a municipal or county government.”<sup>164</sup> Consistent with our orders in previous Order No. 1000 compliance filings, we direct CAISO to revise its definition of public policy requirements consistent with this clarification.<sup>165</sup> However, with respect to AWEA’s suggestion that CAISO clarify its intent to consider anticipated public policy objectives, we agree with CAISO that the existing tariff language may be viewed broadly enough to include anticipated public policy objectives. In any case, we note that Order No. 1000 creates no obligation for any public utility transmission provider or its transmission planning processes to consider transmission needs driven by a public policy objective that is not specifically required by local, state or federal laws or regulations.<sup>166</sup>

86. Second, we agree with AWEA and E.ON that CAISO must, on compliance, remove the reference to consistency with the Federal Power Act in the tariff language currently existing in section 24.1 and proposed by CAISO in section 24.3.3(a)(iii). CAISO’s proposal to account for only public policy requirements or directives “that are not inconsistent with the Federal Power Act” is not consistent with the definition of public policy requirements discussed above, and we therefore reject the language “that are not inconsistent with the Federal Power Act” that has been proposed by CAISO in section 24.3.3(a)(iii) and we also direct CAISO to remove this language from existing section 24.1. We find that this language is inconsistent with Order No. 1000’s definition of “Public Policy Requirements,” which are specifically defined as “state and federal laws and regulations.”<sup>167</sup> Of course, any Commission-jurisdictional transmission planning process, including the consideration of transmission needs driven by public policy requirements, should be in accordance with the requirements of the Federal Power Act. Nonetheless, CAISO must be consistent with the definition of “Public Policy Requirements” set forth in Order No. 1000. We are concerned that the use of a potentially vague term such as “not inconsistent with the Federal Power Act” may unreasonably limit Order No. 1000’s definition of the term.

87. We are mindful that the Commission had previously accepted this language in section 24.1 of CAISO’s tariff. Section 24.1 provides an overview of CAISO’s

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<sup>164</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

<sup>165</sup> *Pub. Serv. Co. of Colorado*, 142 FERC ¶ 61,206 (2013); *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215 (2013); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 (2013).

<sup>166</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 216.

<sup>167</sup> *Id.* P 2. As discussed in P 85, above, Order No. 1000-A further clarified that the definition was intended to include local laws and regulations.

Comprehensive Transmission Planning Process and states, in relevant part, that “[t]he comprehensive Transmission Plan will identify transmission upgrades or additions needed . . . to meet state and federal policy requirements and directives that are not inconsistent with the Federal Power Act, including renewable portfolio standards.” However, Order No. 1000 for the first time places an affirmative obligation on public utility transmission providers to provide for the consideration of transmission needs driven by public policy requirements. Given this new obligation, the requirements of which are discussed in this section of the order, we find it appropriate to direct CAISO to remove this existing language to ensure that CAISO’s reference to public policy requirements is consistent with Order No. 1000’s definition, as discussed in P 86, above.

88. Further, given our rejection of this language, CAISO cannot rely on the phrase “inconsistent with the Federal Power Act” in deciding what transmission needs driven by public policy requirements it will identify as a need for which solutions will be evaluated. Therefore, when CAISO posts on its website an explanation of why the suggested transmission needs will not be evaluated, consistent with the requirements of Order No. 1000, it will not be sufficient for CAISO simply to state that the relevant public policy requirement was “inconsistent with the Federal Power Act.”<sup>168</sup>

89. Order No. 1000 requires public utility transmission providers, in consultation with stakeholders, to consider transmission needs driven by public policy requirements. Order No. 1000 explained that such consideration included both the identification of transmission needs driven by public policy requirements and the evaluation of potential solutions to those identified needs. We find that CAISO partially complies with the requirement to consider transmission needs driven by public policy requirements and direct CAISO, on compliance, to revise its tariff, as discussed below.

90. Order No. 1000 requires that the process for identifying transmission needs driven by public policy requirements must allow stakeholders an opportunity to provide input and to offer proposals regarding the transmission needs they believe are driven by public policy requirements.<sup>169</sup> Based on our review of the relevant tariff language, and consistent with the requirements of Order No. 1000, stakeholders have an opportunity to propose transmission needs they believe are driven by public policy requirements as part of phase 1 of CAISO’s regional transmission planning process. Specifically, CAISO has revised section 24.3.3 of its tariff to provide that:

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<sup>168</sup> CAISO’s compliance with the website posting requirement is discussed in P 93, below.

<sup>169</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 207, 208.

CAISO will provide a comment period during which Market Participants, electric utility regulatory agencies and all other interested parties may submit the following proposals for consideration in the development of the draft Unified Planning Assumptions and Study Plan: (a) ... (iii) *State or federal policy requirements or directives that are not inconsistent with the Federal Power Act.*

91. We find that CAISO's proposal will allow all stakeholders to submit their proposals regarding transmission needs driven by public policy requirements as part of the regional transmission planning process, subject to CAISO removing the phrase "that are not inconsistent with the Federal Power Act," as discussed above. We also agree with CAISO that the tariff includes sufficient details regarding the framework for stakeholder input into the Unified Planning Assumptions and Study Plan development process, and that it is reasonable to include specific dates in the Business Practice Manual.<sup>170</sup> Specifically, we agree that, because the framework is included in the tariff, the more precise information in the Business Practice Manual cannot be used to truncate the opportunities for stakeholder input.

92. We also find that CAISO's filing complies with Order No. 1000's requirement that public utility transmission providers, in consultation with stakeholders, must establish a just and reasonable and not unduly discriminatory process through which public utility transmission providers will identify, out of this larger set of needs, those needs for which transmission solutions will be evaluated.<sup>171</sup> Section 24.3.2 of the tariff provides that the Unified Planning Assumptions and Study Guide will, among other things, provide for the "[i]dentification of state or federal requirements or directives that the CAISO will utilize...to identify policy-driven transmission elements." Further, section 24.3.3 includes several opportunities for stakeholder input into the Unified Planning Assumptions and Study Plan beyond the initial proposals for state or federal public policy requirements described above. For example, CAISO will schedule a public conference following the posting of the draft Unified Planning Assumptions and Study Plan "to review, discuss, and recommend modifications" to the draft.<sup>172</sup> Additionally, stakeholders have a minimum of two weeks after this public meeting to provide comments, which will be posted to CAISO's website.<sup>173</sup> For these reasons, we find that

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<sup>170</sup> See CAISO Answer at 20-21.

<sup>171</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209.

<sup>172</sup> CAISO, eTariff, § 24.3.3(c).

<sup>173</sup> CAISO, eTariff, § 24.3.3(d) (Stakeholder Input – Unified Planning Assumptions and Study Plan) (2.0.0).

CAISO has a just and reasonable and not unduly discriminatory process for identifying transmission needs driven by public policy requirements.

93. Order No. 1000 requires that each public utility transmission provider must post on its website an explanation of: (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential solutions in the regional transmission planning process; and (2) why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.<sup>174</sup> CAISO revised section 24.3.3(e) of its tariff to explain that the final Unified Planning Assumptions and Study Plan will include such explanations. That tariff section also explains that CAISO will publish the final Unified Planning Assumptions and Study Plan to its website. We thus find that CAISO's proposal complies with Order No. 1000's website posting requirement.<sup>175</sup>

94. Next, Order No. 1000 further requires public utility transmission providers, in consultation with stakeholders, to establish procedures in their tariffs to evaluate at the regional level potential solutions to identified transmission needs driven by Public Policy Requirements, including those proposed by stakeholders,<sup>176</sup> that provide stakeholders an opportunity to provide input during the evaluation of potential solutions to identified needs.<sup>177</sup> We find that CAISO partially complies with this requirement.

95. CAISO's tariff provides that CAISO will develop a conceptual statewide transmission plan that, among other things, may identify potential transmission solutions needed to meet state and federal policy requirements and directives. CAISO is required to post the conceptual statewide transmission plan and to notify market participants of the availability of the plan. Pursuant to the tariff, CAISO will provide an opportunity for

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<sup>174</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

<sup>175</sup> As noted in P 88, above, in its posting explaining why suggested transmission needs driven by public policy requirements will not be evaluated, it will not be sufficient for CAISO to simply state that the relevant public policy requirement was "inconsistent with the Federal Power Act" for those transmission needs for which it will not evaluate transmission solutions.

<sup>176</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

<sup>177</sup> *Id.* P 220.

interested parties to submit comments and recommend modifications to the conceptual statewide plan and alternative transmission and non-transmission elements.<sup>178</sup>

96. However, CAISO's tariff provides that, in phase 2 of the regional transmission planning process, it "may evaluate transmission upgrades and addition elements needed to meet state or federal policy requirements that were identified and included in the Unified Planning Assumptions and Study Plan."<sup>179</sup> We direct CAISO to revise this section of the tariff to state that it *shall*, not may, evaluate such transmission upgrades or additions to address an identified transmission need driven by a public policy requirement. As Order No. 1000 requires, public utility transmission providers, in consultation with stakeholders, must establish procedures in their tariffs to evaluate potential solutions to identified transmission needs driven by public policy requirements.<sup>180</sup> Once this process has identified a subset of transmission needs driven by public policy requirements proposed at the beginning of this process for which transmission solutions will be evaluated, public utility transmission providers are obligated to evaluate potential solutions for this subset of identified needs.

97. Moreover, we find that CAISO's proposed language in section 24.3.3(f) of the tariff is reasonable. That section provides that transmission needs driven by public policy requirements selected for consideration in a transmission planning cycle will be carried over to other cycles, unless CAISO determines that it has been eliminated, modified, or is otherwise inapplicable or irrelevant for transmission planning purposes in a current cycle. This section also requires that CAISO provide an explanation of any decision not to consider a previously identified transmission need driven by public policy requirements or directives in the current transmission planning cycle. We find that this is a reasonable approach that provides transparency into CAISO's process by requiring CAISO to explain the circumstances under which transmission needs driven by public policy requirements will not carry over into subsequent transmission planning cycles. Further, we agree with CAISO that because any decision to remove any public policy requirement from the "baseline" will be included in the draft study plan, it will be available for stakeholder review and input. We therefore accept this proposed tariff language. However, we direct CAISO to clarify that when the proposed tariff language states that CAISO will provide its explanation, whether it means that CAISO will do so as part of its posting obligation set forth in section 24.3.3(e) of the tariff or by another means.

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<sup>178</sup> CAISO, eTariff, § 24.4.4.

<sup>179</sup> CAISO, eTariff, § 24.4.6.6 (Categories of Transmission Projects) (5.0.0).

<sup>180</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211.

98. Finally, we reject AWEA's concerns regarding CAISO's "least regrets" analysis. Order No. 1000 expressly stated that it was not mandating any particular analytic approach that public utility transmission providers had to adopt as part of the regional transmission planning process.<sup>181</sup> While the Commission did not mandate a "least regrets" analysis,<sup>182</sup> the Commission also did not prohibit such an analysis from being used. AWEA did not persuade us that CAISO's use of a "least regrets" analysis, which the Commission previously accepted in the RTPP proceeding, is inconsistent with any of the requirements of Order No. 1000, or that it somehow results in unduly discriminatory treatment of public policy-driven projects compared to that of economic or reliability projects.

## 2. Nonincumbent Transmission Developer Reforms

99. Order No. 1000 institutes a number of reforms that seek to ensure that nonincumbent transmission developers have an opportunity to participate in the transmission development process. These reforms involve the elimination of federal rights of first refusal from Commission-jurisdictional tariffs and agreements, and the development of requirements regarding qualification criteria for transmission developers and processes for evaluating proposals for new transmission facilities.

### a. Federal Rights of First Refusal

100. Order No. 1000 requires that each public utility transmission provider eliminate provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation.<sup>183</sup> Order No. 1000 defines a transmission facility selected in a regional transmission plan for purposes of cost allocation as a transmission facility that has been selected pursuant to a transmission planning region's Commission-approved regional transmission planning process for inclusion in a regional transmission plan for purposes of cost allocation

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<sup>181</sup> *See, e.g., id.* P 149 (declining to specify "a particular set of analyses that must be performed by public utility transmission providers within the regional transmission planning process").

<sup>182</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 331 n.366.

<sup>183</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 313. The phrase "a federal right of first refusal" refers only to rights of first refusal that are created by provisions in Commission-jurisdictional tariffs or agreements. Order No. 1000-A, 139 FERC ¶ 61,132 at P 415.

because it is a more efficient or cost-effective solution to regional transmission needs.<sup>184</sup> If a public utility transmission provider's tariff or other Commission-jurisdictional agreements do not contain a federal right of first refusal provision, a public utility transmission provider should state this in its compliance filing.<sup>185</sup>

101. The requirement in Order No. 1000 to eliminate a federal right of first refusal does not apply to local transmission facilities,<sup>186</sup> which are defined as transmission facilities located solely within a public utility transmission provider's retail distribution service territory or footprint that are not selected in the regional transmission plan for purposes of cost allocation.<sup>187</sup> The requirement also does not apply to the right of an incumbent transmission provider to build, own, and recover costs for upgrades to its own transmission facilities, regardless of whether an upgrade has been selected in the regional transmission plan for purposes of cost allocation.<sup>188</sup> In addition, the Commission noted that the requirement does not remove, alter or limit an incumbent transmission provider's use and control of its existing rights-of-way under state law.<sup>189</sup>

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<sup>184</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 5, 63.

<sup>185</sup> *Id.* P 314 n.294.

<sup>186</sup> *Id.* PP 226, 258, 318.

<sup>187</sup> *Id.* P 63. The Commission clarified in Order No. 1000-A that a local transmission facility is one that is located within the geographical boundaries of a public utility transmission provider's retail distribution service territory, if it has one; otherwise the area is defined by the public utility transmission provider's footprint. In the case of an RTO or ISO whose footprint covers the entire region, local transmission facilities are defined by reference to the retail distribution service territories or footprints of its underlying transmission owning members. Order No. 1000-A, 139 FERC ¶ 61,132 at P 429.

<sup>188</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 226, 319, Order No. 1000-A, 139 FERC ¶ 61,132 at P 426. The Commission stated in Order No. 1000 that upgrades to transmission facilities included such things as tower change outs or reconductoring, regardless of whether or not an upgrade has been selected in the regional transmission plan for purposes of cost allocation. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319. The Commission clarified in Order No. 1000-A that the term "upgrade" means an improvement to, addition to, or replacement of a part of, an existing transmission facility. The term does not refer to an entirely new transmission facility. Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

<sup>189</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319.

102. The Commission clarified in Order No. 1000-A that Order No. 1000 does not require elimination of a federal right of first refusal for a new transmission facility if the regional cost allocation method results in an allocation of 100 percent of the facility's costs to the public utility transmission provider in whose retail distribution service territory or footprint the facility is to be located.<sup>190</sup> The Commission also clarified in Order No. 1000-A that the phrase "selected in a regional transmission plan for purposes of cost allocation" excludes a new transmission facility if the costs of that facility are borne entirely by the public utility transmission provider in whose retail distribution service territory or footprint that new transmission facility is to be located.<sup>191</sup> However, the Commission acknowledged in Order No. 1000-A that there may be a range of examples of multi-transmission provider zones, and it would address whether a cost allocation to a multi-transmission provider zone is regional on a case-by-case basis based on the facts presented on compliance.<sup>192</sup>

**i. CAISO's Filing**

103. CAISO states that as required by Order No. 1000, its revised tariff does not include a right of first refusal that allows an incumbent transmission provider or any other party to build regional transmission facilities.<sup>193</sup> Specifically, CAISO proposes to delete from its existing tariff the provisions that designate construction responsibility in sections 24.4.6.2 (Reliability Driven Projects), 24.4.6.4 (Projects to Maintain the Feasibility of Long Term CRRs), 24.4.6.6 (Policy Driven Elements) and 24.4.6.7 (Economic Studies and Mitigation Solutions), and to eliminate the existing right of first refusal for incumbent transmission owners to build transmission facilities on their rights-of-way.<sup>194</sup> CAISO states that the proposed revisions to its tariff provide that all regional transmission facilities, except upgrades to existing transmission facilities, are subject to competitive solicitation (i.e., prospective transmission developers may submit proposals to finance, own, and construct regional transmission facilities identified in CAISO's comprehensive transmission plan), regardless of whether a transmission facility is needed

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<sup>190</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 423.

<sup>191</sup> *Id.* P 423.

<sup>192</sup> *Id.* P 424; Order No. 1000-B, 141 FERC ¶ 61,044 at P 40.

<sup>193</sup> CAISO Transmittal Letter at 33.

<sup>194</sup> *Id.* at 34.

for reliability purposes, for economic reasons, to meet public policy needs, or to maintain the simultaneous feasibility of long-term Congestion Revenue Rights.<sup>195</sup>

104. CAISO maintains that the only federal rights of first refusal that exists under its revised tariff are the right of a Participating Transmission Owner to build upgrades to its existing transmission facilities and local transmission facilities. CAISO proposes to define a local transmission facility as a facility that: (1) is under CAISO's operational control; (2) is owned by a participating transmission owner or to which a participating transmission owner has an entitlement;<sup>196</sup> (3) operates at a voltage level below 200 kV; and (4) for a transmission facility approved in the final 2013/2014 comprehensive transmission plan and thereafter, is located entirely within a participating transmission owner's footprint or participating transmission owner's service territory.<sup>197</sup> CAISO maintains that the costs of these facilities are allocated solely to the participating transmission owner.<sup>198</sup> Moreover, CAISO states that it anticipates that almost all new low voltage transmission facilities (i.e., operating at a voltage level below 200 kV) will be smaller scale, low cost, local reliability projects, not public policy projects or economic projects.<sup>199</sup> According to CAISO, all regional transmission projects will be included in the transmission plan for the purposes of regional cost allocation; local transmission projects, in contrast, will be included in the transmission plan, but not for purposes of regional cost allocation.<sup>200</sup>

105. CAISO maintains that to the extent a needed transmission element constitutes both a local transmission facility and a regional transmission facility, CAISO will conduct a competitive solicitation for the entire facility, unless CAISO can reasonably separate construction responsibility for the local and regional portions.<sup>201</sup> CAISO submits that its proposed tariff changes effectively incorporate the cost allocation and construction

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<sup>195</sup> *Id.* at 36; *see* CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>196</sup> An entitlement is the right of a participating transmission owner obtained by contract or other means to use another entity's transmission facilities for transmission energy.

<sup>197</sup> CAISO Transmittal Letter at 34-35.

<sup>198</sup> *Id.* at 36.

<sup>199</sup> *Id.*

<sup>200</sup> *Id.* at 36.

<sup>201</sup> *Id.* at 37.

responsibility distinctions between local and regional transmission facilities adopted in Order No. 1000 and are consistent with or superior to the requirements of the rule. CAISO argues that its proposal will increase opportunities for nonincumbent transmission developers compared to the framework permitted under Order No. 1000. According to CAISO, whereas Order No. 1000 would allow an incumbent transmission owner to build high voltage facilities that are located entirely within its existing retail service territory or footprint as long as it does not seek regional cost allocation, under CAISO's proposal, all transmission facility additions (except upgrades to existing facilities) that are 200 kV and above would be subject to competitive solicitation.

106. CAISO argues that its experience shows that local transmission facilities needed for reliability reasons require completion in a short timeframe. CAISO asserts that by providing the incumbent transmission owner the right to build and own low voltage transmission facilities that are located entirely within its existing retail service territory or footprint, its proposal ensures that near-term reliability needs are satisfied in a timely manner as existing transmission owners are well positioned to obtain the necessary permits and rights-of-way to build local transmission facilities needed within a short timeframe.<sup>202</sup>

107. CAISO explains that under its tariff, participating transmission owners construct generator interconnection related network upgrades and location constrained resource interconnection transmission facilities. CAISO maintains that generator interconnection facilities are governed by the Commission's generator interconnection rulemaking and not by Order No. 1000. Moreover, CAISO argues that location constrained interconnection facilities remain generator tie-line facilities whose costs are in part recovered temporarily region-wide as a variation of Order No. 2003, but ultimately are charged to generators that will use the facility. Thus, argues CAISO, no changes to the network upgrades or location constrained interconnection facility tariff provisions are warranted as they are beyond the scope of Order No. 1000 compliance.<sup>203</sup>

108. CAISO states that under its existing tariff, it identifies reliability needs that must be resolved as part of phase 2 of its transmission planning process and opens a request window under which participating transmission owners and other interested parties may submit suggested reliability solutions.<sup>204</sup> CAISO explains that participating transmission owners are required to submit their proposals to address the identified reliability needs on their respective systems within thirty days of CAISO's posting of the reliability

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<sup>202</sup> *Id.* at 39.

<sup>203</sup> *Id.* at 42-43.

<sup>204</sup> *Id.* at 82.

assessment and that all other interested parties are permitted to submit their suggested solutions in accordance with the schedule set forth in the Business Practice Manual.

**ii. Protests/Comments**

109. Western Independent Transmission Group states that the Commission should require that CAISO further modify its tariff to clarify that upgrades do not include work performed on new transmission facilities.<sup>205</sup> Western Independent Transmission Group states that such a clarification is necessary to prevent incumbent utilities from having broad latitude in determining when to exercise their right of first refusals. Otherwise, Western Independent Transmission Group asserts, CAISO's proposed revisions can potentially expand upgrades to include new transmission facilities, contrary to the requirements of Order No. 1000.<sup>206</sup>

110. Pattern Transmission also contends that CAISO's tariff provision incorporating a continuing federal right of first refusal for upgrades to existing transmission facilities must be clarified. Pattern Transmission asserts that using the same terminology to define the categories for which an incumbent transmission owner can retain a right of first refusal and to describe the transmission elements that are subject to competitive solicitation is confusing and will likely lead to disputes in the future.<sup>207</sup> Specifically, Pattern Transmission explains that proposed section 24.5.2 of CAISO's tariff states that a selected project that involves an "upgrade or improvement to, addition on, or replacement of a part of an existing Participant [Transmission Owner] facility" will retain a right of first refusal for the proposed project, while proposed section 24.5.2.3(d) provides that the CAISO will specify the criteria for the "particular transmission upgrade or addition" that is subject to competitive solicitation. Pattern Transmission asserts that any transmission project that interconnects two points within the existing transmission system arguably could be considered an improvement or an addition to the existing system. As a result, Pattern Transmission contends that there is not a clear delineation of the transmission elements that are and are not subject to the competitive solicitation process.<sup>208</sup>

111. LS Power asserts that the phase 2 request window used by CAISO to solicit suggested solutions to identified reliability needs does not comply with Order No. 1000 and creates confusion as to the openness of reliability projects to nonincumbent

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<sup>205</sup> Western Independent Transmission Group Protest at 11.

<sup>206</sup> *Id.*

<sup>207</sup> Pattern Transmission Protest at 13.

<sup>208</sup> *Id.*

transmission developers. First, LS Power states that CAISO inappropriately uses the term “projects,” which it argues applies to transmission facilities that are associated with specific project transmission developers under CAISO’s tariff, in several tariff provisions, including the sections regarding the phase 2 request window, that insinuate the submission of project proposals.<sup>209</sup> Second, LS Power questions why it is necessary to have a request window that is separate and apart from the competitive solicitation given that no ownership rights are assigned on the basis of such submissions.<sup>210</sup> Specifically, LS Power is concerned that the phase 2 request window will not contribute toward the determination of reliability needs, but instead will influence the result of the competitive solicitation process in favor of the incumbent transmission owner.<sup>211</sup> Additionally, LS Power contends that because the phase 2 request window occurs before the competitive solicitation process, a nonincumbent transmission developer proposing a solution will have no determination that it is qualified to build, will receive no ownership rights, will have to fund the project proposal, and will reveal information about its proposal that the incumbent transmission owner could use when submitting a proposal in the competitive solicitation process.<sup>212</sup> LS Power asserts that such a request window, which requires submission of significant data, but provides no ownership interest, does not encourage a full range of proposed solutions and cannot result in a more efficient or cost-effective solution, and should thus be removed or modified.<sup>213</sup>

112. LS Power also contends that CAISO’s competitive solicitation process should include certain location constrained resource interconnection facilities and large generator interconnection procedures network upgrades. LS Power acknowledges that certain large generator interconnection procedures network upgrades, especially delivery network upgrades, will be approved as public policy projects in the transmission planning process and thus subject to competitive solicitation. However, LS Power asserts that incumbent transmission owners will still have an inappropriate advantage with respect to these upgrades because the incumbent transmission owners are involved in the determination of the needed upgrade outside of the regional transmission planning process.<sup>214</sup> Moreover, LS Power states that a number of large generator interconnection

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<sup>209</sup> LS Power Protest at 7-9.

<sup>210</sup> *Id.* at 10-11.

<sup>211</sup> *Id.* at 11-12.

<sup>212</sup> *Id.* at 12.

<sup>213</sup> *Id.* at 12-13.

<sup>214</sup> *Id.* at 16.

procedures upgrade projects are major in scope and are regional transmission facilities as defined by CAISO.<sup>215</sup>

113. Public Interest Organizations support CAISO's use of the competitive solicitation process for regional transmission facilities and its proposal to remove a federal right of first refusal for incumbent transmission providers to build regional transmission facilities.<sup>216</sup>

**iii. Answer**

114. In response to Pattern Transmission and Western Independent Transmission Group's concerns regarding CAISO proposal to retain a federal right of first refusal for upgrades, CAISO states that any confusion as to the terminology used may arise from the use of the terms "addition" and "upgrade" elsewhere in the tariff, not from CAISO's adoption of the Commission's description of facilities for which an existing transmission owner has a right to build.<sup>217</sup> CAISO argues that a proposed transmission line where none has existed before would not be an upgrade or addition to an existing facility and therefore would not be treated as an upgrade or addition that the participating transmission owner has a right to build under Order No. 1000 or section 24.5.2.<sup>218</sup> Nonetheless, CAISO states that it is prepared to review the use of the terms "project," "solution," "element," "upgrade," and "addition" throughout the tariff and make any changes it finds needed to add clarity or ensure consistency in a subsequent compliance filing.<sup>219</sup> Moreover, CAISO offers this same clarification in response to LS Power's concern that CAISO's tariff refers inappropriately to projects in several tariff provisions, including the sections regarding the phase 2 request window.<sup>220</sup>

115. On the other hand, CAISO disagrees with LS Power that the phase 2 request window is either confusing or discriminatory. CAISO asserts that the request window maximizes CAISO's ability to identify the necessary transmission projects and does not prejudice any party because all regional transmission solutions submitted in phase 2 are

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<sup>215</sup> *Id.*

<sup>216</sup> Public Interest Organizations Comments at 8-9.

<sup>217</sup> CAISO Answer at 16.

<sup>218</sup> *Id.* at 34-35.

<sup>219</sup> *Id.* at 35.

<sup>220</sup> *Id.* at 16.

subject to competitive solicitation in phase 3.<sup>221</sup> Moreover, CAISO contends that the requirement that participating transmission owners submit reliability projects in phase 2 request window does not provide the participating transmission owners with an advantage, contrary to the LS Power's contention, and in fact, provides nonincumbent transmission developers with certain strategic advantages in that they can use the data and analysis from the solutions submitted by the participating transmission owners to develop their own solutions.<sup>222</sup>

116. CAISO contends that LS Power's proposal that location constrained resource interconnection facilities should be subject to CAISO's competitive solicitation process is beyond the scope of this proceeding. First, CAISO argues that Order No. 1000 expressly states that its directives do not apply to transmission facilities addressed by Order No. 2003. Since the Commission found that location constrained resource interconnection facilities are an acceptable variation from Order No. 2003, CAISO contends, the proposed treatment of location constrained resource interconnection facilities is not inconsistent with the requirements of Order No. 1000.<sup>223</sup> In addition, CAISO states that its tariff does not include a federal right of first refusal for location constrained resource interconnection facilities as defined in Order No. 1000. Instead, CAISO argues, its tariff contemplates that participating transmission owners will build location constrained resource interconnection facilities because the costs of the unsubscribed portion of a location constrained resource interconnection facility may be included in a participating transmission owner's transmission revenue requirement.<sup>224</sup> CAISO further notes that only entities that have turned over operational control of transmission facilities that form part of CAISO's transmission network can be participating transmission owners and that because location constrained resource interconnection facilities are radial lines, an entity may not become a participating transmission owner by turning over operational control of such facilities.<sup>225</sup> Citing the Commission's RTPP Order that approved these provisions, CAISO states the location constrained resource interconnection facilities provisions address a specific need presented by location constrained resources and are not unduly discriminatory.<sup>226</sup>

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<sup>221</sup> *Id.* at 13-14.

<sup>222</sup> *Id.* at 15-16.

<sup>223</sup> *Id.* at 27, 29.

<sup>224</sup> *Id.* at 27-29.

<sup>225</sup> *Id.* at 28-29 (citing RTPP Order, 133 FERC ¶ 61,224 at P 134).

<sup>226</sup> CAISO Answer at 30-31 (citing RTPP Order, 133 FERC ¶ 61,224 at P 136).

117. Finally, CAISO states that LS Power’s proposal that network upgrades developed in the generation interconnection process should be subject to CAISO’s competitive solicitation process is beyond the scope of Order No. 1000. CAISO asserts that if the network upgrades LS Power refers to are embodied in executed generation interconnection agreements, then the competitive solicitation would amount to an abrogation of Commission-approved agreements.<sup>227</sup> Furthermore, even if the network upgrades are not currently in executed agreements, CAISO argues, subjecting them to competitive solicitation would disrupt or delay the generation interconnection process, studies, and business assumptions upon which interconnection customers have relied.<sup>228</sup>

#### iv. Commission Determination

118. We find that the provisions concerning federal rights of first refusal in CAISO’s filing partially comply with the requirements of Order No. 1000. CAISO’s proposed revisions eliminate any federal right of first refusal for transmission facilities selected in the regional transmission plan for purposes of cost allocation, with the exception of upgrades to existing transmission facilities, as required by Order No. 1000. However, we share commenters concern that CAISO’s various uses of the terms “project,” “solution,” “element,” “upgrade,” and “addition” throughout its tariff may create confusion about which transmission facilities are subject to CAISO’s competitive solicitation process, and thus are not subject to a federal right of first refusal. Accordingly, we direct CAISO to review its use of these terms in its tariff and to file, within 120 days of the date of issuance of this order, a further compliance filing clarifying the meanings of the terms “project,” “solution,” “element,” “upgrade,” and “addition” and to use them consistent with CAISO’s commitment in its answer.

119. We disagree with the assertion by LS Power that CAISO’s request window in phase 2 of the regional transmission planning process is unduly discriminatory to nonincumbent transmission developers that propose a regional transmission solution. While the participating transmission owners are required to submit transmission solutions to address identified reliability needs, nonincumbent transmission developers may submit alternative proposals at any time during the request window.<sup>229</sup> Moreover, because the phase 2 request window and CAISO’s identification of the more efficient or cost-effective regional transmission solution are independent of CAISO’s competitive solicitation process for selecting transmission developers, nonincumbent transmission

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<sup>227</sup> *Id.* at 32-33.

<sup>228</sup> *Id.* at 33.

<sup>229</sup> See CAISO, eTariff, §§ 24.4.2 (Submission of Reliability Driven Needs) (1.0.0) and 24.4.3 (Phase 2 Request Window) (1.0.0).

developers are not disadvantaged by the request window. Instead, the phase 2 request window provides an opportunity for all interested parties to participate in the submission of potential regional transmission facilities to meet the identified needs.

120. We reject Western Independent Transmission Group's request that the Commission further clarify that upgrades under no circumstances will include work performed on new transmission facilities. The Commission clarified in Order No. 1000-A that the term "upgrade" means an improvement to, addition to, or replacement of a part of, an existing transmission facility and does not refer to an entirely new transmission facility.<sup>230</sup> CAISO's proposal that a participating transmission owner will construct and own an upgrade or improvement to, addition on, or a replacement of a part of its existing transmission facilities<sup>231</sup> is consistent with that clarification.

121. We agree with CAISO that LS Power's contention that location constrained resource interconnection facilities and large generator interconnection procedures network upgrades should not be subject to a federal right of first refusal and instead should be subject to CAISO's competitive solicitation process is beyond the scope of Order No. 1000. The Commission stated in Order No. 1000 that the generator interconnection process is outside of the scope of the Order No. 1000 rulemaking proceeding and that Order No. 1000 is not the proper proceeding for commenters to raise issues about the interconnection agreements and procedures under Order Nos. 2003, 2006, or 661.<sup>232</sup> Because both location constrained resource interconnection facilities and large generator interconnection procedures network upgrades are generator interconnection facilities, we likewise find that LS Power's concerns are beyond the scope of this compliance proceeding. Therefore, we reject LS Power's request to require location constrained resource interconnection facilities and large generator interconnection procedures network upgrades to be subject to CAISO's competitive solicitation process.

#### **b. Qualification Criteria**

122. Order No. 1000 requires each public utility transmission provider to revise its tariff to demonstrate that the regional transmission planning process in which it participates has established appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation, whether that entity is an incumbent transmission provider

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<sup>230</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

<sup>231</sup> See CAISO, eTariff, § 24.5.2 (Project Sponsor Selection) (2.0.0).

<sup>232</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 760.

or a nonincumbent transmission developer.<sup>233</sup> Appropriate qualification criteria must be fair and not unreasonably stringent when applied to either the incumbent transmission provider or nonincumbent transmission developer.<sup>234</sup> These criteria must not be unduly discriminatory or preferential and must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities.<sup>235</sup>

123. The qualification criteria should also allow for the possibility that an existing public utility transmission provider already satisfies the criteria.<sup>236</sup> There must be procedures in place for timely notifying transmission developers of whether they satisfy the region's qualification criteria and opportunities to remedy any deficiencies.<sup>237</sup> In addition, the qualification criteria should not be applied to an entity proposing a transmission project for consideration in the regional transmission planning process if that entity does not intend to develop the proposed transmission project.<sup>238</sup>

124. The Commission clarified in Order No. 1000-A that it would be an impermissible barrier to entry to require, as part of the qualification criteria, that a transmission developer demonstrate that it has, or can obtain, state approvals necessary to operate in a state, including state public utility status and the right to eminent domain, to be eligible to propose a transmission facility.<sup>239</sup>

**i. CAISO's Filing**

125. While CAISO maintains that its current qualification criteria comply with Order No. 1000's requirements, CAISO proposes a few clarifications and refinements to enhance the process, maximize participation, and provide increased transparency with respect to CAISO's decision-making process.<sup>240</sup>

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<sup>233</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 225, 323.

<sup>234</sup> *Id.* P 324.

<sup>235</sup> *Id.* P 323.

<sup>236</sup> *Id.* P 324.

<sup>237</sup> *Id.*

<sup>238</sup> *Id.* n.304; Order No. 1000-A, 139 FERC ¶ 61,132 at P 439 n.520.

<sup>239</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

<sup>240</sup> CAISO Transmittal Letter at 44.

126. CAISO explains that during the phase 3 competitive solicitation process, section 24.5.2.1 of its tariff sets forth the following qualification criteria that CAISO will consider to determine whether a transmission developer meets the basic qualifications to finance, own, construct, operate, and maintain transmission facilities: (a) whether the proposed project is consistent with needed transmission elements identified in the comprehensive transmission plan; (b) whether the proposed project satisfies applicable reliability criteria and CAISO planning standards; and (c) whether the transmission developer and its team are physically, technically and financially capable of completing the project in a timely and competent manner, and operating and maintaining the facilities consistent with good utility practice and applicable reliability criteria for the life of the project. CAISO proposes to retain these qualification criteria, stating they are consistent with the basic qualification criteria that the Commission identified in Order No. 1000<sup>241</sup> and that the Commission found them to be just and reasonable and not unduly discriminatory in the RTPP Order.<sup>242</sup>

127. CAISO states that under the phase 3 competitive solicitation process, all interested entities are eligible to submit proposals to build and own the regional transmission facilities that CAISO finds to be needed in phase 2 of the transmission planning process. CAISO maintains that there are no up-front barriers to participation in the competitive solicitation process and its basic qualification criteria are consistent with or superior to Order No. 1000's qualification provisions.<sup>243</sup>

128. CAISO states that following its Board of Governors approval of the comprehensive transmission plan, CAISO provides at least two months for transmission developers to submit specific proposals to build and own identified regional transmission plan elements.<sup>244</sup> CAISO states that its Business Practice Manual sets forth the extensive, detailed information that transmission developers must submit with their proposals to enable CAISO to evaluate their qualifications and whether they satisfy the project developer selection criteria. CAISO proposes to retain these granular information requirements in the Business Practice Manual.<sup>245</sup>

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<sup>241</sup> *Id.* 44-45.

<sup>242</sup> *Id.* at 45 (citing RTPP Order, 133 FERC ¶ 61,224 at P 231).

<sup>243</sup> CAISO Transmittal Letter at 45.

<sup>244</sup> *See* CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>245</sup> CAISO Transmittal Letter at 45.

129. Finally, CAISO states that if two or more transmission developers submit proposals to finance, construct, and own the same transmission project, CAISO will provide a formal opportunity for the transmission developers to collaborate and potentially develop a single joint proposal. CAISO removed the existing requirement that a transmission developer must first be deemed qualified by CAISO before it can collaborate with other transmission developers to develop a joint proposal. CAISO states that encouraging and facilitating collaboration among transmission developers is the fairest and most efficient means for resolving competing proposals and provides the best opportunity for development of a proposal that best meets CAISO's needs and benefits ratepayers, and that the relevant consideration is whether the transmission developers participating in a joint proposal are qualified as a team.<sup>246</sup>

**ii. Protests/Comments**

130. Clean Line states that the Commission should require CAISO to eliminate the existing qualification criteria in sections 24.5.2.1(a) and (b) that address the merits of the project, rather than the transmission developer, as "an entity's eligibility to propose a project for selection in the regional plan for purpose of cost allocation should not be contingent on whether the project is already in the plan."<sup>247</sup>

131. LS Power objects to CAISO's proposal to apply the qualification criteria to prospective transmission developers as part of the transmission developer selection process rather than prior to the competitive bidding process. LS Power believes that determining a transmission developer's qualifications after project submittal is not consistent with the language of Order No. 1000 and fails to focus on the selection of the more cost-effective or efficient project.<sup>248</sup> LS Power contends that CAISO is capable of separately determining a prospective transmission developer's qualifications and evaluating the differences between project proposals, and that any distinction between qualified transmission developers should be addressed in the evaluation phase. For this reason and the reasons described below, LS Power contends that the Commission should require CAISO to revise its tariff to address a transmission developer's qualifications prior to the competitive solicitation process.<sup>249</sup>

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<sup>246</sup> *Id.* at 46.

<sup>247</sup> Clean Line Protest at 11.

<sup>248</sup> LS Power Protest at 17-18.

<sup>249</sup> *Id.* at 22-24.

132. As an initial matter, LS Power states that it presumes CAISO will determine that incumbent transmission owners are automatically qualified to submit proposals so that only nonincumbent transmission developers risk being rejected as unqualified. LS Power maintains that some entities may therefore not participate, raising concern that the issue of qualification will be inappropriately used to eliminate entities or projects from the competitive solicitation process, through which only project selection should be addressed.<sup>250</sup> Moreover, LS Power disagrees with CAISO's position that the lack of a pre-qualification process will maximize the number of competing transmission developers.<sup>251</sup>

133. LS Power argues that by not addressing qualification in the pre-solicitation stage, CAISO offers no opportunity for an entity to challenge the qualification decision or to address issues that disqualified the entity. LS Power views this as CAISO giving itself another defense against nonincumbent transmission developers.<sup>252</sup>

134. In addition, LS Power disagrees with CAISO's position that a generic pre-qualification process cannot effectively address the fact that a transmission developer's qualification to build a specific facility can be affected by the specific scope and nature of that facility. LS Power asserts that CAISO's concerns are misplaced and the qualification process can easily require the potential transmission developers to set forth in detail the type of projects for which they seek qualification, the maximum dollar value for which they seek qualification, and all other "generic" aspects of their technical and financial capabilities.<sup>253</sup> LS Power also disagrees with CAISO's position that a pre-qualification process would not take into account a transmission developer's resources and ability to construct in a timely manner a project that has a near-term deadline for completion.<sup>254</sup> LS Power maintains that if the selection process sets forth a near-term need with specificity, then presumably each transmission developer submitting a proposal believes that it can respond to the need in the time period specified. LS Power argues that allowing CAISO to select transmission projects based on disqualifying transmission developers would be inconsistent with Order No. 1000.<sup>255</sup>

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<sup>250</sup> *Id.* at 18.

<sup>251</sup> *Id.* at 21-22.

<sup>252</sup> *Id.* at 23.

<sup>253</sup> *Id.* at 18-19.

<sup>254</sup> *Id.* at 20.

<sup>255</sup> *Id.* at 20-21.

135. LS Power argues that CAISO's claim that it will not be able to judge a transmission developer's qualification prior to the competitive solicitation process because a transmission developer may submit multiple proposals is also misplaced. LS Power maintains that any combination of proposals submitted by a transmission developer has to be within the financial capability for which the transmission developer sought qualification approval, or the transmission developer must make it clear that it is not seeking approval to develop all of the projects it submitted simultaneously. In addition, LS Power states that CAISO's existing rules require the transmission developer to set forth information regarding its ability to develop multiple transmission projects.<sup>256</sup>

136. LS Power argues that CAISO's qualification criteria are vague and must be revised. Specifically, LS Power states it is unclear what it means for a transmission developer to be "physically capable" of completing a transmission project or operating and maintaining that project, and that CAISO offers no explanation of what "physically capable" means. In addition, LS Power states that the use of the phrase "for the life of the project" in CAISO's proposal to evaluate whether the transmission developer and its team are capable of operating and maintaining a proposed transmission facility is vague and cannot be valued in a reasonable manner. LS Power maintains that CAISO offers no explanation regarding how it will make a determination as to a transmission developer's capability to operate and maintain the facilities for the next thirty to forty years. Thus, LS Power states, the Commission should require CAISO to delete the term "physically" and the phrase "for the life of the project."<sup>257</sup>

137. Public Interest Organizations support CAISO's proposal to remove the requirement that a transmission developer must be first deemed qualified before it can participate in a collaborative process to develop a single transmission project. They claim this modification will encourage more joint transmission project development, and agree with CAISO that the relevant question is whether the transmission developers, as a team, are qualified to develop the transmission project, not whether each transmission developer alone is qualified.<sup>258</sup> In contrast, LS Power disagrees with CAISO's position that the lack of a pre-qualification process will maximize the number of competing transmission developers and that CAISO does not want to foreclose the opportunity for potential transmission developers to collaborate with each other through the formal collaboration process. LS Power maintains that collaboration should not be promoted through CAISO disqualifying a transmission developer during the competitive

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<sup>256</sup> *Id.* at 19-20.

<sup>257</sup> *Id.* at 24-25.

<sup>258</sup> Public Interest Organizations December 5 Comments at 9.

solicitation process and forcing that developer to collaborate to move forward.<sup>259</sup> LS Power argues that CAISO should not permit unqualified transmission developers to team up after proposal submission, but instead should encourage joint projects by determining qualification before the competitive solicitation process so that an entity that does not qualify on its own can collaborate with entities that do.<sup>260</sup>

138. Finally, Pattern Transmission requests that the Commission require CAISO to clarify in the tariff that the financial capability of a prospective transmission developer will be evaluated in light of all of the project proposals by that developer that are either pending or have been approved in a prior transmission planning cycle.<sup>261</sup>

**iii. Answer**

139. CAISO states that LS Power and Clean Line misunderstand CAISO's top-down transmission planning process, which CAISO explains selects solutions separately from transmission developers rather than assigning ownership rights to the transmission developer that proposes a transmission project.<sup>262</sup> CAISO contends that Order No. 1000 expressly permits use of a competitive solicitation model rather than a project sponsorship model and thus does not require the modifications to CAISO's regional transmission planning process that LS Power and Clean Line propose.<sup>263</sup>

140. CAISO maintains that contrary to LS Power's assertion, there is no need for qualification criteria to apply to those entities seeking to submit solutions in phase 2 of the regional transmission planning process, as no ownership right is connected with such proposals. CAISO asserts that a pre-qualification process to submit solutions in phase 2 would limit the scope of the alternatives presented and would prevent some parties with good solutions from submitting them. Furthermore, CAISO contends, because the essential features of solutions are determined in phase 2 of the regional transmission planning process, the qualification process, which occurs in phase 3, cannot eliminate a transmission project.<sup>264</sup>

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<sup>259</sup> LS Power Protest at 21-22.

<sup>260</sup> *Id.* at 22.

<sup>261</sup> Pattern Transmission Comments at 14.

<sup>262</sup> CAISO Answer at 38.

<sup>263</sup> *Id.* at 39-40.

<sup>264</sup> *Id.* at 38-39.

141. Also in response to LS Power, CAISO states that the Commission did not specify in Order No. 1000 when, in a top-down transmission planning process, the qualification criteria must be applied. CAISO argues that any interpretation of Order No. 1000 that requires CAISO to create criteria that would disqualify parties from submitting proposed solutions would be contrary to the Commission's finding that top-down transmission planning is acceptable under Order No. 1000.<sup>265</sup> Moreover, CAISO states that it is reasonable to assume that more proposals will be submitted in its regional transmission planning process if entities are not disqualified up front prior to the submission of proposed solutions. CAISO also states that a transmission developer that might not qualify under a generic pre-qualification may qualify to develop a particular project that satisfies identified needs. Moreover, CAISO states that allowing parties that might eventually be deemed not qualified to construct a project in an individual capacity to submit proposals leaves open the possibility of collaboration during the evaluation process. CAISO states that LS Power seeks to limit competition at the earliest possible stage, thereby potentially denying CAISO and ratepayers of the particular benefits and advantages that such proposals might bring.<sup>266</sup>

142. With respect to LS Power's contention that the qualification process can require the potential transmission developers to set forth in detail the type of projects for which they seek qualification, CAISO argues that in phase 2 of its transmission planning process, this information is irrelevant to its selection of solutions. CAISO asserts that requiring submission of such detailed information prior to phase 3 would require potential transmission developers to speculate about the nature of the solutions CAISO will approve and would add an unnecessary layer and delay in the process.<sup>267</sup> In response to LS Power's assertion that allowing CAISO to select transmission projects based on disqualifying transmission developers would be inconsistent with Order No. 1000, CAISO explains that the selection of the solution and the selection of the project transmission developer are two separate decision-making processes, and that in phase 2 the qualifications of potential transmission developers are irrelevant to the choice of the solution.<sup>268</sup>

143. CAISO asserts that LS Power's claim that CAISO offers no opportunity for entities to challenge the qualification decision or to address the issues that disqualify the entity has no basis. CAISO states that its planning process is fully transparent and parties

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<sup>265</sup> *Id.* at 39-40.

<sup>266</sup> *Id.* at 41.

<sup>267</sup> *Id.* at 42.

<sup>268</sup> *Id.* at 43.

have access to dispute resolution under CAISO's tariff and, if necessary, to the Commission in order to seek redress.<sup>269</sup>

144. CAISO maintains that, contrary to LS Power's argument that the term is vague, the plain meaning of "physical" capability does not extend to legal rights, but instead addresses whether the project transmission developer has the necessary physical attributes, manpower, and equipment to complete an awarded transmission project in a timely manner and to operate and maintain the transmission facility after construction. With respect to LS Power's objection to the inclusion of the phrase "for the life of the project" in the qualification criteria, CAISO asserts that it only needs to consider whether, at the time of the evaluation of qualification, the transmission developer, taking into account its existing resources and commitments, has the capital and organizational structure such that it is unlikely to fail during the expected life of the transmission element. CAISO also states that both the term "physically capable" and phrase "for the life of the project" are unchanged from the existing, Commission-approved tariff language and that nothing in Order No. 1000 makes them impermissibly vague.<sup>270</sup>

145. Finally, in response to Pattern Transmission's demand that the financial capability of a transmission developer be assessed in light of all the projects for which it is competing or has been previously selected, CAISO states that the proposed tariff already requires CAISO to do so.<sup>271</sup>

#### iv. Commission Determination

146. CAISO is proposing that a transmission developer demonstrate that its proposal is consistent with needed transmission elements identified in the comprehensive transmission plan and whether the proposed transmission project satisfies applicable reliability criteria. CAISO also proposes that the transmission developer demonstrate that it is physically, technically, and financially capable of completing the project. We find that the qualification criteria provisions in CAISO's filing do not comply with the requirements of Order No. 1000. Specifically, we find that the qualification criteria do not provide sufficient detail to prospective transmission developers about what information they must provide for CAISO to determine their eligibility to finance, own, and construct a regional transmission facility. In addition, the information requirements and qualification criteria are not clearly distinguished from one another. While CAISO has provided extensive qualification criteria in its Business Practice Manual, they are not

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<sup>269</sup> *Id.* at 45.

<sup>270</sup> *Id.* at 45-46.

<sup>271</sup> *Id.* at 63-64.

included in the tariff and again are combined with the information requirements for submitting a proposal. Thus, we require CAISO to make a further compliance filing establishing not unduly discriminatory or preferential qualification criteria for determining an entity's eligibility to submit a proposal in its competitive solicitation process that must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities, as discussed below.

147. As an initial matter, it is unclear what qualification criteria a transmission developer must meet to submit a proposal in CAISO's competitive solicitation process. Instead, CAISO's tariff combines qualification criteria and the information requirements for submitting such a proposal without distinguishing between the two. For example, CAISO states that section 24.5.2.1 – Project Sponsor and Proposal Evaluation – of CAISO's tariff includes three project sponsor qualification criteria.<sup>272</sup> One of the three criterion provides that CAISO will evaluate prospective transmission developers' proposals to finance, own, and construct a regional transmission facility in its comprehensive transmission plan to determine whether the prospective transmission developer and its team is physically, technically, and financially capable of completing the transmission project in a timely and competent manner and operating and maintaining the transmission facilities consistent with good utility practice and applicable reliability criteria for the life of the project.<sup>273</sup> However, it is not clear that the preceding provision is a qualification criterion because the other two criteria that CAISO characterizes as qualification criteria are: (1) whether the proposed project is consistent with needed transmission elements identified in the comprehensive transmission plan; and (2) whether the proposed transmission project satisfies applicable reliability criteria and CAISO planning standards.<sup>274</sup> These two criteria appear to be related to CAISO's evaluation of a proposal a potential transmission developer would submit after it has qualified rather than to address whether a potential transmission developer is eligible to submit a proposal in the first place. Because it is unclear what CAISO's qualification criteria are, we cannot determine whether the criteria are unduly discriminatory or preferential.

148. In addition, under CAISO's proposal, qualification criteria will not apply to prospective transmission developers prior to the competitive bidding process. Thus, a potential transmission developer will not be in a position to understand what criteria it must satisfy to demonstrate that it has the necessary financial and technical expertise to

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<sup>272</sup> CAISO Transmittal Letter at 44.

<sup>273</sup> CAISO, eTariff, § 24.5.2.1 (Project Sponsor and Proposal Evaluation) (2.0.0).

<sup>274</sup> *Id.*

develop, construct, own, operate, and maintain transmission facilities, and will only know whether it qualifies to submit a bid after it has gone through the process to actually submit a bid. Therefore, we require CAISO to make a further compliance filing, as discussed below, revising its tariff to explicitly state what qualification requirements a potential transmission developer must satisfy before that transmission developer can submit a proposal to finance, own, and construct a regional transmission facility selected in CAISO's regional transmission plan for purposes of cost allocation. We find that this directive will provide additional clarity as to which provisions are qualification criteria versus information requirements. We also find that such clarity may resolve Clean Line's request to eliminate the existing qualification criteria.

149. To the extent that the provision in section 24.5.2.1 of CAISO's tariff providing that CAISO will evaluate prospective transmission developers' proposals to determine whether the prospective transmission developer and its team is physically, technically, and financially capable of completing the transmission project in a timely and competent manner and operating and maintaining the transmission facilities<sup>275</sup> is intended to be a qualification criterion, we find that it is insufficiently detailed to provide a prospective transmission developer with an understanding of the information that it must submit to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities. As CAISO notes, such detailed information is set forth in section 5.2.1 of its Business Practice Manual.<sup>276</sup> While we acknowledge that the Commission found section 24.5.2.1 of CAISO's tariff to be just and reasonable and not unduly discriminatory in the RTPP Order,<sup>277</sup> with the adoption of Order No. 1000, we find that CAISO must include this more detailed information in its tariff rather than in its Business Practice Manual. Without more detailed qualification criteria in its tariff, CAISO cannot meet Order No. 1000's requirement that it establish not unduly discriminatory or preferential qualification criteria for determining an entity's eligibility to submit a proposal in its competitive solicitation process that must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities. We thus require CAISO to file a further compliance filing, as discussed below, revising its tariff to reflect more detailed information as set forth in the Business Practice Manual.

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<sup>275</sup> *Id.*

<sup>276</sup> See, e.g., CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>277</sup> CAISO Transmittal Letter at 45 (citing RTPP Order, 133 FERC ¶ 61,224 at P 231).

150. Moreover, we note that in its Business Practice Manual, CAISO again combines the qualification criteria and the information requirements for submitting a proposal to finance, own, and construct a regional transmission facility in its comprehensive transmission plan without distinguishing between the two. To the extent that CAISO chooses to incorporate the qualification criteria and information requirements currently in its Business Practice Manual into its tariff, CAISO must clearly distinguish in its tariff between the qualification criteria and the information requirements.

151. In addition, we find that CAISO's tariff does not comply with Order No. 1000 because it does not include procedures for timely notifying transmission developers of whether they satisfy the region's qualification criteria and opportunities to remedy any deficiencies.<sup>278</sup> Thus, we require CAISO to include such procedures in its subsequent compliance filing.

152. With respect to LS Power's request that the Commission require CAISO to delete the term "physically" and the phrase "for the life of the project" from section 24.5.2.1 of its tariff, we do not find either the term or the phrase to be vague and therefore will not require CAISO to delete either at this time. Moreover, we find that our directive for CAISO to include more detailed qualification criteria in its tariff, as discussed above, will provide additional clarity as to the specific information that prospective transmission developers must submit to demonstrate that they satisfy CAISO's qualification criteria, addressing LS Power's concern.

153. For the reasons discussed above, we direct CAISO to file, within 120 days of the date of issuance of this order, a further compliance filing that revises its tariff to include: (1) not unduly discriminatory or preferential qualification criteria for determining an entity's eligibility to submit a proposal in its competitive solicitation process that provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities and that are clearly distinguishable from the information requirements to submit such a proposal; and (2) procedures for timely notifying transmission developers of whether they satisfy the region's qualification criteria and opportunities to remedy any deficiencies.

154. CAISO proposes that if two or more transmission developers submit proposals to finance, construct, and own the same transmission project, it will provide a formal opportunity for the transmission developers to collaborate and potentially develop a single joint proposal without first determining whether the competing transmission developers meet its qualification criteria. LS Power argues that a transmission developer that cannot qualify on its own should not be allowed to team up with another

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<sup>278</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 324.

transmission developer to qualify. We find CAISO's proposal compliant with Order No. 1000.

155. We agree with CAISO and Public Interest Organizations that the relevant consideration is whether the transmission developers participating in a joint proposal are qualified as a team. Furthermore, we agree with Public Interest Organizations that this approach may encourage more joint transmission projects, consistent with Order No. 1000's statement that there are benefits to joint ownership of transmission facilities, particularly large backbone facilities, both in terms of increasing opportunities for investment in the transmission grid, as well as ensuring nondiscriminatory access to the transmission grid by transmission customers.<sup>279</sup> We find LS Power's contention that CAISO will disqualify a transmission developer during the competitive solicitation process and force that developer to collaborate to move forward to be speculative and unsupported. We therefore reject this argument.

156. With regard to LS Power's argument that CAISO's tariff offers no opportunity for a transmission developer to address the issues that disqualify the developer, as we noted above, CAISO must revise its tariff to provide procedures for timely notifying the transmission developers of whether they satisfy CAISO's qualification criteria and opportunities to remedy any deficiencies. However, we reject LS Power's argument that CAISO's tariff offers no opportunity for an entity to challenge the qualification decision. Parties have access to dispute resolution under CAISO's tariff<sup>280</sup> and to the Commission in order to seek redress.

157. We disagree with Pattern Transmission that CAISO's tariff must be clarified such that the financial capability of a prospective transmission developer is viewed in light of all of the proposals to finance, own, and construct a regional transmission project in the comprehensive transmission plan it has pending or approved. As CAISO points out, its tariff already accounts for consideration of all of a transmission developer's pending or approved proposals.<sup>281</sup>

**c. Information Requirements**

158. Order No. 1000 requires that each public utility transmission provider revise its tariff to identify the information that a prospective transmission developer must submit in support of a transmission project the developer proposes in the regional transmission

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<sup>279</sup> *Id.* P 776 (referencing Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 593).

<sup>280</sup> RTPP Order, 133 FERC ¶ 61,224.

<sup>281</sup> CAISO, eTariff, § 24.5.2.3(c) (Multiple Project Proposals) (2.0.0).

planning process.<sup>282</sup> The public utility transmission provider must identify this information in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process.<sup>283</sup> The information requirements must not be so cumbersome that they effectively prohibit transmission developers from proposing transmission projects, yet not be so relaxed that they allow for relatively unsupported proposals.<sup>284</sup> They may require, for example, relevant engineering studies and cost analyses and may request other reports or information from the transmission developer that are needed to facilitate evaluation of the transmission project in the regional transmission planning process.<sup>285</sup>

159. Each public utility transmission provider must also revise its tariff to identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle.<sup>286</sup> Each transmission planning region may determine for itself what deadline is appropriate and may use rolling or flexible dates to reflect the iterative nature of their regional transmission planning process.<sup>287</sup>

**i. CAISO's Filing**

160. CAISO states that section 25.2.1 of CAISO's Business Practice Manual for the transmission planning process sets forth the extensive, detailed information that transmission developers must submit with their proposals to enable CAISO to evaluate their qualifications and whether they satisfy the project transmission developer selection criteria. CAISO proposes to retain these granular information requirements in the Business Practice Manual.<sup>288</sup> CAISO also explains that under tariff section 24.5.1, the project transmission developer must also identify the governmental body with the authority to approve the siting of the specific needed transmission element.<sup>289</sup>

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<sup>282</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 325.

<sup>283</sup> *Id.* P 326.

<sup>284</sup> *Id.*

<sup>285</sup> *Id.*

<sup>286</sup> *Id.* P 325.

<sup>287</sup> *Id.* P 327.

<sup>288</sup> CAISO Transmittal Letter at 45.

<sup>289</sup> *Id.*

161. CAISO's tariff provides that in the month following its Governing Board's approval of the comprehensive transmission plan, CAISO will initiate a period of at least two months for transmission developers to submit proposals to finance, own, and construct the regional transmission facilities identified in the comprehensive transmission plan. For transmission facilities with capital costs of \$50 million or less that were approved by CAISO management before Governing Board approval of the comprehensive transmission plan, CAISO's tariff provides that the two month period will be initiated following management approval.<sup>290</sup>

**ii. Protests/Comments**

162. LS Power opposes CAISO's proposal to retain the information requirements for submission of project proposals in the competitive bidding process in the Business Practice Manual rather than in the tariff, maintaining that Order No. 1000 requires these requirements to be in the tariff.<sup>291</sup>

**iii. Answer**

163. CAISO asserts that the information requirements in the Business Practice Manual pertain solely to the transmission developer qualification and selection criteria set forth in the tariff. CAISO states that Order No. 1000 does not require that the information to be submitted by a transmission developer to support its qualification be specified in the tariff, but only that the qualification criteria be reflected in the tariff.<sup>292</sup> CAISO believes it has included qualification criteria and selection criteria (sections 24.5.2.1 and 24.5.2.4) that meet this Order No. 1000 requirement.

**iv. Commission Determination**

164. Beyond identifying the date by which information in support of a transmission project must be submitted, CAISO's filing dealing with information requirements for submitting proposals does not comply with the requirements of Order No. 1000. CAISO has not proposed to revise its tariff to identify the information that a prospective transmission developer must submit in support of a transmission project proposal in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that

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<sup>290</sup> CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>291</sup> LS Power Protest at 26.

<sup>292</sup> CAISO Answer at 48-49.

are proposed in this process.<sup>293</sup> Instead, CAISO's tariff combines qualification criteria and the information requirements for submitting such a proposal without distinguishing between the two. As noted above, section 24.5.2.1 of CAISO's tariff provides that CAISO will evaluate prospective transmission developers' proposals to finance, own, and construct a regional transmission facility in its comprehensive transmission plan to determine whether the proposed project is consistent with needed transmission elements identified in the comprehensive transmission plan and satisfies applicable reliability criteria and CAISO planning standards.<sup>294</sup> However, it is not clear that these criteria are intended to be information requirements for purposes of evaluating transmission projects in its comprehensive transmission plan. Therefore, we require CAISO to revise its tariff to explicitly state what information requirements must be satisfied for a transmission developer to submit a proposal to finance, own, and construct a regional transmission facility in its comprehensive transmission plan.

165. To the extent that the provisions in section 24.5.2.1 of CAISO's tariff providing that CAISO will evaluate prospective transmission developers' proposals to determine whether the proposed project is consistent with needed transmission elements identified in the comprehensive transmission plan and satisfies applicable reliability criteria and CAISO planning standards<sup>295</sup> are intended to be information requirements, we find that CAISO has not identified the information that a prospective transmission developer must submit in support of a transmission project in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process.<sup>296</sup> As CAISO notes, such detailed information is set forth in section 5.2.1 of its Business Practice Manual.<sup>297</sup> While we acknowledge that the Commission found section 24.5.2.1 of CAISO's tariff to be just and reasonable and not unduly discriminatory in the RTPP Order,<sup>298</sup> with the adoption of Order No. 1000, we find that CAISO must include this more detailed information in its tariff rather than in its Business Practice Manual.

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<sup>293</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 326.

<sup>294</sup> CAISO, eTariff, § 24.5.2.1 (Project Sponsor and Proposal Evaluation) (2.0.0).

<sup>295</sup> *Id.*

<sup>296</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 326.

<sup>297</sup> *See, e.g.*, CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>298</sup> CAISO Transmittal Letter at 45 (citing RTPP Order, 133 FERC ¶ 61,224 at P 231).

166. Moreover, as discussed above, we note that CAISO must clearly distinguish in its tariff between the qualification criteria and the information requirements.

167. Accordingly, we direct CAISO to make, within 120 days of the date of issuance of this order, a further compliance filing that revises its tariff to identify the information that a prospective transmission developer must submit in support of a transmission project the developer proposes in the regional transmission planning process in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process.<sup>299</sup>

168. Finally, we find that CAISO's tariff complies with Order No. 1000's requirement that each public utility transmission provider identify the date by which information in support of a transmission project must be submitted to be considered in a given transmission planning cycle.<sup>300</sup> As noted above, CAISO's tariff provides that in the month following its Governing Board's approval of the comprehensive transmission plan, CAISO will initiate a period of at least two months for transmission developers to submit proposals to finance, own, and construct the regional transmission facilities identified in the comprehensive transmission plan. For transmission facilities with capital costs of \$50 million or less that were approved by CAISO management before Governing Board approval of the comprehensive transmission plan, CAISO's tariff provides that the two month period will be initiated following management approval.<sup>301</sup>

d. **Evaluation of Transmission Projects for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

169. Order No. 1000 requires each public utility transmission provider to amend its tariff to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for purposes of cost allocation.<sup>302</sup> Public utility transmission providers should both explain

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<sup>299</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 325-326.

<sup>300</sup> *Id.* P 325.

<sup>301</sup> CAISO, eTariff, § 24.5.1 (Competitive Solicitation Submissions) (2.0.0).

<sup>302</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

and justify the nondiscriminatory evaluation process proposed in their compliance filings.<sup>303</sup>

170. The evaluation process must ensure transparency and provide the opportunity for stakeholder coordination.<sup>304</sup> The public utility transmission providers in a transmission planning region must use the same process to evaluate a new transmission facility proposed by a nonincumbent transmission developer as it does for a transmission facility proposed by an incumbent transmission developer.<sup>305</sup> When cost estimates are part of the selection criteria, the regional transmission planning process must scrutinize costs in the same manner, regardless of whether the transmission project is developed by an incumbent or nonincumbent transmission developer.<sup>306</sup> The evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.<sup>307</sup>

**i. CAISO's Filing**

171. With respect to its phase 3 competitive solicitation process, CAISO states that section 24.5.2.2 provides that, if there is only one proposal for construction of a transmission facility, and it satisfies the qualification criteria in section 24.5.2.1, then the transmission developer submitting the proposal may proceed to obtain the necessary permits from the appropriate siting authority or authorities and then build the transmission project. If multiple qualified project developers submit proposals to finance, own, and construct a regional transmission facility that has been included in the approved comprehensive transmission plan, CAISO explains, section 24.5.2.3 sets forth the method for selecting a transmission developer.<sup>308</sup>

172. CAISO states that if the competing transmission developers cannot agree on a single joint transmission project, the method for selecting the approved project developer

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<sup>303</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 268.

<sup>304</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>305</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

<sup>306</sup> *Id.* P 455.

<sup>307</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

<sup>308</sup> CAISO Transmittal Letter at 45-46.

depends upon the proposed approach for obtaining siting approval for the proposed transmission projects. To the extent that all competing transmission developers designate the same state (or federal) agency as the agency from which they will seek siting approval, then CAISO will: (1) determine whether such transmission developers are qualified; and (2) allow those transmission developers to seek siting approval from the agency they have designated. CAISO states that if multiple competing transmission developers designate different agencies from which they will seek siting approval, CAISO will select a transmission developer by applying the transmission developer selection criteria set forth in tariff section 24.5.2.4<sup>309</sup> and the analysis set forth in tariff section 24.5.2.3(c).<sup>310</sup>

173. CAISO states that, as described in proposed section 24.5.2.3(c), the purpose of the comparative analysis will be to determine “the qualified Project Sponsor that is best able to design, finance, license, construct, maintain, and operated the regional transmission elements in a cost-effective, prudent, reliable and capable manner over the lifetime of the transmission element(s), while maximizing overall benefits and minimizing the risk of untimely project completion, project abandonment, and future reliability, operational and other relevant problems. . . .”<sup>311</sup>

174. CAISO states that the Commission has previously concluded that CAISO’s competitive solicitation framework, the criteria CAISO considers in selecting approved transmission developer, and the comparative analysis CAISO undertakes are just and reasonable and not unduly discriminatory or preferential and allow all interested

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<sup>309</sup> The transmission developer selection criteria include: (a) the current and expected capabilities of the transmission project developer and its team to finance, license, and construct the facility and operate and maintain it for the life of the project; (b) the transmission developer’s existing rights-of-way and substations; (c) the experience of the transmission developer in acquiring rights-of-way; (d) the proposed schedule and demonstrated ability to meet that schedule; (e) the financial resources of the transmission developer and its team; (f) the technical and engineering qualifications of the transmission developer and its team; (g) the transmission developer’s previous record of construction and maintenance of transmission facilities; (h) demonstrated capability to adhere to standardized construction, maintenance and operating practices; (i) demonstrated ability to assume liability for major losses resulting from failure of facilities; (j) demonstrated cost containment capability and specific, binding cost control measures the transmission developer agrees to accept; and (k) any other strengths and advantages the transmission developer and its team may have.

<sup>310</sup> CAISO Transmittal Letter at 46-47.

<sup>311</sup> *Id.* at 53.

transmission developers to submit proposals to compete to develop needed transmission facilities approved in CAISO's transmission plan.<sup>312</sup> In light of the Commission's previous ruling, CAISO believes that its open and competitive solicitation framework complies with Order No. 1000's requirement that regional transmission providers have a transparent and not unduly discriminatory evaluation process. However, CAISO states that it is using this compliance filing to enhance its existing transmission project developer selection framework to provide greater clarity and transparency to the process.<sup>313</sup>

175. Specifically, CAISO states it is adding language to section 24.5.2.3(c) to synthesize CAISO's application of the various selection and qualification criteria into certain principles that will drive CAISO's selection of a transmission developer, which reflects both the purpose of the comparative analysis process and sets forth the standard that CAISO will apply. CAISO also states that to provide even more transparency in the process and offer guidance to transmission developers, CAISO is proposing in new section 24.5.2.3(d) that within thirty days after the revised draft comprehensive transmission plan is posted, CAISO will post those factors and considerations, in addition to any binding cost containment commitments, that CAISO believes are key for purposes of selecting a transmission developer.<sup>314</sup> CAISO maintains that this provision recognizes and attempts to address the fact that the range of projects that will be subject to competitive solicitation will be extremely varied and that the main drivers for selecting a transmission developer will be different for each individual transmission project.<sup>315</sup>

176. In addition, CAISO proposes to move the obligation to publish a report detailing CAISO's transmission selection decisions from the Business Practice Manual into the tariff, which will set forth the results of CAISO's comparative analysis, the reasons for CAISO's decisions, and their consistency with the principles described pursuant to section 24.5.2.3(c), as discussed above. CAISO states that it will post this report within 10 business days after CAISO selects a transmission developer. CAISO also proposes modifications to the selection criteria in tariff section 24.4.2.4 to add clarity and enhance the selection process, including adding language to provide that CAISO will consider any specific efficiencies or benefits demonstrated in a transmission developer's proposal,

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<sup>312</sup> *Id.* at 51 (referencing RTPP Order, 133 FERC ¶ 61,224 at PP 219-220).

<sup>313</sup> CAISO Transmittal Letter at 52.

<sup>314</sup> *Id.* at 53.

<sup>315</sup> *Id.* at 52-53.

such as operational efficiencies, operational flexibility, economies of scale, or environmental benefits.<sup>316</sup>

177. CAISO states that it is retaining the requirement in section 24.5.2.3(c) that CAISO retain an expert consultant to assist CAISO in the selection of transmission developers, which CAISO maintains will “benefit CAISO and circumvent allegations of discriminatory selections.”<sup>317</sup>

178. CAISO states that some stakeholders suggested that to be consistent with Order No. 1000, cost should be the predominant transmission developer selection criteria in phase 3 (competitive solicitation) of the transmission planning process and that one stakeholder had argued that Order Nos. 1000 and 1000-A require that cost be the overriding consideration in transmission developer selection decisions.<sup>318</sup> CAISO notes that it uses planning level costs in phase 2 to determine the most efficient or cost-effective solutions for meeting identified needs.<sup>319</sup> CAISO states that its competitive solicitation process requires the transmission planner to evaluate the relative efficiencies and overall effectiveness of the various transmission developers being considered, in addition to cost.<sup>320</sup> CAISO states that there are also practical reasons for why basing its decisions primarily on cost would be inappropriate. According to CAISO, relying on cost as the main driver would, among other matters, inappropriately devalue or eliminate considerations pertaining to reliability, financial ability to build and maintain the transmission project, and the transmission developer’s capabilities to license, construct, operate and maintain the facility in a timely and proper manner.<sup>321</sup>

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<sup>316</sup> *Id.* at 53-54.

<sup>317</sup> *Id.* at 54.

<sup>318</sup> *Id.* at 58-59.

<sup>319</sup> Planning level costs reflect relevant current cost benchmarks, such as cost per mile of transmission line construction, sub-station equipment, or transformers. The planning level costs reflect current costs in California and enable CAISO to conduct a comparative cost comparison between materially different transmission and non-transmission solutions. CAISO states that planning level costs cannot usefully distinguish between competing proposals during phase 3 because such proposals would be essentially for the same facility.

<sup>320</sup> CAISO Transmittal Letter at 59-60.

<sup>321</sup> *Id.* at 60-61.

179. Finally, CAISO states that its transmission developer selection criteria enable transmission developers to demonstrate their cost containment capabilities and propose any binding measures to reduce or contain their overall costs. CAISO maintains that its new tariff language ensures that cost will be an important consideration in the transmission developer selection process for each regional transmission facility subject to competitive solicitation.<sup>322</sup> CAISO states that its tariff revisions concerning the standard for its comparative analysis of competing transmission developers will recognize cost as a factor.<sup>323</sup> CAISO asserts that Order No. 1000 does not require more than this.<sup>324</sup>

**ii. Protests/Comments**

**(a) Competitive Solicitation Framework**

180. In response to CAISO's contention that the Commission has previously found CAISO's competitive solicitation process and selection criteria to be just and reasonable and not unduly discriminatory or preferential, LS Power argues that at that time, the Commission was not prejudging whether they complied with Order No. 1000. LS Power asks that the Commission review anew CAISO's evaluation criteria and require a selection process that explains, in advance, how the evaluation process will lead to selection of the more efficient or cost-effective solution, submitted by either an incumbent transmission owner or a new entrant.<sup>325</sup>

**(b) Transmission Developer Selection**

181. LS Power objects to CAISO's proposal to defer transmission developer selection to the authorized government body when two or more transmission developers identify that government body for project siting approval. LS Power argues that this proposal inappropriately defers transmission developer selection decisions to agencies not subject to Commission jurisdiction, such that non-discriminatory evaluation of nonincumbent transmission developers cannot be ensured. LS Power asserts that CAISO should select a qualified transmission developer in all instances.<sup>326</sup>

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<sup>322</sup> See CAISO, eTariff, § 24.5.2.3(d) (Multiple Project Proposals) (2.0.0).

<sup>323</sup> See CAISO, e Tariff, § 24.5.2.3(c) (Multiple Project Proposals) (2.0.0).

<sup>324</sup> CAISO Transmittal Letter at 61-62.

<sup>325</sup> LS Power Protest at 26-29.

<sup>326</sup> *Id.* at 44-45.

(c) **Transmission Developer Selection Factors – Specificity**

182. LS Power argues that CAISO's evaluation criteria for the competitive solicitation are inappropriately vague and do not comply with Order No. 1000. LS Power argues that the RTPP process has not resulted in the selection of new entrant projects nor has it significantly enhanced the opportunity for independent developers to participate.<sup>327</sup> LS Power asserts that CAISO's selection criteria do not set forth how CAISO will evaluate and select among competing solutions, but rather list factors upon which CAISO could base its decision, replacing a right of first refusal with a selection process that leads to discriminatory results.<sup>328</sup>

183. LS Power further argues that CAISO's comparative analysis proposal does not provide transparency as to how CAISO will judge the relative ability of competing transmission developers.<sup>329</sup> According to LS Power, the Commission should reject CAISO's proposal to provide after the fact explanations of how it chose a transmission developer and require CAISO to explain upfront how precisely it will make nondiscriminatory selections. As an example, LS Power points to the competitive process proposed by Southwest Power Pool, which identifies specific criteria used in its evaluation process and the relative importance of each.<sup>330</sup>

184. With respect to CAISO's proposed selection process regarding situations where there are multiple competing transmission developers, Western Independent Transmission Group and Startrans protest that CAISO's proposed list of transmission

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<sup>327</sup> *Id.* at 27.

<sup>328</sup> *Id.* at 28.

<sup>329</sup> *Id.* at 31-32.

<sup>330</sup> *Id.* at 33.

developer selection factors constitutes a set of broad guidelines that do not disclose CAISO's likely process for selecting winning and losing bids.<sup>331</sup>

(d) **Transmission Developer Selection Factors–  
Cost Containment**

185. To meet the Commission's goal of ensuring that the most efficient or cost-effective transmission project is selected, LS Power argues, CAISO's transmission developer selection criteria must be heavily weighted toward the overall relative cost and relative effectiveness of competing proposals.<sup>332</sup> LS Power states that the overall cost of a transmission project is what matters to ratepayers, and that while cost is not the only factor, it should be the primary factor. LS Power cautions that CAISO's proposal could exclude more efficient and cost effective projects by trivializing overall cost differences in favor of criteria that CAISO can manipulate to support its decision,<sup>333</sup> and contends that this approach will provide opportunities to exclude nonincumbent transmission developers.<sup>334</sup> Thus, LS Power asks that the Commission reject CAISO's proposal and require that overall transmission project cost be the primary factor that CAISO considers.<sup>335</sup>

186. LS Power contends that if CAISO is concerned that a cost-based decision would risk selection of a transmission developer that would not be able to complete the transmission project in time or maintain and operate it properly, CAISO must specify the minimum qualifications and requirements for transmission developers. According to LS Power, CAISO has not demonstrated that when there are timing and reliability concerns, "it needs a process that largely makes cost an after-thought and gives CAISO unfettered discretion,"<sup>336</sup> LS Power suggests that CAISO should address any such concerns by revising its tariff to address such emergency situations.<sup>337</sup>

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<sup>331</sup> Western Independent Transmission Group Comments at 5, Startrans Comments at 5.

<sup>332</sup> LS Power Protest at 29, 35.

<sup>333</sup> *Id.* LS Power Protest at 36.

<sup>334</sup> *Id.* at 29-30.

<sup>335</sup> *Id.* at 34.

<sup>336</sup> *Id.* at 39.

<sup>337</sup> *Id.* at 40.

187. Western Independent Transmission Group, Startrans, and Pattern Transmission also contend that CAISO's transmission developer selection criteria fail to weight actual cost as a factor in selecting a transmission developer, as required by Order No. 1000. They state that CAISO's proposed language carefully avoids judging bids based on actual, stated costs, does not require CAISO to select among potential transmission developers on the basis of cost, and does not commit a siting authority to actually impose cost containment measures for a particular transmission project. The commenters assert that CAISO's reluctance to explicitly identify cost as the most significant factor in selecting a bid undermines the Commission's clear goal of using the Order No. 1000 transmission planning process to identify and select the most cost-effective proposals for meeting identified transmission needs.<sup>338</sup> They request that the Commission require CAISO to include specific language in its tariff indicating that it will consider cost as the primary factor in selecting a transmission developer.<sup>339</sup>

188. California Public Utilities Commission also argues that cost should be given a substantial role in the transmission developer selection process.<sup>340</sup> While California Public Utilities Commission does not advocate for specific weights to be given to the transmission developer selection criteria, it supports the addition of tariff language stating that cost containment measures shall be given substantial weight.

189. In addition, LS Power objects to CAISO's proposal to consider the authority of the selected siting authority to impose binding cost caps or cost containment measures on a transmission developer and its history of imposing such measures.<sup>341</sup> LS Power asserts that because the transmission rate will be recovered through Commission jurisdictional rates, any cost containment provisions should likewise be subject solely to Commission oversight. Pattern Transmission argues that the possibility that a siting authority might impose a binding cost cap on a transmission developer at some future time is too speculative to be accorded any weight in the transmission developer selection process.<sup>342</sup> Western Independent Transmission Group, Startrans, and Pattern Transmission request that the Commission require CAISO to include specific language in its tariff indicating

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<sup>338</sup> Western Independent Transmission Group Comments at 6-7, Startrans Comments at 6-7, Pattern Transmission Comments at 6.

<sup>339</sup> Western Independent Transmission Group Comments at 7-8, Startrans Comments at 7-8, Pattern Transmission Comments at 10.

<sup>340</sup> California Public Utilities Commission Comments at 4.

<sup>341</sup> LS Power Protest at 40.

<sup>342</sup> Pattern Transmission Comments at 10.

that cost containment measures by a separate siting authority will be relevant to CAISO's analysis only if they have already been adopted.<sup>343</sup>

(e) **Transmission Developer Selection Factors – Rights-of-Way**

190. LS Power argues that consideration of existing rights-of-way should not be a separate selection criterion. Rather, LS Power asserts that, to the extent that a transmission developer's existing rights-of-way or substations provide ratepayer benefits, those benefits should be reflected in the transmission developer's bid. Furthermore, LS Power maintains that CAISO has no way of knowing the nature of the rights of a party to an existing right-of-way or of valuing those rights.<sup>344</sup> If the Commission allows CAISO to retain existing rights-of-way as a selection criterion, LS Power states that ownership of existing rights-of-way should only be considered if the transmission developer: (1) owns 100 percent of the right-of-way needed for the proposed project; (2) includes the cost of acquiring such existing rights-of-way in its cost estimate; and (3) includes any incremental costs of utilizing existing rights-of-way if the right-of-way needed for a transmission project is on or adjacent to the existing right-of-way. Further, LS Power contends that rights-of-way cannot be a selection criterion if a federal environmental impact statement is required for any portion of the route as the feasibility of a proposed route cannot be prejudged for the purpose of the National Environmental Policy Act absent an environmental review.<sup>345</sup>

191. Likewise, Western Independent Transmission Group and Startrans state that requiring a prospective transmission developer to hold existing real estate and property interests for its proposed transmission facilities would require potential transmission developers to acquire significant land and other real estate interests with no guarantee of being selected. According to Western Independent Transmission Group and Startrans, this requirement favors incumbent transmission developers and poses an unreasonable business risk for nonincumbent transmission developers, who are unlikely to hold existing land or rights-of-way within the footprint of the proposed project.<sup>346</sup> Thus, they contend that CAISO should consider whether a prospective transmission developer has

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<sup>343</sup> Western Independent Transmission Group Comments at 7-8, Startrans Comments at 7-8, Pattern Transmission Comments at 10.

<sup>344</sup> LS Power Protest at 41-42.

<sup>345</sup> *Id.* at 40.

<sup>346</sup> Western Independent Transmission Group Comments at 8; Startrans Comments at 8.

demonstrated a plan to acquire the needed permits and rights-of-way, not whether the transmission developer currently holds them.<sup>347</sup>

(f) **Transmission Developer Selection Factors – Posting of Key Selection Factors**

192. With respect to CAISO's proposal to post, within thirty days after the revised draft comprehensive transmission plan is posted, factors and considerations, in addition to any binding cost containment commitments, that CAISO believes are key for purposes of selecting a transmission developer, Western Independent Transmission Group and Startrans argue that CAISO must establish the final transmission developer selection criteria in the tariff itself to comply with Order No. 1000. Western Independent Transmission Group and Startrans state that the requirement to provide this information to interested transmission developers up-front, in the tariff, ensures transparency in the transmission developer selection process.<sup>348</sup>

193. Western Independent Transmission Group and Startrans argue that CAISO's proposal to release more specific selection criteria within thirty days after initiating the competitive solicitation process for a transmission project through a supplemental notice is impracticable. According to Western Independent Transmission Group and Startrans, bids submitted to CAISO's competitive bidding process will take a significant amount of time, money, and manpower to develop, particularly considering that the process is intended to apply to large-scale, regional transmission projects, and interested transmission developers need a significant amount of time to review selection criteria in order to prepare meaningful bids.<sup>349</sup> Western Independent Transmission Group and Startrans therefore request that the Commission require CAISO to develop more specific transmission developer selection criteria and codify them in CAISO's tariff.<sup>350</sup>

194. Similarly, LS Power requests that if CAISO is allowed to retain its selection criteria without providing more specifics, the Commission should require CAISO to

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<sup>347</sup> Western Independent Transmission Group Comments at 8; Startrans Comments at 8.

<sup>348</sup> Western Independent Transmission Group Comments at 6, Startrans Comments at 6.

<sup>349</sup> Western Independent Transmission Group Comments at 5-6, Startrans Comments at 5-6.

<sup>350</sup> Western Independent Transmission Group Comments at 6, Startrans Comments at 6.

identify key selection factors for different project types as a general rule rather than in a thirty-day notice as CAISO has proposed. LS Power argues that any exceptions to the general rule can be dealt with on a case-by-case basis.<sup>351</sup>

195. Pattern Transmission argues that in posting key selection factors, CAISO treats cost containment measures differently than other key criteria and will not provide information about the relative importance of the cost containment measures in the overall transmission developer selection process. This, Pattern Transmission contends, will inevitably lead to confusion and the submission of project proposals that are not focused on the key selection criteria.<sup>352</sup> On the other hand, California Public Utilities Commission requests that the Commission require CAISO to publish selection criteria weights for specific transmission projects well in advance of proposal submittal deadlines so that potential transmission developers have a meaningful opportunity to formulate their proposals accordingly.<sup>353</sup>

**(g) Transmission Developer Selection Factors-  
Post-Selection Reporting**

196. California Public Utilities Commission requests that local regulatory authorities be given opportunity to review and comment on the transmission developer selection report before the selection is deemed complete. The California Public Utilities Commission argues that when CAISO posts the report detailing the analysis it undertook and its reasons for selecting a transmission developer, CAISO should also provide greater disclosure and clarity regarding the role that costs and cost containment played in the selection and the cost implication of selecting one transmission developer over another.<sup>354</sup>

**iii. Answers**

**(a) Competitive Solicitation Framework**

197. CAISO asserts that its transmission planning process has been shown to comply with Order No. 890. In addition, CAISO argues that the Commission approved RTPP as a just and reasonable set of planning reforms and Order No. 1000 cites the competitive

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<sup>351</sup> LS Power Protest at 34.

<sup>352</sup> Pattern Transmission Comments at 8.

<sup>353</sup> California Public Utilities Commission Comments at 5.

<sup>354</sup> *Id.*

solicitation procedures in RTPP as an example of a process that provides greater opportunity for independent transmission developers.<sup>355</sup>

(b) **Transmission Developer Selection**

198. CAISO disagrees with LS Power that CAISO should select a transmission developer in all instances. CAISO states that LS Power cites no provision of Order No. 1000 that would change the Commission's earlier conclusion that this process was just and reasonable and not unduly discriminatory or preferential. CAISO also states that LS Power offers no explanation as to why deferral to the siting authority would interfere with the Commission's jurisdiction. CAISO argues that regardless of CAISO's choice, the siting agency ultimately has the final say, and that when transmission developers intend to seek approval from the same siting authority, there is no reason to interpose an additional step of CAISO selection.<sup>356</sup>

(c) **Transmission Developer Selection Factors – Specificity**

199. CAISO argues that its criteria for choosing among competing transmission developers have already been approved by the Commission, and that Order No. 1000's focus on the selection of more efficient or cost-effective solutions does not render these criteria inadequate or inaccurate.<sup>357</sup> CAISO states that it has gone beyond Order No. 1000's compliance requirements by proposing to post, thirty days in advance, the most relevant criteria CAISO will use to analyze competing proposals. CAISO avers that LS Power's argument that no new entrants have been selected in the two years that RTPP's project sponsor selection process has been in effect is misleading, because in fact no transmission solutions that would be eligible for competitive solicitation were identified for inclusion in the transmission plan in the past two planning cycles.<sup>358</sup>

200. Regarding LS Power's argument that CAISO's criteria are vague, CAISO responds that LS Power ignores the distinction between the selection of transmission solutions and the selection of transmission developers. CAISO asserts that its methodology for selection of solutions is comparable or more robust than required by Order No. 1000. CAISO argues that the Commission has already approved the

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<sup>355</sup> CAISO Answer at 3-4.

<sup>356</sup> *Id.* at 82.

<sup>357</sup> *Id.* at 54.

<sup>358</sup> *Id.* at 57.

evaluation and selection methodologies for CAISO's reliability, economic and public policy solutions and these methodologies meet Order No. 1000 requirement that the solutions be evaluated based on a comparison of their relative economic and effectiveness of performance.<sup>359</sup>

201. Regarding Pattern Transmission's and LS Power's arguments that CAISO adopt weights for its transmission developer selection criteria, CAISO argues that the Commission previously concluded in the RTPP Order that metrics or weights need not be specified in the tariff and that Order No. 1000 does not require the use of a mathematical formula or pre-assigned weights for selecting transmission developers. CAISO further asserts that the Commission should not impose such a requirement on CAISO because of LS Power's baseless allegation of CAISO bias against nonincumbent transmission developers.<sup>360</sup> In addition, CAISO also notes that it will retain an expert consultant to assist in selection of transmission developers and that the Commission found this to alleviate concerns regarding undue discrimination.<sup>361</sup>

**(d) Transmission Developer Selection Factors – Cost Containment**

202. In response to LS Power's, Western Independent Transmission Group's and Pattern Transmission's position that cost should be the primary factor in selecting a transmission developer, CAISO argues that in prior orders the Commission has recognized that there are important considerations other than cost, including the transmission developer's ability to finance, license and timely complete a transmission project and to operate and maintain the transmission facility once it is in service. CAISO further argues that in Order No. 1000-A, the Commission rejected the notion of selecting a transmission developer solely based on the transmission developer's willingness to guarantee the net present value of its annual revenue requirements.<sup>362</sup>

203. CAISO argues that the criteria for selecting a transmission developer in phase 3 of its regional transmission planning process are not identical to the criteria used to determine the most cost-effective solution in phase 2.<sup>363</sup> CAISO claims that giving primacy to cost in phase 3 would disregard other critical factors and would not

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<sup>359</sup> *Id.* at 52.

<sup>360</sup> *Id.* at 59.

<sup>361</sup> *Id.* at 60.

<sup>362</sup> *Id.* at 62 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at PP 450-455).

<sup>363</sup> CAISO Answer at 62.

necessarily produce the most cost-effective project.<sup>364</sup> Similarly, CAISO opposes California Public Utility Commission's request that the tariff specify that cost and cost containment shall be given substantial weight in selecting among transmission developers, as this would imply that cost has greater weight than other selection criteria.<sup>365</sup>

204. In response to California Public Utilities Commission's argument that specific weights for different transmission developer selection criteria should be specified in solicitations for specific transmission project proposals, CAISO answers that providing greater specificity than the identification of key factors would result in a formulary approach, eliminating CAISO's ability to assess the degree to which a transmission developer meets the various criteria and failing to account for the various degrees of risk associated with each transmission developer. CAISO adds that California Public Utilities Commission's approach would delay the building of needed transmission facilities, as CAISO would be required to develop separate weights for each and every selection criterion for every single transmission solution that is subject to competitive solicitation. According to CAISO, there is no basis for the weighting approach, as the Commission declined to establish any specific or minimum selection criteria for selecting projects for inclusion in a regional transmission plan.<sup>366</sup>

205. In response to LS Power's objection to CAISO's proposal to consider in its transmission developer selection process a siting authority's ability to impose binding cost containments measures and history of imposing such measures, CAISO claims that it would be beneficial for CAISO to take into account the likelihood that the chosen siting authority will impose cost containment measures and how effective those measures will be, especially if no transmission developer proposes a cost cap.<sup>367</sup> CAISO argues that the siting authority's ability to impose a cost cap becomes irrelevant only if a transmission developer agrees to a cost cap that the Commission or another regulatory authority can enforce.<sup>368</sup>

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<sup>364</sup> *Id.* at 63.

<sup>365</sup> *Id.* at 64-65.

<sup>366</sup> *Id.* at 77-78.

<sup>367</sup> *Id.* at 66.

<sup>368</sup> *Id.* at 65-66.

(e) **Transmission Developer Selection Factors – Rights-of-Way**

206. Responding to Western Independent Transmission Group's and Startrans' protest that transmission developers should not be required to obtain rights-of-way to qualify, CAISO and Imperial Irrigation District contend that the tariff contains no such requirement. They state that possession of existing rights-of-way is only one of several criteria that CAISO will consider in selecting a transmission developer. CAISO adds that the focus of this criterion is on the possession of existing rights-of-way that would support a needed solution, such that no additional right-of-way would need to be procured and permitting requirements could be reduced.<sup>369</sup> Imperial Irrigation District states that siting issues can pose barriers to project development, and that holding existing rights-of-way can help a transmission developer to overcome siting barriers and develop a transmission project more quickly.<sup>370</sup>

207. In response to LS Power's protest that rights-of-way should not be relevant in selecting a transmission developer, CAISO states that the construction of a transmission project at existing substations would result in lower project costs and require fewer siting approvals, thereby reducing the risk of delay. CAISO adds that the Commission has acknowledged that the possession of rights-of-way is an advantage that incumbent transmission owners possess in a competitive transmission planning process.<sup>371</sup> Moreover, CAISO asserts that incumbent transmission owners are not likely to possess this advantage often with regard to transmission solutions open to competitive solicitation, which do not include upgrades or additions to existing transmission facilities.<sup>372</sup>

208. Responding to LS Power's concerns about CAISO's ability to value rights-of-way, CAISO contends that it uses planning cost estimates, which take into account the cost of rights-of-way and will employ an expert consultant, who will presumably have an expertise in such matters, to assist it in evaluating competing proposals.<sup>373</sup> Imperial Irrigation District also responds that a right-of-way is not of speculative value, but rather

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<sup>369</sup> *Id.* at 67; Imperial Irrigation District Answer at 4.

<sup>370</sup> Imperial Irrigation District Answer at 4.

<sup>371</sup> CAISO Answer at 68 (citing Order No. 1000-A, 139 FERC ¶ 61,132 at PP 87-88).

<sup>372</sup> CAISO Answer at 68-69.

<sup>373</sup> *Id.* at 70.

is highly valuable with respect to both the cost of a transmission project and the speed of its completion. Imperial Irrigation District further asserts that the tariff changes intervenors seek regarding CAISO's consideration of rights-of-way is not required by Order No. 1000 and is beyond the scope of CAISO's compliance filing.<sup>374</sup>

209. In response to LS Power's suggestion that transmission project developers simply include the value of rights-of-way in their costs estimates, CAISO argues that it does not intend to rely on a transmission developer's cost estimate in the absence of a cost cap. In addition, CAISO maintains that while possession of rights-of-way could allow a transmission developer to reduce costs and commit to a binding cost cap, it is also relevant to the regulatory approvals, local opposition, and environmental considerations, which often are significant impediments to getting transmission built. CAISO adds that possession of rights-of-way will reduce the number of permit authorizations that are required, facilitate more timely receipt of authorizations, and mitigate adverse environmental impacts. CAISO states that elimination of this criterion would deny consideration of these benefits.<sup>375</sup>

210. CAISO further contends that LS Power does not provide any justification for considering rights-of-way only if the entity controls 100 percent of the necessary rights. CAISO claims that although possession of only a portion of the needed rights-of-way does not provide benefits equal to possession of all needed rights-of-way, it still reduces project costs (albeit to a lesser degree) and may reduce permitting requirements for that portion of the transmission project.<sup>376</sup> Moreover, in response to LS Power's proposal that CAISO includes the cost of acquiring existing rights-of-way in its cost estimates and include any incremental costs of utilizing existing rights-of-way if the right-of-way needed for a transmission project is on or adjacent to the existing right-of-way, CAISO states that its competitive solicitation process does not consider the ability to acquire or expand rights-of-way. CAISO states that it will consider the costs of rights-of-way as part of a proposed transmission project's planning cost estimates and will not consider a transmission developer's cost estimate, except to the extent it includes a cost cap. Nevertheless, CAISO states, it could modify its tariff in a subsequent compliance filing to also require that a transmission developer in possession of relevant existing rights-of-way indicate whether it would incur any incremental costs in connection with placing new and additional facilities on such existing right-of-way.<sup>377</sup>

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<sup>374</sup> Imperial Irrigation District Answer at 6.

<sup>375</sup> CAISO Answer at 70.

<sup>376</sup> *Id.* at 71.

<sup>377</sup> *Id.* at 72.

211. In response to LS Power's argument that existing rights-of-way should not be a selection factor where a federal environmental impact statement is required, CAISO states that its selection of a transmission developer does not prejudge the results of a National Environmental Policy Act review. CAISO further argues that the extent to which a transmission developer's ability to use existing rights-of-way may be affected by subsequent National Environmental Policy Act review would be a factor that CAISO would consider in determining the weight given to the possession of rights-of-way in CAISO's evaluation of proposals.<sup>378</sup>

(f) **Transmission Developer Selection Factors – Posting of Key Selection Factors**

212. CAISO responds to Western Independent Transmission Group's assertion that thirty days is an impracticable notice window for transmission developers to formulate proposals in response to CAISO's posting of key selection factors by stating that it is ready to revise its tariff in a subsequent compliance filing to clarify that it will post key selection factors within thirty days after posting of the draft comprehensive transmission plan sometime in January, not within thirty days after the publication of revised draft transmission plan in February. CAISO states that transmission developers will then have at least three months after the posting of the key selection criteria in February before the deadline for submitting proposals.<sup>379</sup>

213. In response to Western Independent Transmission Group's and Startrans' argument that CAISO should not be allowed to simply set forth in its tariff broad guidelines about the criteria that CAISO will use to evaluate proposals in phase 3 of its regional transmission planning process, CAISO answers that it will not be providing additional specifics in its later notice, but merely identifying those existing tariff criteria that will be especially key for purposes of selecting a transmission developer for a specific project. CAISO adds that the proposed section simply provides sufficient flexibility to highlight key considerations, recognizing that pre-assigned weights in the tariff for each criterion and a generic mathematical formula do not capture the fact that the important considerations will vary from project-to-project, depending, among other things, on the scope, nature, timing, and complexity of each individual regional transmission facility.<sup>380</sup>

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<sup>378</sup> *Id.* at 73.

<sup>379</sup> *Id.* at 74.

<sup>380</sup> *Id.* at 75-76.

214. Additionally, regarding LS Power's protest that CAISO should develop key selection factors for different project types as a general rule, and exceptions could be dealt with on a case-by-case basis, CAISO answers that developing key selection factors for different project types is not more practical than doing it for all project types. CAISO comments that LS Power's suggestion would eliminate its ability to assess the degree to which a transmission developer meets the various criteria and that if it were to make exceptions on a case-by-case basis, potential transmission developers would never know when there were exceptions until the same time as CAISO proposes to provide the key factors for individual transmission projects. CAISO adds that the exceptions would inevitably swallow up the rule, as key factors for evaluation depend upon the particular circumstances and needs of each individual transmission project and will vary on a project-by-project basis.<sup>381</sup>

215. In response to Pattern Transmission's claim that CAISO treats cost containment measures differently than other key criteria and will not provide information about their relative weighting, CAISO answers that it separately referred to cost containment commitments in its tariff to make clear that cost will be identified as a key factor in every solicitation, which is not the case with all of the other factors and considerations.<sup>382</sup>

(g) **Transmission Developer Selection Factors-  
Post-Selection Reporting**

216. Responding to California Public Utilities Commission's protest that the tariff provision requiring CAISO to publish a report detailing its transmission developer selection decisions should be revised to provide greater disclosure and clarity regarding the role that costs and cost containment played and the cost implications of selecting one transmission developer rather than another, CAISO contends that there is no basis to single out the cost containment considerations in the report because transmission developer selection decisions must be based on a comparative analysis of all the selection factors. CAISO adds that such a requirement is inconsistent with its tariff provisions, which do not establish a rule that cost considerations will always have greater weight than other factors.<sup>383</sup>

217. CAISO contends that California Public Utilities Commission's proposal that local regulatory authorities should be given opportunity to review and comment on the transmission developer selection report and to receive reasoned response to those

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<sup>381</sup> *Id.* at 79.

<sup>382</sup> *Id.* at 76.

<sup>383</sup> *Id.* at 79-80.

comments before the selection is deemed complete would merely delay the process and potentially could introduce discriminatory factors. CAISO states that a siting authority may discriminate in favor of transmission developers that will seek siting authorizations from that agency or will otherwise be subject to its jurisdiction. CAISO adds that regulatory authorities that are dissatisfied with its decision are free to challenge it through dispute resolution procedures or through a complaint with the Commission.<sup>384</sup>

#### **iv. Commission Determination**

218. We find that CAISO's competitive solicitation framework for evaluation of transmission developer proposals to finance, own, and construct transmission solutions selected in CAISO's comprehensive transmission plan partially complies with Order No. 1000. However, we find that certain aspects of CAISO's competitive solicitation process do not comply with the requirements of Order No. 1000 and thus require CAISO to file a further compliance filing, as discussed below.

##### **(a) Competitive Solicitation Framework**

219. As described above, in phases 1 and 2 of its transmission planning process, CAISO, in collaboration with stakeholders, uses planning level costs to determine the more efficient or cost-effective transmission solutions for regional needs and selects those transmission solutions in its comprehensive transmission plan. In phase 3 (competitive solicitation process), CAISO evaluates proposals from transmission developers to finance, own, and construct the regional transmission facilities selected in CAISO's comprehensive transmission plan.

220. CAISO proposes to retain its competitive solicitation framework with only a few modifications. LS Power argues that we must revisit the merits of that process here in light of the new requirements adopted in Order No. 1000. We agree.

221. While the Commission previously approved CAISO's competitive solicitation process for evaluating transmission developers' proposals to finance, own, and construct a regional transmission project in its comprehensive transmission plan in the RTPP Order,<sup>385</sup> we agree with LS Power that that we must revisit the merits of that process here in light of the new requirements adopted in Order No. 1000. However, we find that CAISO's competitive solicitation process is transparent and not unduly discriminatory and, as required by Order No. 1000, uses the same process to evaluate proposals by nonincumbent transmission developers as it does for proposals by incumbent

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<sup>384</sup> *Id.* at 80.

<sup>385</sup> RTPP Order, 133 FERC ¶ 61,224 at P 220.

transmission developers. CAISO's relevant tariff provisions do not provide an advantage or preference for incumbent transmission developers.<sup>386</sup> In addition, as discussed further below, CAISO's evaluation process culminates in a determination and posting of a report that allows stakeholders to understand why a particular transmission developer was selected or not selected. Therefore, we find that with the exceptions discussed below, CAISO's framework for competitive solicitation is just and reasonable and not unduly discriminatory or preferential, and is consistent with the requirements of Order No. 1000.

**(b) Transmission Developer Selection**

222. CAISO's tariff provides for three scenarios for the selection of a transmission developer to finance, own, and construct a regional transmission project: If there is only one qualified transmission developer proposing to build a regional transmission project, CAISO selects that transmission developer and the transmission developer must initiate the process of seeking siting approval within 120 days of CAISO selection. If there are two or more qualified transmission developers and they have designated the same siting authority, they must initiate the process of seeking siting approval and CAISO will accept the transmission developer determination by the siting authority to which competing transmission developers apply. If two or more qualified transmission developers designate different siting authorities for permitting a regional transmission project, CAISO will select among the competing transmission developers based on a comparative analysis of the degree to which they meet the transmission developer selection factors.<sup>387</sup>

223. We find compliant with Order No. 1000 CAISO's proposal that if there is only one qualified transmission developer that proposes to build a regional transmission project selected in CAISO's transmission plan, the transmission developer may proceed to obtain the necessary permits from the appropriate siting authority and build the transmission project. Both incumbent transmission developers and nonincumbent transmission developers have an opportunity to submit proposals to finance, own, and construct a regional transmission project, and if only one qualified transmission developer does so, it is reasonable for CAISO to select that transmission developer. This process is both transparent and not unduly discriminatory, consistent with the requirements of Order No. 1000.

224. CAISO proposes that where two or more competing transmission developers designate the same siting authority from which they will seek siting approval, CAISO will allow those transmission developers to seek siting approval from the siting authority

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<sup>386</sup> See CAISO, eTariff, § 24.5 (Transmission Planning Process Phase 3) (2.0.0).

<sup>387</sup> CAISO will engage an expert consultant to assist with the selection of the approved transmission developer.

they have designated. LS Power argues that CAISO must select a transmission developer in all instances and may not defer that selection decision to a siting authority. We find that CAISO's proposal does not comply with Order No. 1000. Accordingly, we direct CAISO to file, within 120 days of the date of issuance of this order, a further compliance filing to eliminate provisions in its tariff that allows a siting authority to select the transmission developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation.

225. Order No. 1000 requires public utility transmission providers in a region to make the decision to choose which developer may allocate the cost of transmission projects selected in the regional transmission plan for purposes of cost allocation through the regional cost allocation method. For example, Order No. 1000 provides, “[w]hether or not public utility transmission providers within a region select a transmission project in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission project is an efficient or cost-effective solution to their needs.”<sup>388</sup> In addition, Order No. 1000-A states, “Order No. 1000 . . . requires public utility transmission providers in a region to adopt transparent and not unduly discriminatory criteria for selecting a new transmission project in a regional transmission plan for purposes of cost allocation.”<sup>389</sup>

226. Order No. 1000 also requires that a nonincumbent transmission developer of a transmission project selected in the regional transmission plan for purposes of cost allocation must have the same opportunity as an incumbent transmission developer to allocate the cost of such transmission facilities through the regional cost allocation method.<sup>390</sup> Moreover, Order No. 1000 discusses two ways the public utility transmission providers in a transmission planning region could accommodate transmission developers: (1) by allowing the sponsor of a transmission project selected in the regional transmission plan for purposes of cost allocation to use the regional cost allocation method associated with the transmission project; or (2) by using a nondiscriminatory competitive bidding process as the mechanism to ensure that all projects are eligible to be considered for selection in the regional transmission plan for purposes of cost allocation. Order No. 1000 does not foreclose other possibilities as well. Finally, if the public utility transmission providers in a transmission planning region adopt a sponsorship model, Order No. 1000 requires that the regional transmission planning process have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method

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<sup>388</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 331.

<sup>389</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 455.

<sup>390</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 335.

for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>391</sup>

227. Therefore, we find that CAISO must include a transmission developer selection process such as the evaluation process discussed above whereby CAISO will ultimately decide which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation. While state regulatory authorities can participate, the Commission has the responsibility to ensure that the rates, terms and conditions of service provided by public utility transmission providers are just and reasonable and not unduly discriminatory or preferential and that public utility transmission providers comply with our rules and regulations enacted to meet this responsibility. Thus, the Commission is responsible for ensuring that public utility transmission providers in a region adopt transparent and not unduly discriminatory criteria for selecting a new transmission project in a regional transmission plan for purposes of cost allocation. The role of state regulatory authorities must be to provide guidance and recommendations and must be defined in CAISO's tariff. For instance, a state entity or regional state committee can consult, collaborate, inform, and even recommend a transmission developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation, but the public utility transmission providers in a transmission planning region must make the selection decision with respect to the developer, not the state entity or regional state committee.<sup>392</sup>

228. During the competitive solicitation process, CAISO proposes that where multiple competing transmission developers designate different siting authorities from which they will seek siting approval, CAISO will select a transmission developer. We find this proposal to comply with the requirements of Order No. 1000 because as discussed above, CAISO proposes that the public utility transmission provider – CAISO – will determine which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation. Moreover, the competitive solicitation process described in CAISO's tariff by which CAISO will select among competing transmission developers is transparent and not unduly discriminatory, applies equally to proposals by nonincumbent transmission developers and by incumbent transmission developers, and culminates in a determination that allows stakeholders to understand why a particular transmission developer was selected or not selected. Therefore, we find that CAISO's proposal complies with Order No. 1000.

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<sup>391</sup> *Id.* P 336.

<sup>392</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215, at P 354 (2013).

(c) **Transmission Developer Selection Factors - Specificity**

229. CAISO proposes that if multiple competing transmission developers designate different siting authorities from which they will seek siting approval, CAISO will select a transmission developer by applying the transmission developer selection factors set forth in tariff section 24.5.2.4.<sup>393</sup> Western Independent Transmission Group, Startrans, and LS Power argue that CAISO's list of transmission developer selection factors is not sufficiently specific to allow for a transparent and nondiscriminatory transmission developer selection process. LS Power protests that CAISO should describe the relative importance of each selection factor in its tariff.

230. Contrary to these arguments, we find that the individual selection factors are not unduly discriminatory, and in general are sufficiently detailed to provide prospective transmission developers with an understanding of how their proposals will be evaluated. The Commission finds that CAISO's commitment to post the most relevant criteria it will use to analyze competing proposals is reasonable. We find that this proposed revision will help enhance the transparency of the evaluation and selection process. Furthermore, in general, CAISO's proposal is consistent with its Commission-approved evaluation and selection methodologies.<sup>394</sup> We find that CAISO has defined a reasonable framework for the selection process, which allows CAISO the necessary flexibility in conducting its analysis and applying the criteria, while not granting undue discretion. However, we agree with LS Power and Western Independent Transmission Group's concerns regarding how CAISO will determine that certain selection factors are "key" depending on the transmission facility at issue, and we require CAISO to provide more information on how

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<sup>393</sup> The transmission developer selection criteria include: (a) the current and expected capabilities of the transmission developer and its team to finance, license, and construct the facility and operate and maintain it for the life of the project; (b) the transmission developer's existing rights-of-way and substations; (c) the experience of the transmission developer in acquiring rights-of-way; (d) the proposed schedule and demonstrated ability to meet that schedule; (e) the financial resources of the transmission developer and its team; (f) the technical and engineering qualifications of the transmission developer and its team; (g) the transmission developer's previous record of construction and maintenance of transmission facilities; (h) demonstrated capability to adhere to standardized construction, maintenance and operating practices; (i) demonstrated ability to assume liability for major losses resulting from failure of facilities; (j) demonstrated cost containment capability, specific, binding cost control measures the transmission developer agrees to accept; and (k) any other strengths and advantages the transmission developer and its team may have.

<sup>394</sup> RTPP Order, 133 FERC ¶ 61,224 at PP 155-165, 196-199.

it will make such determinations. CAISO may consider several factors as part of the selection process, but, as required in Order No. 1000, CAISO must explain and justify that process as not unduly discriminatory. While the Commission in Order No. 1000 recognized that the process for evaluating whether to select a transmission facility in the regional transmission plan for purposes of cost allocation will likely vary from region to region,<sup>395</sup> such evaluation must consider “the relative efficiency and cost-effectiveness of [any proposed transmission] solution.”<sup>396</sup> We are concerned that CAISO’s proposal to post key selection factors does not go far enough in explaining how CAISO will measure the relative efficiency and cost-effectiveness of a proposed bid. Therefore, we require CAISO in the further compliance filing discussed below to explain how it will determine which are the “key” selection factors for each transmission facility selected in the transmission plan and how it will ensure the key selection factors for each transmission facility will result in a regional transmission plan with the more efficient or cost-effective transmission solutions.

**(d) Transmission Developer Selection Factors – Cost Containment**

231. Among the factors CAISO proposes to consider when selecting among competing transmission developers that plan to seek siting from different siting authorities is the transmission developers’ cost containment capability. In addition, CAISO proposes to consider the authority and history of the selected siting authorities to impose cost containment measures on transmission developers.

232. LS Power, Western Independent Transmission Group, Startrans, Pattern Transmission and California Public Utilities Commission raise various arguments that the overall cost of a transmission project, or commitment to cost containment measures, must be the primary factor in selecting a transmission developer. LS Power, Western Independent Transmission Group, Startrans, and Pattern Transmission oppose CAISO’s proposal to consider not only a transmission developer’s agreement to cost containment measures, but also the authority of the selected siting authority to impose binding cost caps or cost containment measures on the transmission developer and the siting authority’s history of doing so.

233. As noted above, the process for evaluating whether to select a transmission facility in the regional transmission plan for purposes of cost allocation must consider “the relative efficiency and cost-effectiveness of [any proposed transmission] solution.”<sup>397</sup>

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<sup>395</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 323.

<sup>396</sup> *Id.* at n.307.

<sup>397</sup> *Id.* n. 307.

We find that CAISO considers costs and cost-effectiveness in its regional transmission planning process when evaluating both proposed transmission facilities and proposals from prospective transmission developers to finance, own, and construct a regional transmission project selected in the regional transmission plan for purposes of cost allocation. First, we note that in phase 2 of its transmission planning process, CAISO is required to select transmission solutions that meet the identified reliability needs in a more efficient or cost-effective manner.<sup>398</sup> Similarly, for policy-driven elements, the tariff requires that CAISO identify policy-driven transmission upgrade or addition elements that efficiently and effectively meet state or federal policy requirements or directives.<sup>399</sup> In addition, in determining whether a policy-driven transmission element should be selected in the transmission plan, CAISO is required to consider the expected planning level cost of the element as compared to potential planning level cost of other alternative transmission elements. Moreover, when selecting among competing transmission developers, CAISO will consider each prospective transmission developer's demonstrated cost containment capability and any specific binding cost control measures that a prospective transmission developer agrees to accept. As CAISO explains in its answer, its tariff provides that binding cost containment commitments will be a key factor in evaluating every transmission developer's proposal.<sup>400</sup> Specifically, CAISO's tariff provides that in selecting a transmission developer, CAISO shall consider a transmission developer's demonstrated cost containment capability and specific, binding cost control measures that the transmission developer agrees to accept, including any binding agreement by the transmission developer and its team to accept a cost cap that would preclude project costs above the cap from being recovered through CAISO's transmission access charge.<sup>401</sup> Therefore, cost is not an afterthought in CAISO's regional transmission planning process, as LS Power implies.

234. In addition, as we have stated in the past, it is important that transmission developers have the ability to finance, license, and successfully construct transmission facilities in a timely manner so that the policy goals driving the need for such facilities

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<sup>398</sup> CAISO, eTariff, § 24.4.6.2 (Reliability Driven Projects). We note that while the language in tariff section 24.4.6.2, as proposed by CAISO, reads "in the most prudent and cost effective manner," in paragraph 54 of this order, we have directed CAISO to modify the tariff to make it consistent with the Order No. 1000 standard of "more efficient or cost-effective." *See* Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

<sup>399</sup> CAISO, eTariff, § 24.4.6.6 (Policy-Driven Elements).

<sup>400</sup> CAISO Answer at 76; *see also* CAISO, eTariff, § 24.5.2.3(d) (Multiple Project Proposals) (2.0.0).

<sup>401</sup> CAISO, eTariff, § 24.5.2.4(j) (Project Sponsor Selection Factors) (2.0.0).

can be met and to minimize the risk of abandoned projects.<sup>402</sup> CAISO's evaluation criteria thus appropriately consider a transmission developer's capability to construct, operate and maintain a particular transmission project when selecting among competing transmission developers. While cost and cost containment are important selection factors, the Commission acknowledged in Order No. 1000 that other factors may be considered as well.

235. However, we agree with LS Power, Western Independent Transmission Group, Startrans, and Pattern Transmission that giving weight to whether or not a siting authority will impose cost containment measures and the extent of such measures, based on its history, is an inappropriate transmission developer selection factor in some circumstances. In cases where one or more transmission developers agrees to binding cost containment measures, it would be inappropriate for CAISO to speculate on actions a siting authority for a competing transmission developer may take based on its history. However, in instances where no transmission developer competing to build a transmission project commits to a binding cost containment measure, we conclude that it is reasonable for CAISO to consider, among its other selection factors, the cost containment history of the siting authorities to which competing transmission developers plan to apply. Therefore, we direct CAISO, in the further compliance filing discussed below, to revise its selection factors to reflect that a siting authority's authority to impose cost containment measures and its history of doing so will be considered by CAISO only in instances where none of the competing transmission developers has accepted specific binding cost control measures.

(e) **Transmission Developer Selection Factors – Rights-of-Way**

236. CAISO proposes to include a transmission developer's existing rights-of-way and substations that would contribute to a transmission project among its transmission developer selection factors. LS Power, Western Independent Transmission Group, and Startrans take issue with consideration of rights-of-way as a standalone selection factor.

237. We disagree with protests that consideration of existing rights-of-way and substations should not be a separate selection criterion. We find persuasive CAISO's explanation that existing rights-of-way and substations could facilitate permitting and enable timely completion of a transmission project, as well as CAISO's assertion that incumbent transmission owners are not likely to possess existing rights-of-way or substations often with regard to transmission solutions open to competitive solicitation, which do not include upgrades or additions to existing transmission facilities. Moreover, we find that consideration of a transmission developer's possession of existing rights-of-

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<sup>402</sup> RTPP Order, 133 FERC ¶ 61,224 at P 220.

way and substations is not unduly discriminatory. Order No. 1000 stated that an incumbent transmission provider is free to highlight its strengths in bids to undertake transmission projects in transmission planning regions that use solicitation processes.<sup>403</sup> Because we find CAISO's proposal just and reasonable and not unduly discriminatory or preferential in this regard, we will not entertain the alternative limitations on consideration of existing rights-of-way that LS Power has proposed.

238. However, we note that CAISO has suggested that it could modify section 24.5.2.4(c)<sup>404</sup> to require that a transmission developer in possession of relevant existing rights-of-way indicate whether it would incur any incremental costs in connection with placing new and additional facilities on such existing right-of-way.<sup>405</sup> We conclude that such information is relevant to determining the extent to which possession of existing rights-of-way contribute towards reducing the costs of developing a transmission project. Accordingly, we direct CAISO to make this clarification in the further compliance filing.

239. We dismiss Western Independent Transmission Group's and Startrans' assertion that considering existing rights-of-way as an evaluation criterion amounts to requiring a transmission developer to hold existing real estate and property rights or would require the developer to acquire significant land and other real estate interest in advance of being selection by CAISO. CAISO has not proposed such a requirement. Western Transmission Group and Startrans also argue that CAISO should consider as a selection factor whether a potential transmission project developer has a plan for acquiring necessary permits or rights-of-way. While we agree that such information is useful in the transmission developer selection process, we conclude that this information is already addressed under CAISO's evaluation criterion that provides for consideration of the proposed schedule for developing and completing the regional transmission project.<sup>406</sup>

**(f) Transmission Developer Selection Factors - Posting of Key Selection Factors**

240. For each regional transmission project that is subject to competitive solicitation, CAISO proposes to post on its website those selection factors which CAISO believes are

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<sup>403</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 260.

<sup>404</sup> In its Answer CAISO referenced tariff section 25.4.2.4(c). It appears CAISO meant to reference 24.5.2.4(c).

<sup>405</sup> CAISO Answer at 72.

<sup>406</sup> CAISO, eTariff, § 24.5.2.4(d) (Project Sponsor Selection Factors) (2.0.0).

key considerations for selecting a transmission developer, CAISO explains that binding cost containment commitments will be a common key consideration for all transmission facilities subject to competitive solicitation. Western Independent Transmission Group and Startrans argue that CAISO's proposal is inadequate and that the key selection factors must be specified in the tariff. LS Power argues that CAISO should develop key selection factors for different project types as a general rule. Western Independent Transmission Group and Startrans take issue with the timing of the posting.

241. As an initial matter, CAISO explains that it will not be providing additional specifics about its evaluation criteria when posting the key selection criteria for each regional transmission project, but merely identifying those existing tariff criteria that will be especially key for purposes of selecting a transmission developer for a specific transmission project.<sup>407</sup> In addition, as described above, CAISO's tariff contains specific selection factors CAISO will consider when selecting among competing transmission developers' proposals. The combination of selection factors specified in the tariff, and the transmission project-specific information CAISO will publish in advance of the deadline for submitting proposals, provide potential transmission developers ample opportunity to prepare for and participate in the competitive solicitation.

242. We decline LS Power's request to require CAISO to develop in advance a set of key selection factors that it will use in selecting a transmission developer for all projects within each different category of transmission projects. We find it reasonable for CAISO to identify the key selection factors on a project-by-project basis because development of each regional transmission project selected in the comprehensive transmission plan will pose different challenges. Moreover, since CAISO will post the list of key selection factors for each regional transmission project before the deadline for submitting proposals, prospective transmission developers will have access to this information when developing their proposal.

243. In response to Western Independent Transmission Group's and Startrans' assertions that CAISO's proposal to post the key selection factors thirty days after publication of the draft comprehensive transmission plan does not afford potential transmission developers sufficient time to prepare and submit a proposal, CAISO explains that the tariff language in question does not accurately reflect its intent and proposes to revise its tariff so that transmission developers will have at least three months after the posting of the key selection criteria before the deadline for submitting proposals.<sup>408</sup> We accept CAISO's proposal and direct CAISO to submit, in the further

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<sup>407</sup> CAISO Answer at 75-76.

<sup>408</sup> *Id.* at 74.

compliance filing discussed below, tariff revisions such that the deadline for submitting proposals is at least three months after the posting of the key selection criteria.

244. We disagree with Pattern Transmission's interpretation regarding section 24.5.2.3(d). Pattern Transmission argues that in posting key selection factors, CAISO treats cost containment measures differently than other key criteria and does not provide information about the relative importance of the cost containment measures. We agree with CAISO that the tariff language in question separately refers to cost containment commitments in the posting of key selection factors in order to make it clear that cost containment commitments will be identified as a key factor in every solicitation, which is not the case with all of the other factors and considerations.

**(g) Transmission Developer Selection Factors-  
Post-Selection Reporting**

245. CAISO proposes to post a report on its website ten business days after selecting a transmission developer that provides a detailed explanation of how the transmission developer selection factors were applied to select, or not select, the transmission developer.

246. We find that CAISO's proposal to post a report on its website, which will, among other things, detail how the transmission developer selection factors were applied to select, or not select, transmission developers, complies with Order No. 1000. This report ensures that the evaluation process culminates in a determination that allows stakeholders to understand why a particular transmission developer was selected or not selected. As for California Public Utilities Commission's request that local regulatory authorities be given an opportunity to review and comment on the report before the transmission developer selection is final, CAISO has not proposed to do so and because Order No. 1000 does not require public utility transmission providers to provide local regulatory authorities with access to such information prior to selection of a transmission developer, we will not require CAISO to adopt California Public Utilities Commission's proposal. However, as noted above, a state entity can consult, collaborate, inform, and even recommend a transmission developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation. Moreover, to the extent that any local regulatory authority or any stakeholder believes that a CAISO report does not adequately address the role of cost and cost containment in CAISO's transmission developer selection process, they can seek additional clarity through CAISO's transmission planning stakeholder process, or as CAISO notes, through the dispute resolution process.

(h) **Transmission Developer Selection Factors – Compliance Requirements**

247. As discussed above, to comply with the requirements of Order No. 1000, we direct CAISO to submit, within 120 days of the date of the issuance of this order, a further compliance filing that revises its tariff to: (1) eliminate provisions that allow a siting authority to select the transmission developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation; (2) include a transmission developer selection process whereby CAISO ultimately decides which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation; (3) explain how it will determine which are the “key” selection factors and how it will ensure the key selection factors will result in a regional transmission plan with the more efficient or cost-effective transmission solutions; (4) reflect that a siting authority’s authority to impose cost containment measures and its history of doing so will be considered by CAISO only in instances where no transmission developer has demonstrated cost containment capability or accepted specific binding cost control measures; and (5) modify section 24.5.2.4(c) to require that a transmission developer in possession of relevant existing rights-of-way indicate whether it would incur any incremental costs in connection with placing new and additional facilities on such existing right-of-way.

e. **Reevaluation of Transmission Projects for Selection in the Regional Transmission Plan for Purposes of Cost Allocation**

248. Each public utility transmission provider must amend its tariff to describe the circumstances and procedures under which public utility transmission providers in the regional transmission planning process will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative transmission solutions, including those that the incumbent transmission provider proposes, to ensure the incumbent transmission provider can meet its reliability needs or service obligations.<sup>409</sup> If an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint, and if that solution is a transmission facility, then the proposed transmission

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<sup>409</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

facility should be evaluated for possible selection in the regional transmission plan for purposes of cost allocation.<sup>410</sup>

**i. CAISO's Filing**

249. CAISO states that it conducts transmission planning on an annual basis and includes status updates on previously approved transmission projects in each transmission plan. To the extent that a delay in an approved transmission project creates a need for other mitigation solutions, CAISO would identify those solutions in the transmission plan.<sup>411</sup> CAISO also proposes a new tariff section 24.6.1, which provides that an approved transmission developer must submit a construction plan within 120 days of receiving notification that it has been selected. CAISO states the construction plan must include information about land acquisition and permitting, materials procurement, project financing and other data as specified in the Business Practice Manual. CAISO states every 90 days thereafter, the transmission developer must submit a construction plan status report.<sup>412</sup> CAISO will provide copies of the status report to the participating transmission owner(s) in whose service territory the facility is located and connected. CAISO will then hold a call with the participating transmission owner to review whether the project completion date proposed by the approved transmission developer can reasonably be expected to be met and to review any other items of concern to either the CAISO or the participating transmission owner.

250. Under CAISO's proposal, if CAISO determines that a delay of a transmission project may cause one or more participating transmission owners or the CAISO to violate a NERC reliability standard, CAISO shall identify the potential violation and direct the impacted participating transmission owner to develop a mitigation plan. CAISO or the impacted participating transmission owner shall take any and all reasonable actions necessary to submit the mitigation plan to Western Electricity Coordinating Council (WECC) and NERC and to meet the requirements of the mitigation plan.<sup>413</sup> In addition, pursuant to provisions in its existing tariff, if CAISO determines that an approved transmission developer cannot secure necessary approvals or property rights or is otherwise unable to construct a reliability transmission project or if the approved transmission developer abandons the reliability project, then CAISO shall take such action as it reasonably considers appropriate, in coordination with the participating

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<sup>410</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329.

<sup>411</sup> CAISO Transmittal Letter at 73.

<sup>412</sup> *Id.* at 74.

<sup>413</sup> CAISO eTariff at § 24.6.2 and § 24.6.3.

transmission owner and other affected market participants, to facilitate the development and evaluation of alternative proposals. For reliability driven transmission facilities, CAISO may, at its discretion, direct the relevant participating transmission owner to build the transmission project, or may open a new solicitation for transmission developers to construct and own the reliability project.<sup>414</sup>

251. CAISO explains that, under its current tariff, it also has the discretion to direct the relevant participating transmission owner to build an abandoned economic or public policy driven transmission project or to open a new solicitation for transmission developers to construct and own the economic or public policy-driven projects. CAISO states, however, that in response to the concern a participating transmission owner raised in the stakeholder process, CAISO is proposing to make a change to eliminate the discretion CAISO has to decide whether or not to hold a second solicitation for economic or public policy-driven projects that are not completed by the approved transmission developer.<sup>415</sup> Specifically, CAISO proposes tariff revisions to now require that, for economic and public policy driven transmission projects, CAISO must conduct a new competitive solicitation first and only if there is no approved transmission developer after this competitive solicitation will CAISO direct the applicable participating transmission owner to build the transmission project that cannot be completed by the approved transmission developer.<sup>416</sup>

## ii. Protests/Comments

252. Pattern Transmission supports CAISO's authority to designate an alternate transmission developer to address a worst case scenario where the original approved transmission developer is completely stymied in moving a transmission project forward, but contends that in exercising that authority, CAISO must take into consideration the transmission developer's need to balance the speed of development with the cost. It explains that the transmission project development process involves negotiations with multiple stakeholders, who may delay the development process by making demands that, if accepted, will increase the total cost of the transmission project. Pattern Transmission argues that it is in the combined best interests of the transmission developer and CAISO (including its stakeholders) to minimize both the development schedule and the project cost through the transmission developer and CAISO working cooperatively and keeping one another informed. Therefore, Pattern Transmission insists, the transmission

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<sup>414</sup> CAISO Transmittal Letter at 75 and CAISO eTariff, § 24.6.4.

<sup>415</sup> CAISO Transmittal Letter at 75.

<sup>416</sup> CAISO eTariff, § 24.6.4 (Consequences of Sponsor Inability to Complete the Project) (2.0.0).

developer must have the flexibility to resist unreasonable demands by stakeholders, even if doing so may delay the project development time frame.<sup>417</sup>

253. LS Power acknowledges that CAISO must be able to address reliability concerns arising if a transmission project is delayed beyond its original completion date. However, similarly to Pattern Transmission, LS Power contends that CAISO must not prematurely reassign projects or reassign a nonincumbent transmission developer's project under circumstances in which it would not reassign a similarly situated incumbent transmission developer's project. LS Power also notes that there can be delays associated with the development of a transmission project that have little to do with the competence of the transmission developer, but rather with the complexity of siting process or project characteristics. Therefore, LS Power is concerned that CAISO's tariff provides CAISO with broad latitude to reassign a transmission project upon delay, which could create financing issues for the transmission developer.<sup>418</sup> In addition, LS Power proposes that CAISO's tariff should guarantee that if potential NERC reliability standard violations or other issues of material concern cannot be promptly and adequately addressed and there is evidence that a reliability transmission project has been abandoned or lacks commercial viability, then CAISO's Board of Governors could take appropriate action, including, but not limited to, determining that an alternative transmission developer is necessary to complete the transmission project.<sup>419</sup>

254. SoCal Edison asserts that the Commission should reject CAISO's requirement to direct the applicable participating transmission owner to build an economic or policy-driven transmission project in cases where such project was abandoned by the approved transmission developer and CAISO cannot find another willing builder. SoCal Edison states that this requirement is not consistent with principles underlying Order 1000, is not just and reasonable, has no economic or policy basis, and should be corrected to assure symmetry with the state's siting authority.<sup>420</sup> While SoCal Edison notes that it is reasonable for CAISO to seek another interested transmission developer for an abandoned economic or policy-driven transmission project before directing the participating transmission owner to build such a project, SoCal Edison contends that the absence of transmission developers willing to build such an abandoned transmission project should preclude CAISO from reassigning it to a participating transmission owner. SoCal Edison asserts that, while transmission owners have an obligation to provide

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<sup>417</sup> Pattern Transmission Comments at 14-15.

<sup>418</sup> LS Power Protest at 45-47.

<sup>419</sup> *Id.*

<sup>420</sup> SoCal Edison Protest at 2-6.

efficient and reliable service to their load, the transmission facilities at issue here are not needed for reliability and cannot be deemed economic if they are abandoned and no one wants to build them.

255. Instead, SoCal Edison proposes that when an economic or policy-driven transmission facility is abandoned, CAISO should be required, with stakeholder input, to reevaluate the feasibility of and continuing economic or public policy need for the proposed transmission project. SoCal Edison contends that CAISO and stakeholders need to determine for policy-driven transmission projects if the public policy goals initially driving the project still exist and, if so, whether they can be met through more cost-effective means, and for economic transmission projects whether the transmission project is actually unworkable. According to SoCal Edison, once it is known why a transmission project has been abandoned and why no other transmission developer is willing to step forward to complete the transmission project, CAISO must consider whether the transmission project should be reconfigured or should not be pursued.

256. SoCal Edison further proposes that if the transmission project is still deemed to be needed and feasible to build, CAISO should look toward any runner up from the first solicitation as a candidate to complete the transmission project, provided it can do so in a cost-efficient manner. If the reassessment process produces a different or reconfigured project, SoCal Edison states, then CAISO can hold another solicitation for the new transmission project. SoCal Edison suggests that if there are no viable alternatives or no qualified transmission developer is willing to build the alternatives proposed by CAISO, then CAISO should be required to declare that the project is no longer feasible, does not serve the goals for which it had been initially approved, and should not be built.

257. In addition, SoCal Edison says that CAISO tariff, as currently drafted, should be corrected to appropriately reflect the state's siting authority. SoCal Edison contends that CAISO cannot "direct" a participating transmission owner to build a transmission line as CAISO has proposed in section 24.6.4. SoCal Edison asserts that the siting of a transmission line lies with the state and that the most a participating transmission owner can do is make a good faith effort to explain to the California Public Utilities Commission CAISO's position as to why the transmission project ought to be built, consistent with section 24.6. Therefore, SoCal Edison asks that section 24.6.4 at a minimum should be corrected to be consistent with section 24.6.

258. Pattern Transmission expresses concern that if certain information about transmission project milestones and the transmission developer's ability to finish the transmission project on a timely basis are made public, it may give property owners or permitting authorities additional leverage over the transmission developer, thereby forcing unnecessary and unreasonable concessions by the developer that will increase the cost of the transmission project. Pattern argues that it is in the best interest of the

transmission project developer and CAISO to work cooperatively and keep each other informed on the progress of the project to keep the project on track.<sup>421</sup>

iii. Answer

259. CAISO states that LS Power incorrectly argues that the language of section 24.6.2, which authorizes CAISO to take appropriate action to address reliability concerns if a transmission project is delayed beyond the needed date, is too broad and could be used by CAISO to prematurely reassign the transmission project. CAISO adds that LS Power wrongly implies that CAISO would be happy to reassign a nonincumbent transmission developer's transmission project to an incumbent transmission developer, regardless of whether such reassignment was justified.<sup>422</sup> CAISO states that its proposed tariff provides a logical scheme by which CAISO, the approved transmission developer, and the participating transmission owner will work together to address possible reliability concerns if the transmission project is going to be delayed beyond the need date. CAISO asserts that it conducts this activity during each annual transmission planning cycle, and has proposed reporting and conferring requirements to make clear that reassigning the transmission project is a last resort.<sup>423</sup>

260. For example, CAISO states proposed section 24.6 provides that the approved transmission developer must make a good faith effort to obtain all permits and approvals. CAISO clarifies that if a transmission project has been delayed because of the permitting process, the transmission developer has met this requirement. CAISO points out that, if a transmission project is delayed, CAISO will issue a market notice and CAISO, the transmission developer, and the participating transmission owner will work together to develop a mitigation plan to address potential reliability concerns.<sup>424</sup> According to CAISO, only if this concern cannot be addressed would CAISO consider reassigning the transmission project. CAISO states that throughout both the reporting process and the mitigation plan development process, there will be ample opportunities for the transmission developer to assure CAISO of its competence and willingness to complete the transmission project. Consequently, CAISO argues that there is no need for the

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<sup>421</sup> Pattern Transmission Comments at 15.

<sup>422</sup> CAISO Answer at 83-84. It also claims that LS Power predicts that CAISO would be unlikely to reassign a project from an incumbent to a nonincumbent under similar circumstances. *See id.* at 84, n.137.

<sup>423</sup> CAISO Answer at 84.

<sup>424</sup> CAISO Answer at 85 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 344).

additional tariff language that LS Power suggested and notes that incorporating LS Power's proposed limiting language into the tariff could make it impossible for CAISO to take the action needed to avert reliability violations.<sup>425</sup>

261. In response to SoCal Edison's concerns about a participating transmission owner being obligated to build a policy driven or economic transmission project that the approved transmission developer cannot complete or abandons, CAISO notes that, as an initial matter, a project labeled as policy driven or economic may be required for reliability. CAISO explains that because of its sequential review of transmission needs, a policy driven or economic project can supplant a reliability project. In addition, CAISO agrees with SoCal Edison that, where the approved transmission developer has abandoned a project, it would be reasonable for CAISO to consider why the project was abandoned, and CAISO believes the proposed tariff language provides it with the flexibility to do so. CAISO states that its proposed tariff language also allows CAISO to consider alternatives to the economic or public policy driven transmission project, including an assessment of whether the transmission project is still needed as configured, that other mitigation solutions are more appropriate, or that there is no longer a need at all. However, CAISO comments, if after considering the issue with the participating transmission owners and other stakeholders, CAISO finds that the transmission project, as originally designed or reconfigured, is needed to serve customers on CAISO grid, then there must be a backstop obligation for the applicable participating transmission owner to build the transmission project.

262. CAISO finds unworkable SoCal Edison's proposal that the runner-up from the competitive solicitation be required to complete an economic or public policy-driven transmission project and that, if the transmission project is re-configured, CAISO should conduct a new competitive solicitation, as well as SoCal Edison's proposal that if there is no viable alternative or potential transmission developer to build the alternative, CAISO should declare that the transmission project is not feasible and should not be built.<sup>426</sup> CAISO argues that if a transmission project is labeled as economic or policy-driven, it does not mean that it is not required for reliability because such a transmission project can supplant reliability-driven transmission projects, and therefore cannot be simply deserted.<sup>427</sup>

263. CAISO further disagrees with SoCal Edison that CAISO cannot "direct" a participating transmission owner to build a transmission project because it is up to the

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<sup>425</sup> CAISO Answer at 85.

<sup>426</sup> SoCal Edison Comments at 5.

<sup>427</sup> CAISO Answer at 86.

California Public Utilities Commission to approve siting for the project. SoCal Edison suggested that section 24.6.4 be amended to reflect that participating transmission owners must only make a good faith attempt to obtain permits, similar to the language in section 24.6. CAISO argues that this change is unnecessary, because the Transmission Control Agreement requires participating transmission owners to construct upgrades to their systems and recover the costs through CAISO transmission access charges.<sup>428</sup> CAISO states that it has no control over siting agencies, but section 24.6 only requires that transmission developers make at least a good-faith attempt to obtain permitting. CAISO also notes that current section 24.6 provides that CAISO may “direct” participating transmission owners to build transmission. This language was merely moved to section 24.6.4 in this compliance filing, and section 24.6 as it currently exists was approved in the RTPP Order.<sup>429</sup>

264. In response to Pattern Transmission’s concern that certain information about transmission project milestones and the transmission developer’s ability to finish the transmission project on a timely basis, if made public, could inadvertently cause delays and additional expenses in the permitting land acquisition process, CAISO notes that proposed tariff sections are already specifically drafted to minimize public dissemination of this information.<sup>430</sup> In addition, CAISO explains that proposed sections 24.6 through 24.6.4 govern dissemination of information about transmission project milestones until CAISO determines that the transmission project is going to be delayed and that there may be reliability concerns as a result.<sup>431</sup> CAISO comments that proposed section 24.6.1 sets that communications about the information will be limited to CAISO, the transmission developer, and the participating transmission owner, consistent with Pattern Transmission’s comments.<sup>432</sup>

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<sup>428</sup> See section 4.3 of the Transmission Control Agreement states: “Participating Transmission Operators shall be responsible for operating and maintaining those lines and facilities [placed under ISO operational control] in accordance with. . . procedures and directions of the ISO issued or given in accordance with this Agreement.” Section 11 applies CAISO’s tariff to expansions or reinforcements of the grid affecting transmission facilities placed under CAISO control. See CAISO Answer at 88, n.143.

<sup>429</sup> CAISO Answer at 88-89.

<sup>430</sup> *Id.* at 90.

<sup>431</sup> CAISO Answer at 90 (citing CAISO, eTariff, § 24.6.2 (Delay in the Project In-Service Date) (2.0.0)).

<sup>432</sup> CAISO Answer at 89-90.

iv. **Commission Determination**

265. We find that CAISO's proposed reevaluation of reliability, economic and public policy transmission projects partially complies with the requirements of Order No. 1000. The Commission approves CAISO's proposal to provide status updates on transmission facilities previously selected in each year's regional transmission plan for purposes of cost allocation, and identify mitigation solutions if warranted by project delays.<sup>433</sup> Thus, we find that CAISO's proposal complies with Order No. 1000's requirement that it will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative transmission solutions to ensure the incumbent transmission provider can meet its reliability needs or service obligations.<sup>434</sup> Furthermore, we find that proposed section 24.6.2 ensures that CAISO, the selected transmission developer, and the participating transmission owner will work together to address possible reliability concerns if a transmission project is delayed, complying with Order No. 1000's requirement that if an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint.<sup>435</sup>

266. We disagree with LS Power that further tariff revisions are necessary to prevent a premature reassignment of a delayed transmission facility. Under section 24.6.2, CAISO will not consider reassigning a transmission facility selected in the regional transmission plan for purposes of cost allocation to an alternate transmission developer until the proposed completion date for the transmission facility has been delayed beyond the date upon which it was found to be needed *and* potential NERC reliability standards violations or other issues of material concern cannot be promptly and adequately addressed. We find that this provision is therefore consistent with or superior to Order No. 1000's requirement that public utility transmission providers in a transmission planning region establish a date by which state approvals to construct must have been achieved that is tied to when construction must begin to timely meet the transmission need that the transmission project is selected to address and that if such critical steps have not been achieved by that date, the public utility transmission providers may remove that

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<sup>433</sup> CAISO Transmittal Letter at 73-74. *See* CAISO, eTariff, § 24.6.2 (Delay in the Project In-Service Date) (2.0.0).

<sup>434</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

<sup>435</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329.

transmission project from the selected category and seek alternative solutions.<sup>436</sup> CAISO ties its reassignment of a transmission facility selected in the regional transmission plan for purposes of cost allocation to the needed in-service date rather than the date by which state approvals are necessary, a proposal that we find to be reasonable and not unduly discriminatory.

267. We disagree with SoCal Edison that CAISO should not be permitted to direct the applicable participating transmission owner to develop an abandoned economic or policy-driven transmission project that no other qualified transmission developer is willing to develop. As an initial matter, we note that CAISO's authority to direct a participating transmission owner to build an economic, reliability or public policy-driven transmission project is part of its existing tariff.<sup>437</sup> Prior to RTPP, CAISO's transmission planning process provided that CAISO has the authority to direct the applicable participating transmission owner to build *all* transmission projects approved as part of the CAISO transmission planning process and RTPP did not change the underlying obligation that the applicable participating transmission owner must construct all approved transmission projects in the transmission plan within its service territory where there is no other transmission developer.<sup>438</sup> Also, we agree with CAISO that if a transmission project is labeled as economic or policy-driven, it does not mean that it is not required for reliability because such a transmission project can supplant reliability transmission projects. In Order No. 1000, the Commission recognized that there may be circumstances when an incumbent transmission provider is called upon to complete a transmission project that it did not sponsor or has an obligation to build a transmission project that is selected in the regional transmission plan for purposes of cost allocation but has not been sponsored by another transmission developer.<sup>439</sup> Moreover, in response to a request for rehearing from SoCal Edison, the Commission noted in Order No. 1000-A that some RTOs and ISOs may have the authority under their tariff or membership agreements to direct a member to build a transmission facility under certain circumstances.<sup>440</sup> Therefore, we find that CAISO's existing tariff language in this regard is consistent with Order No. 1000. We will also not direct CAISO to amend section 24.6.4 to reflect that participating transmission owners must only make a good faith

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<sup>436</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 442.

<sup>437</sup> See CAISO, eTariff, § 24.2.4.2 (Obligation to Construct Transmission Projects) (2.0.0).

<sup>438</sup> *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,062 at P 23.

<sup>439</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 267.

<sup>440</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 490.

attempt to obtain permits, as requested by SoCal Edison, because we find that this is covered by section 24.6, which states that an approved project sponsor selected to construct needed transmission facilities, “or the applicable Participating TO where there is no Approved Project Sponsor,” must make such a good faith effort. We note that, in response to SoCal Edison’s concern about the obligation for a participating transmission owner to build an economic or public policy driven transmission project that an approved transmission developer cannot or chooses not to build, CAISO agreed that it would consider other alternatives before directing the participating transmission owner to build the project. Specifically, CAISO states that, where an approved transmission developer has abandoned a project, it is reasonable for CAISO to: (1) consider the reasons why the project was abandoned; and (2) consider alternatives to the project.<sup>441</sup> CAISO stated that alternatives could include an assessment that the project is no longer needed as configured, that other mitigation solutions are more appropriate, or that the project is no longer needed at all. Accordingly, we direct CAISO to submit, within 120 days of the date of issuance of this order, a further compliance filing revising its tariff to explicitly state that it will conduct these assessments (i.e., consider the reasons why the project was abandoned and consider alternatives to the project, including whether the project is still needed, as it described in its answer) before directing a participating transmission owner to construct an economic or public policy driven transmission project that is abandoned or otherwise not able to be built by the original approved transmission developer.

268. With respect to information sharing, we find that CAISO’s proposal to require the developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation to submit its project construction plan and a periodic project status report will give sufficient notification to CAISO and impacted incumbent transmission provider(s) to assess their system performance and develop their mitigation solution if necessitated by project delays. We conclude that the proposed tariff provisions, which address communications about the information sharing between CAISO, the transmission developer, and the applicable participating transmission owner, minimize public dissemination of confidential information.<sup>442</sup> Thus, we disagree with Pattern Transmission that information sharing about transmission project milestones and the transmission developer’s ability to finish the transmission project on a timely basis could inadvertently cause a project delay.

269. Finally, we find that CAISO’s proposal to establish under its tariff additional reporting requirements for the applicable participating transmission owner to submit

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<sup>441</sup> CAISO Answer at 86-87.

<sup>442</sup> See CAISO, eTariff, § 24.6.2 (Delay in the Project In-Service Date) (2.0.0).

mitigation plans to NERC and the WECC<sup>443</sup> in cases where a construction delay could cause potential reliability standard violations would be duplicative to NERC Rules of Procedure.<sup>444</sup> The applicable participating transmission owner, whose system reliability needs are impacted by the delay of the regional projects selected in the regional transmission plan, are already obligated, as NERC registered entities, to prepare corrective plans in compliance with applicable NERC Reliability Standards.<sup>445</sup> NERC rules also include self-reporting, if necessary, to NERC and the Western Electricity Coordinating Council on reliability standard violations and associated mitigation plans, a process established by Commission regulation<sup>446</sup> and NERC's Rules of Procedure,<sup>447</sup> applicable to all NERC registered entities. Therefore, we conclude that there is no need to set requirements in addition to those already established in the applicable NERC reliability standards<sup>448</sup> and NERC's Rules of Procedure. Accordingly, we direct CAISO to make, within 120 days of the date of issuance of this order, a further compliance filing to remove the proposed provision requiring the applicable participating transmission

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<sup>443</sup> See CAISO, eTariff, § 24.6.3 (Development and Submittal of Mitigation Plans) (2.0.0).

<sup>444</sup> We note that CAISO has also proposed reporting requirements for approved transmission developers. Proposed section 24.6.1 of the tariff provides that an approved transmission developer must submit a construction plan within 120 days of receiving notification that it has been selected and that every 90 days thereafter, the transmission developer must submit a construction plan status report, which CAISO will review and provide copies of to participating transmission owners in whose service territory the facility is located and connected. CAISO will then hold calls with participating transmission owners to discuss the project schedule and consider whether it is feasible to complete the transmission project within the established timeframe, ensuring that the relevant participating transmission owners are kept informed of the project's progress towards completion. See CAISO, eTariff, § 24.6.1 (Approved Project Sponsor Reporting Requirements) (2.0.0).

<sup>445</sup> North American Electric Reliability Corporation, *Transmission Planning Reliability Standards*, available at <http://www.nerc.com/page.php?cid=2%7C20>.

<sup>446</sup> 18 C.F.R. Part 39 (2012).

<sup>447</sup> See *N. Am. Elec. Reliability Corp.*, 141 FERC ¶ 61,241 (2012).

<sup>448</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 478.

owner to submit mitigation plans to NERC and the Western Electricity Coordinating Council.<sup>449</sup>

f. **Cost Allocation for Transmission Projects Selected in the Regional Transmission Plan for Purposes of Cost Allocation**

270. Order No. 1000 requires each public utility transmission provider to participate in a regional transmission planning process that provides that a nonincumbent transmission developer has an opportunity comparable to that of an incumbent transmission developer to allocate the cost of a transmission facility through a regional cost allocation method or methods.<sup>450</sup> A nonincumbent transmission developer must have the same eligibility as an incumbent transmission developer to use a regional cost allocation method or methods for any sponsored transmission facility selected in the regional transmission plan for purposes of cost allocation.<sup>451</sup> If a transmission project is selected in a regional transmission plan for purposes of cost allocation, Order No. 1000 requires that the developer of that transmission facility (whether incumbent or nonincumbent) must be able to rely on the relevant cost allocation method or methods within the region should it move forward with its transmission project.<sup>452</sup>

271. Order No. 1000 specifies that the regional transmission planning process could use a non-discriminatory competitive bidding process as the mechanism to ensure that all projects are eligible to be considered for selection in the regional transmission plan for purposes of cost allocation.<sup>453</sup> A region may use or retain an existing mechanism that relies on a competitive solicitation to identify preferred solutions to regional transmission needs, and such an existing process may require little or no modification to comply with the framework adopted in Order No. 1000.<sup>454</sup> The regional transmission planning process could allow the developer of a transmission project selected in the regional transmission

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<sup>449</sup> CAISO, eTariff, § 24.6.3 (Development and Submittal of Mitigation Plans) (2.0.0). (“The CAISO or the impacted Participating TOs shall take any and all reasonable actions necessary to submit the mitigation plan to WECC and NERC and to meet the requirements of the mitigation plan”).

<sup>450</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 332.

<sup>451</sup> *Id.*

<sup>452</sup> *Id.* P 339.

<sup>453</sup> *Id.* P 336.

<sup>454</sup> *Id.* P 321.

plan for purposes of cost allocation to use the regional cost allocation method associated with the transmission project.<sup>455</sup> If it uses a sponsorship model, the regional transmission planning process would also need to have a fair and not unduly discriminatory mechanism to grant to an incumbent transmission provider or nonincumbent transmission developer the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>456</sup>

**i. CAISO's Filing**

272. CAISO notes that its existing transmission planning process includes a competitive solicitation process that provides an opportunity for both incumbent and nonincumbent transmission developers to compete to be approved to finance, own and construct transmission elements that CAISO finds to be needed in its transmission planning process, such that they have access to the regional cost allocation method. In addition, CAISO notes that it has a regional cost allocation method for transmission projects selected in the regional transmission plan for purpose of cost allocation.<sup>457</sup> CAISO states that the Commission has previously concluded that CAISO's competitive solicitation framework is just and reasonable and allows interested transmission developers to submit proposals to compete to develop needed economically and policy-driven transmission facilities.<sup>458</sup>

**ii. Commission Determination**

273. We find that the provisions in CAISO's filing dealing with access to cost allocation for nonincumbent projects comply with the requirements of Order No. 1000. By allowing both incumbent and nonincumbent transmission developers to compete to be approved to finance, own and construct transmission projects selected in CAISO's comprehensive transmission plan, we find that CAISO's proposed tariff revisions allow both incumbents and nonincumbents to access the regional cost allocation method. Once approved, a transmission developer can become a Participating Transmission Owner eligible for cost recovery under CAISO's regional cost allocation method. Therefore, we find that CAISO's filing complies with Order No. 1000's requirement that each public utility transmission provider participate in a regional transmission planning process that

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<sup>455</sup> *Id.* P 336.

<sup>456</sup> *Id.*

<sup>457</sup> CAISO Transmittal Letter at 15.

<sup>458</sup> *Id.* at 51.

provides a nonincumbent transmission developer an opportunity comparable to that of an incumbent transmission developer to allocate the cost of a transmission facility through a regional cost allocation method.

### **3. Cost Allocation**

#### **a. Cost Allocation Principles**

274. Order No. 1000 requires each public utility transmission provider to have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation.<sup>459</sup> Each public utility transmission provider must show on compliance that its regional cost allocation method or methods are just and reasonable and not unduly discriminatory or preferential by demonstrating that each method satisfies six regional cost allocation principles described in Order No. 1000.<sup>460</sup> The Commission took a principles-based approach because it recognized that regional differences may warrant distinctions in cost allocation methods among transmission planning regions.<sup>461</sup> In addition, Order No. 1000 permits participant funding, but not as a regional or interregional cost allocation method.<sup>462</sup>

275. If a public utility transmission provider is in an RTO or ISO, Order No. 1000 requires that the regional cost allocation method or methods be set forth in the RTO or ISO tariff. In a non-RTO/ISO transmission planning region, each public utility transmission provider located within the region must set forth in its tariff the same language regarding the cost allocation method or methods that is used in its transmission planning region.<sup>463</sup> Each public utility transmission provider must have a regional cost allocation method for any transmission facility selected in a regional transmission plan for purposes of cost allocation.<sup>464</sup>

276. Regional Cost Allocation Principle 1 specifies that the cost of transmission facilities must be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated

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<sup>459</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 558.

<sup>460</sup> *Id.* P 603.

<sup>461</sup> *Id.* P 604.

<sup>462</sup> *Id.* P 723.

<sup>463</sup> *Id.* at P 558.

<sup>464</sup> *Id.* at P 690.

benefits. Cost allocation methods must clearly and definitively specify the benefits and the class of beneficiaries.<sup>465</sup> In determining the beneficiaries of transmission facilities, a regional transmission planning process may consider benefits including, but not limited to, the extent to which transmission facilities, individually or in the aggregate, provide for maintaining reliability and sharing reserves, production cost savings and congestion relief, and/or meeting public policy requirements.<sup>466</sup> Regional Cost Allocation Principle 1 precludes an allocation where the benefits received are trivial in relation to the costs to be borne.<sup>467</sup>

277. Order No. 1000 does not prescribe a particular definition of “benefits” or “beneficiaries.”<sup>468</sup> The Commission stated in Order No. 1000-A that while Order No. 1000 does not define benefits and beneficiaries, it does require the public utility transmission providers in each transmission planning region to be definite about benefits and beneficiaries for purposes of their cost allocation methods.<sup>469</sup> In addition, for a cost allocation method or methods to be accepted by the Commission as Order No. 1000-compliant, they will have to specify clearly and definitively the benefits and the class of beneficiaries.<sup>470</sup> A benefit used by public utility transmission providers in a regional cost allocation method or methods must be an identifiable benefit, and the transmission facility cost allocated must be roughly commensurate with that benefit.<sup>471</sup> Each regional transmission planning process must provide entities who will receive regional or interregional cost allocation an understanding of the identified benefits on which the cost allocation is based.<sup>472</sup> The public utility transmission providers in a transmission planning region may propose a cost allocation method that considers the benefits and costs of a group of new transmission facilities, although there is no requirement to do so.<sup>473</sup>

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<sup>465</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 678.

<sup>466</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 622.

<sup>467</sup> *Id.* P 639.

<sup>468</sup> *Id.* P 624.

<sup>469</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 679.

<sup>470</sup> *Id.* P 678.

<sup>471</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 625.

<sup>472</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 746.

<sup>473</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 627, 641.

278. The regional transmission plan must include a clear cost allocation method or methods that identify beneficiaries for each of the transmission facilities selected in a regional transmission plan for purposes of cost allocation.<sup>474</sup> Order No. 1000-A stated that public utility transmission providers in each transmission planning region, in consultation with their stakeholders, may consider proposals to allocate costs directly to generators as beneficiaries that could be subject to regional or interregional cost allocation, but any such allocation must not be inconsistent with the generator interconnection process under Order No. 2003.<sup>475</sup>

279. Regional Cost Allocation Principle 2 specifies that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of those transmission facilities.<sup>476</sup> All cost allocation methods must provide for allocation of the entire prudently incurred cost of a transmission project to prevent stranded costs.<sup>477</sup> To the extent that public utility transmission providers propose a cost allocation method or methods that consider the benefits and costs of a group of new transmission facilities and adequately support their proposal, Regional Cost Allocation Principle 2 would not require a showing that every individual transmission facility in the group of transmission facilities provides benefits to every beneficiary allocated a share of costs of that group of transmission facilities.<sup>478</sup>

280. The Commission clarified in Order No. 1000-A that public utility transmission providers may rely on scenario analyses in the preparation of a regional transmission plan and the selection of new transmission facilities in the regional transmission plan for purposes of cost allocation. Regional Cost Allocation Principle 2 would be satisfied if a project or group of projects is shown to have benefits in one or more of the transmission planning scenarios identified by public utility transmission providers in their Commission-approved Order No. 1000-compliant cost allocation methods.<sup>479</sup> The Commission clarified in Order No. 1000-B that it did not intend to remove the “likely future scenarios” concept from transmission planning and that likely future scenarios can be an important factor in public utility transmission providers’ consideration of

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<sup>474</sup> *Id.* P 11; Order No. 1000-A, 139 FERC ¶ 61,132 at P 585.

<sup>475</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 680.

<sup>476</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 637.

<sup>477</sup> *Id.* P 640.

<sup>478</sup> *Id.* P 641.

<sup>479</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 690.

transmission projects and in the identification of beneficiaries consistent with the cost causation principle.<sup>480</sup>

281. Regional Cost Allocation Principle 3 specifies that if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. Public utility transmission providers may choose to use such a threshold to account for uncertainty in the calculation of benefits and costs. If adopted, such a threshold may not include a ratio of benefits to costs that exceeds 1.25 unless the transmission planning region or public utility transmission provider justifies, and the Commission approves, a higher ratio.<sup>481</sup>

282. Regional Cost Allocation Principle 4 specifies that the allocation method for the cost of a transmission facility selected in a regional transmission plan for purposes of cost allocation must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. However, the transmission planning process in the original region must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.<sup>482</sup>

283. Regional Cost Allocation Principle 5 specifies that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.<sup>483</sup>

284. Regional Cost Allocation Principle 6 specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, such as transmission facilities needed for reliability, congestion relief, or to achieve public policy requirements.<sup>484</sup> If the public

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<sup>480</sup> Order No. 1000-B, 141 FERC ¶ 61,044 at P 72.

<sup>481</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 646.

<sup>482</sup> *Id.* P 657.

<sup>483</sup> *Id.* P 668.

<sup>484</sup> *Id.* P 685.

utility transmission providers choose to have a different cost allocation method for each type of transmission facility, there can be only one cost allocation method for each type.<sup>485</sup> In addition, if public utility transmission providers choose to propose a different cost allocation method or methods for different types of transmission facilities, each method would have to be determined in advance for each type of facility.<sup>486</sup> A regional cost allocation method for one type of regional transmission facility or for all regional transmission facilities may include voting requirements for identified beneficiaries to vote on proposed transmission facilities.<sup>487</sup> However, the public utility transmission providers in a region may not designate a type of transmission facility that has no regional cost allocation method applied to it.<sup>488</sup>

**i. CAISO's Filing**

285. CAISO proposes to retain its current cost allocation method, which uses access charges to allocate the costs of transmission facilities to all users of CAISO's controlled grid based on their actual MWh use of the system.<sup>489</sup> Its proposal distinguishes between regional transmission facilities and local transmission facilities and applies only to the former. CAISO proposes to designate low voltage transmission facilities (below 200 kV) located within a single participating transmission owner footprint or service territory as "local transmission facilities"<sup>490</sup> and all high voltage (200 kV and above), or regional, transmission facilities as "regional transmission facilities."<sup>491</sup> It proposes to allocate the costs of regional transmission facilities to all users of the CAISO-controlled grid, while the costs of upgrades and/or additions of local transmission facilities will be allocated only to users of those transmission facilities.

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<sup>485</sup> *Id.* P 686; *see also id.* P 560.

<sup>486</sup> *Id.* P 560.

<sup>487</sup> *Id.* P 689.

<sup>488</sup> *Id.* P 690.

<sup>489</sup> *See* CAISO, eTariff, § 26.1 (Access Charges) (1.0.0).

<sup>490</sup> *See* CAISO, eTariff Appendix A (Definitions) Local Transmission Facility (0.0.0).

<sup>491</sup> CAISO does not distinguish among different types of regional transmission facilities. *See* CAISO Transmittal Letter at 24 and 29-31.

286. CAISO states that its current cost allocation method has been approved by the Commission and the U.S. Court of Appeals for the Ninth Circuit.<sup>492</sup> It further argues that its proposal to retain the current cost allocation method is consistent with Regional Cost Allocation Principle 1 (i.e., costs must be allocated roughly in proportion to benefits received). According to CAISO, high voltage regional transmission facilities support regional flows, provide transfers between California and other states, reduce congestion and facilitate reserve sharing, and facilitate import and export of power and development of large scale generation resources – all to the benefit of all users of the grid.<sup>493</sup> CAISO states that although there could be instances in which a low voltage transmission facility provides some regional benefits, it does not view this as anything more than a rare occurrence in light of the configuration and operation of the CAISO grid. It further argues that while the regional benefits from high voltage transmission facilities may inure to some areas of the regional grid more than others, the benefits will vary over time, as will the sectors of the grid that benefit. Thus, CAISO concludes, any effort to parse the benefits out further could lead to an allocation that would not be roughly proportionate to benefits over the long run.<sup>494</sup>

287. Further, CAISO argues that its cost allocation method complies with Regional Cost Allocation Principle 2 that there be no involuntary allocation of costs to non-beneficiaries. CAISO states that all users of its grid are allocated costs of regional transmission facilities because they benefit from the use of these facilities; however, customers that do not take service from a local transmission facility do not pay for upgrades to those facilities.<sup>495</sup>

288. CAISO further states that Regional Cost Allocation Principle 3, which requires the use of a balanced benefit to cost ratio for purposes of regional cost allocation, is not applicable because it uses no such ratio. CAISO explains that the need for economic transmission facilities is determined based on whether the economic benefits of the project outweigh the costs, and there is no minimum threshold above 1 to 1 in the tariff.<sup>496</sup> CAISO also explains that, under section 24.4.6.7 of CAISO's tariff, it is required to examine, in accordance with the procedures set forth in the Business Practice

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<sup>492</sup> CAISO refers to *State Water Contractors v. FERC*, 285 F.App'x. 397 (9<sup>th</sup> Cir. 2008). See CAISO Transmittal Letter at 29.

<sup>493</sup> CAISO Transmittal Letter at 26-29.

<sup>494</sup> *Id.* at 30.

<sup>495</sup> *Id.* at 31.

<sup>496</sup> *Id.*

Manual, whether the benefits of proposed transmission upgrades and/or additions outweigh the costs. In accordance with section 24.4.6.7, the benefits may include a calculation of any reduction in production costs, congestion costs, transmission losses, capacity or other electric supply costs resulting from improved access to cost-efficient resources. Section 24.4.6.7 also requires CAISO to consider any estimated costs arising from the need to maintain the simultaneous feasibility of long-term Congestion Revenue Rights, as well as to conduct a comparable cost-benefit analysis of non-transmission alternatives.

289. Next, CAISO states its cost allocation method complies with Regional Cost Allocation Principle 4, which requires that costs be allocated solely within a transmission planning region unless an outside region voluntarily assumes costs. According to CAISO, the costs of transmission facilities located solely on the CAISO-controlled grid are allocated only to the CAISO region, not to neighboring transmission planning regions (unless such neighboring regions were to voluntarily accept the allocation of such costs).<sup>497</sup>

290. Further, CAISO argues that its cost allocation method is consistent with Regional Cost Allocation Principle 5, which requires transparency in determining benefits and identifying beneficiaries. It asserts that its bright-line voltage level split constitutes a transparent method for determining the benefits and identifying the beneficiaries of transmission facilities on the CAISO-controlled grid.<sup>498</sup> It also identifies additional benefits of its bright-line test, such as cost certainty to customers and transmission developers, administrative efficiency, and reduced burdens on CAISO and its stakeholders.<sup>499</sup>

291. Finally, CAISO states that Regional Cost Allocation Principle 6, which allows a transmission planning region to choose to use a different cost allocation method for different types of regional transmission facilities, is not applicable because its cost allocation method does not distinguish among different types of transmission facilities. CAISO explains that regardless of the need that justifies the construction of a specific transmission facility, high voltage transmission facilities provide regional benefits and are allocated regionally, and local transmission facilities provide only local benefits and are allocated locally.<sup>500</sup>

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<sup>497</sup> *Id.*

<sup>498</sup> *Id.*

<sup>499</sup> *Id.*

<sup>500</sup> CAISO Transmittal Letter at 31-32.

**ii. Protests/Comments**

292. Clean Line asserts that the Commission should require CAISO to allow for partial cost allocation of transmission facilities, instead of treating all facilities as either fully cost allocated or not cost allocated.<sup>501</sup> It argues that if a transmission project is proposed as a merchant line with plans to sell capacity directly to customers, but is also found by the transmission planning region to satisfy some public policy, reliability, or economic need, then the transmission planning region should consider allocating some of the costs commensurate with the regional benefits provided.<sup>502</sup> Clean Line further claims that partial cost allocation offers the transmission planning region the ability to meet transmission needs at lower cost. It gives as an example the upsizing of the capacity of a merchant project to meet additional identified transmission needs. In such a case, Clean Line asserts, it may be more economical to allocate only the cost of the upsizing, rather than to build a separate, entirely cost-allocated project.<sup>503</sup>

293. Public Interest Organizations and AWEA support CAISO's regional cost allocation method, which they claim is a straightforward approach that is easy to understand such that all stakeholders will be able to predict the way costs for a new project will be allocated. They further claim that the method satisfies Regional Cost Allocation Principle 5, which requires that methods for determining benefits and beneficiaries be transparent.<sup>504</sup>

**iii. Answer**

294. In response to Clean Line's assertion that CAISO should be required to "partially" allocate the costs of a merchant transmission project through CAISO's tariff if it has some regional benefits, CAISO states that it does not evaluate merchant projects to determine whether there are system benefits, but instead evaluates if there are any adverse reliability impacts to be avoided by constructing the facility. CAISO further explains that under its process, a merchant transmission project is one that is not seeking cost recovery through the regional cost allocation mechanism and its tariff does not have a mechanism to determine after the fact that the merchant transmission project has some reliability benefits that merit "partial" cost allocation, as suggested by Clean Line.<sup>505</sup>

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<sup>501</sup> Clean Line Protest at 10.

<sup>502</sup> *Id.* at 9.

<sup>503</sup> *Id.* at 9-10.

<sup>504</sup> Public Interest Organizations Comments at 10; AWEA Comments at 19-22.

<sup>505</sup> CAISO Answer at 96.

CAISO elaborates that under its process, it identifies regional transmission solutions eligible for regional cost allocation in the transmission plan approved by the Board of Governors and CAISO then selects transmission developers for those transmission elements that are subject to competitive solicitation. Transmission developers submit proposals to build transmission facilities *only* if the elements have been approved for regional cost allocation – not the other way around.<sup>506</sup> CAISO, however, adds that if a merchant transmission developer (or transmission developer of a participant-funded project) is unable to recover all costs from certain anchor customers, there are a number of paths available under the tariff that would enable the costs of excess merchant line capacity to be allocated to CAISO ratepayers, if found to be needed.<sup>507</sup>

295. CAISO asserts that its tariff does not have a mechanism under which it can charge end use customers directly for the use of particular transmission facilities. CAISO charges that a transmission access charge does not depend on which customers use particular transmission facilities. It therefore cannot accommodate a merchant transmission owner that wishes to both place its facilities under the control of CAISO and collect the costs of the facilities directly from the users of the facilities.<sup>508</sup> CAISO adds that this concern of Clean Line is not a regional transmission planning issue and is unrelated to the requirements of Order No. 1000. It states that the Order No. 1000 requirements apply to transmission facilities selected in a regional transmission plan for purposes of cost allocation, and not to merchant transmission facilities.<sup>509</sup>

296. Finally, CAISO argues that it should not be required to incorporate the partial cost allocation concept into its process without input and coordination with the other transmission planning regions, as it may be subject to change once the interregional procedures are completed.<sup>510</sup>

#### iv. Commission Determination

297. CAISO proposes to retain its current cost allocation method, which allocates through access charges the costs of regional transmission facilities to all users of the CAISO-controlled grid based on their actual MWh use of the system.<sup>511</sup> We find that

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<sup>506</sup> *Id.* at 97.

<sup>507</sup> *Id.* at 96.

<sup>508</sup> *Id.* at 93.

<sup>509</sup> *Id.*

<sup>510</sup> *Id.* at 95.

<sup>511</sup> *See* CAISO, eTariff, § 26.1 (Access Charges) (1.0.0).

CAISO's regional cost allocation method mostly complies with the six regional cost allocation principles set forth in Order No. 1000. Specifically, we find that the regional cost allocation method that CAISO proposes to retain: (1) allocates costs in a manner that is at least roughly commensurate with estimated benefits; (2) does not involuntarily allocate costs to those who receive no benefits; (3) does not include a benefit-to-cost threshold that exceeds 1.25; (4) allocates costs solely within the affected transmission planning region; (5) provides for methods for determining the benefits and beneficiaries that are transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility; and (6) represents a single cost allocation method for all types of transmission facilities selected in the regional transmission plan for purposes of cost allocation. We also note that CAISO's current cost allocation method has been previously accepted by the Commission and upheld by the Ninth Circuit.<sup>512</sup> However, CAISO's tariff does not provide for identification of the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions, such as upgrades that may be required in another region, as required by Order No. 1000. Accordingly, CAISO must make a further compliance filing to revise its tariff, as discussed below.

298. First, we find that CAISO's regional cost allocation method complies with Regional Cost Allocation Principle 1. We find persuasive CAISO's explanation that CAISO's high voltage regional transmission facilities, which provide a backbone function supporting regional flows, providing transfers between California and other states, reducing congestion and facilitating reserve sharing, facilitating import and export of power and development of large—scale generation resources, benefit all users of the grid.<sup>513</sup> We agree with CAISO that while the regional benefits from high voltage transmission facilities may inure to some areas of the regional grid more than others, the benefits will vary over time, as will the sectors of the grid that benefit. For the CAISO-controlled grid, the effort to parse the benefits out further could lead to an allocation of costs that would not be roughly proportionate to benefits over the long run.

299. Similarly, we find that CAISO's regional cost allocation method complies with Regional Cost Allocation Principle 2, which requires that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, must not be involuntarily allocated any of the costs of those transmission facilities.<sup>514</sup> As discussed

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<sup>512</sup> *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301 (2004), *reh'g denied*, 111 FERC ¶ 61,337 (2005), *aff'd sub nom. State Water Contractors v. FERC*, 285 F.App'x 397 (9th Cir. 2008).

<sup>513</sup> CAISO Transmittal Letter at 26-29.

<sup>514</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 637.

above, we find that CAISO's regional cost allocation method allocates costs in a manner at least roughly commensurate with estimated benefits, and thus does not allocate costs to those that receive no benefit. While costs of regional transmission facilities are allocated to all users of CAISO's high voltage grid as they benefit from that use, there is no allocation to non-beneficiaries with regard to low voltage facilities because customers that do not take service on low voltage facilities do not pay for them.<sup>515</sup>

300. Regional Cost Allocation Principle 3 requires that if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not exceed 1.25.<sup>516</sup> Under CAISO's proposal, the need for economic transmission facilities is determined based on whether the economic benefits of the project outweigh the costs, and there is no minimum threshold above 1 to 1 in the tariff.<sup>517</sup> Thus, we find that CAISO's regional cost allocation method complies with Regional Cost Allocation Principle 3.

301. With respect to Regional Cost Allocation Principle 4, CAISO proposes to allocate regional transmission costs solely within the affected transmission planning region, not to neighboring regions (unless such neighboring regions were to voluntarily accept the allocation of such costs).<sup>518</sup> We therefore find that CAISO's regional cost allocation method complies with Regional Cost Allocation Principle 4's requirement that the allocation method for the cost of a transmission facility selected in a regional transmission plan for purposes of cost allocation must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs.<sup>519</sup>

302. However, CAISO does not comply with the Regional Cost Allocation Principle 4 requirement that the regional transmission planning process identify the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions, such as upgrades that may be required in another region. CAISO also does not address whether the CAISO region has agreed to bear the costs associated with any required upgrades in another transmission planning

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<sup>515</sup> CAISO Transmittal Letter at 31.

<sup>516</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 646.

<sup>517</sup> CAISO Transmittal Letter at 31.

<sup>518</sup> *Id.*

<sup>519</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 657.

region or, if so, how such costs will be allocated within CAISO's transmission planning region. We therefore direct CAISO to file a further compliance filing, within 120 days of the date of issuance of this order, revising its tariff to provide for identification of the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation. CAISO must also address in the further compliance filing whether the CAISO region has agreed to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated within CAISO's transmission planning region.

303. Furthermore, we also find persuasive CAISO's explanations for why its regional cost allocation method meets the requirement of Regional Cost Allocation Principle 5 that the cost allocation methods be transparent.<sup>520</sup> We agree with CAISO that its proposed bright-line voltage level split<sup>521</sup> is a transparent method for determining the benefits and identifying the beneficiaries of transmission facilities on the CAISO-controlled grid. CAISO states that the current high and low voltage cost allocation distinction was developed at the time CAISO was created, is based on the historic engineering principles used by California's investor-owned utilities in designing their transmission networks, and has been embodied in CAISO's tariff since well before the issuance of Order No. 1000.<sup>522</sup> CAISO worked with stakeholders for over two years and during the process modeled and evaluated extensive data across the potential scenarios, including different voltage levels, to arrive at the existing bright-line voltage level split.

304. Lastly, in regard to Regional Cost Allocation Principle 6 that specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan,<sup>523</sup> we find that CAISO's proposed regional cost allocation method complies. CAISO does not propose to establish different types of regional transmission facilities.<sup>524</sup> Under CAISO's proposed cost allocation method, regardless of the need that justifies the construction of a specific transmission facility, high voltage transmission facilities provide regional

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<sup>520</sup> *Id.* P 668.

<sup>521</sup> CAISO Transmittal Letter at 31.

<sup>522</sup> *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301, at PP 39-50 (2004), *reh'g denied*, 111 FERC ¶ 61,337 (2005), *aff'd sub nom. State Water Contractors v. FERC*, 285 F.App'x 397 (9th Cir. 2008).

<sup>523</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 685.

<sup>524</sup> CAISO Transmittal Letter at 31.

benefits and their costs are allocated regionally, and local transmission facilities provide only local benefits and their costs are allocated locally.<sup>525</sup>

305. In response to Clean Line's request for partial cost allocation, we note that while Order No. 1000 requires each public utility transmission provider to have in place a method, or set of methods, for allocating the costs of new transmission facilities selected in the regional transmission plan for purposes of cost allocation,<sup>526</sup> it does not require a public utility transmission provider to establish a cost allocation method that would apply to any portion of the costs of a merchant transmission project not recovered through negotiated rates. Therefore, we deny Clean Line's request that the Commission require CAISO to allow for partial allocation of the costs of a merchant transmission facility through the regional transmission cost allocation method as beyond the scope of Order No. 1000.

**b. Interregional Cost Allocation**

**i. Protests/Comments**

306. Clean Line asserts that the Commission should require CAISO to create a new category of transmission projects for those projects included in the regional transmission plan that are identified as candidates for interregional cost allocation. Clean Line suggests that such transmission projects would not be subject to the same regional benefits test as transmission projects seeking cost allocation at the regional level only.<sup>527</sup>

307. Clean Line contends that Order No. 1000's requirement that an interregional transmission project be selected in both relevant regional transmission plans for purposes of cost allocation in order to be eligible for interregional cost allocation could be problematic.<sup>528</sup> It argues that a transmission planning region that receives little or no benefit from a transmission project would have no incentive to select that project for purposes of cost allocation in its regional transmission plan, even if the method of interregional cost allocation allocated costs to that region commensurate with benefits.<sup>529</sup> Thus, it claims that comparing transmission projects based on their benefits at the regional level unduly discriminates against transmission projects designed primarily to

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<sup>525</sup> *Id.* at 31-32.

<sup>526</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 558.

<sup>527</sup> Clean Line Protest at 8.

<sup>528</sup> *Id.*

<sup>529</sup> *Id.*

address interregional needs.<sup>530</sup> Clean Line states that if transmission projects in its proposed interregional track are not selected for interregional cost allocation, they could be resubmitted for consideration as regional cost-allocated projects or proceed as participant funded projects.<sup>531</sup>

**ii. CAISO Answer**

308. CAISO argues that that Clean Line’s request would not only require substantial revisions to CAISO’s regional transmission planning process, “but it puts the cart before the horse from an interregional planning standpoint.” CAISO explains that it is currently engaged in a stakeholder process with its neighbor transmission planning regions to develop the procedures for evaluating interregional projects and allocating the costs among the regions, including a “track” for consideration of interregional transmission projects in each regional transmission planning process.<sup>532</sup>

**iii. Commission Determination**

309. Order No. 1000 defines a regional transmission facility as one that is “located solely within a single transmission planning region.”<sup>533</sup> Accordingly, Clean Line’s concerns are directed at Order No. 1000 and interregional cost allocation, rather than the regional cost allocation method proposed in this compliance filing, and are outside the scope of this proceeding. Such concerns should be raised when CAISO submits its compliance filing to comply with Order No. 1000’s interregional requirements. Similarly, Clean Line’s request to add an additional category of projects goes beyond the requirements of Order No. 1000.

**C. New Participating Transmission Owners Must Enter Into a Reliability Standards Agreement**

**1. Protests/Comments**

310. SoCal Edison recommends that CAISO add a section to its tariff requiring new participating transmission owners to enter into a reliability standards agreement with CAISO. It states that the agreement would clearly define the roles and responsibilities

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<sup>530</sup> *Id.* at 9.

<sup>531</sup> *Id.* at 8.

<sup>532</sup> CAISO Answer at 95.

<sup>533</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 63.

related to compliance with NERC reliability standards and ensure that nonincumbent transmission developers are aware of their obligations.<sup>534</sup>

## 2. Answer

311. CAISO agrees, but proposes that this requirement be put into the Business Practice Manual and other documents provided to potential transmission developers. CAISO noted that currently the tariff does not contain a reference to reliability standards agreements, although CAISO, in practice, has required new participating transmission owners to enter into such agreements.

## 3. Commission Determination

312. We will not require CAISO to revise its tariff to require new participating transmission owners to enter into a reliability standards agreement. CAISO did not propose such a provision in its compliance filing, and Order No. 1000 does not require such a provision. We find SoCal Edison's recommendation beyond the scope of Order No. 1000.

### D. Related Filings

313. On September 27, 2012, in Docket No. ER12-2709-000, Pacific Gas and Electric Company made a filing to address the non-rate terms and conditions of its Transmission Owner Tariff pursuant to Order No. 1000. Pacific Gas and Electric states that it has turned over operational control of its transmission facilities to CAISO, and that the non-rate terms and conditions of Pacific Gas & Electric's Transmission Owner Tariff were not impacted by the OATT revisions required by Order No. 1000. Pacific Gas and Electric further states that it may wish to make any conforming changes to its tariff within a reasonable time after CAISO makes its Order No. 1000 compliance filing.<sup>535</sup> On October 11, 2012, in Docket No. ER13-87-000, San Diego Gas & Electric Company made a filing similar to that of Pacific Gas and Electric.

314. No further action is required in these two dockets at this time.<sup>536</sup> As noted above, neither Pacific Gas and Electric nor San Diego Gas & Electric utilize local transmission planning processes and instead participate in CAISO's regional transmission planning process.

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<sup>534</sup> SoCal Edison Limited Protest at 6.

<sup>535</sup> Pacific Gas and Electric Filing at 2.

<sup>536</sup> Appendix A lists the interventions filed in the two dockets.

The Commission orders:

(A) CAISO's compliance filing is hereby accepted, as modified, effective October 1, 2013, subject to a further compliance filing, as discussed in the body of this order.

(B) CAISO is hereby directed to submit a further compliance filing, within 120 days of the date of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is dissenting in part with a separate statement attached.

( S E A L )

Kimberly D. Bose,  
Secretary.

**Appendix A: List of Intervenors, Commenters, and Entities Submitting Answers**

Docket No. ER13-103-000

*A Notice of intervention and comments were filed by:*  
Public Utilities Commission of the State of California

*Timely motions to intervene were filed by:*  
Public Utilities Commission of the State of California  
NRG Companies  
Pacific Gas and Electric Company  
Imperial Irrigation District  
State Water Contractors  
Iberdrola Renewables, LLC  
Northern California Power Agency  
City of Santa Clara, California and the M-S-R Public Power Agency  
Transmission Agency of Northern California  
Modesto Irrigation District  
Transource Energy, LLC  
Abengoa Transmission & Distribution, Inc.

*Timely motions to intervene and comments were filed by:*  
Western Independent Transmission Group  
Startrans IO, LLC  
Exelon Corporation  
E.ON Climate & Renewables North America, LLC  
Pattern Transmission LP  
American Wind Energy Association  
Public Interest Organizations

*Timely motions to intervene and protests were filed by:*  
LS Power Transmission, LLC  
Clean Line Energy Partners LLC  
Southern California Edison Company

*Motions to intervene out-of-time were filed by:*  
California Department of Water Resources State Water Project  
National Rural Electric Cooperative Association

*Answers were filed by:*  
CAISO  
American Wind Energy Association  
Imperial Irrigation District

*Timely motions to intervene were filed by:*

City of Santa Clara, California, City of Redding, California, and M-S-R Public Power Agency

Modesto Irrigation District

Transmission Agency of Northern California

Docket No. ER13-87-000

*Timely motions to intervene were filed by:*

Abengoa Transmission & Distribution, Inc.

American Wind Energy Association

E.ON Climate & Renewables North America, LLC

**Appendix B: Abbreviated Names of Commenters**

<b>Abbreviation</b>	<b>Commenter Names</b>
AWEA	American Wind Energy Association
California State Water Project	California Department of Water Resources State Water Project
California Public Utilities Commission	Public Utilities Commission of the State of California
Clean Line	Clean Line Energy Partners LLC
Exelon	Exelon Corporation
E.ON	E.ON Climate & Renewables North America, LLC
LS Power	LS Power Transmission, LLC
Pacific Gas and Electric	Pacific Gas and Electric Company
Pattern Transmission	Pattern Transmission LP
San Diego Gas & Electric	San Diego Gas & Electric Company
SoCal Edison	Southern California Edison Company
Startrans	Startrans IO, LLC
Transource Energy	Transource Energy, LLC

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator  
Corporation

Docket Nos. ER13-103-000

Pacific Gas and Electric Company

ER12-2709-000

San Diego Gas & Electric Company

ER13-87-000

(Issued March 18, 2013)

CLARK, Commissioner, *dissenting in part*:

While I support much of this order, I write separately on two matters from which I depart from the majority position.

The Commission directs the California Independent System Operator (CAISO) to remove tariff language intended to ensure the policies CAISO considers for transmission planning are “not inconsistent with the Federal Power Act.” Contrary to the order’s determination, I find no harm in making explicit the ISO will only consider policies in its planning process that are consistent with the Federal Power Act.

We had previously accepted this language in the tariff, but here, the Commission requires its removal. In this case the Commission is denying the ISO the ability to acknowledge the Federal Power Act, and insofar as a majority of the Commission has already indicated in separate Order No. 1000 compliance orders that certain state and local laws should not be acknowledged in tariffs,<sup>1</sup> this call is consistent with that planning construct. Yet, this continues a trend I find unsettling whereby Order No. 1000 compliance orders prohibit planning entities from taking notice of existing local, state, and now, federal laws that may have an impact on transmission development.

This construct provides that the Order No. 1000 planning process will proceed in a theoretical world where planning is bound by certain laws and policies that drive transmission needs, while at the same time hermetically sealed from other laws and policies that impact how, where and when lines get built. In my view, planning will be far more likely to result in actual infrastructure development if the public utilities that undertake planning processes are able to consider all inputs and constraints including governing local, state and federal laws.

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<sup>1</sup> See *Midwest ISO*, 142 FERC ¶ 61,215 (2013) (Clark, Comm’r, dissenting; Moeller, Comm’r, dissenting); *PJM ISO*, 142 FERC ¶ 61,214 (2013) (Clark, Comm’r, dissenting; Moeller, Comm’r, dissenting)

This is not to say CAISO should not be required to thoroughly explain why it chose to consider or not consider certain policies. I would have allowed the tariff language to remain, but clarified that CAISO must provide a detailed explanation of why it decided not to consider a public policy requirement on the basis that it was “inconsistent with the Federal Power Act.”

On a separate matter, over the objection of Southern California Edison, the Commission allows CAISO to direct the applicable incumbent participating transmission owner to develop an abandoned economic or policy-driven transmission project that no other qualified transmission developer is willing to develop—leaving the incumbent responsible for a project that it does not want to build and that was rejected by its competitors.

While under the CAISO planning process, economic and policy projects may have reliability components, there may also be policy and economic projects that do not include any reliability elements. Order No. 1000 contemplated the incumbent being directed to construct a reliability project, and I could support such a reliability backstop, but CAISO’s tariff exceeds that narrow intent. Although the incumbent transmission owner is ultimately responsible for resolving local reliability violations, it seems untenable to force an incumbent to build an economic or policy line that is almost certainly not the most efficient and cost-effective solution to the underlying reliability concerns, if any. As such, I cannot see how this mandate to build unwanted projects is consistent with the underlying goal of Order No. 1000 to create more efficient and cost effective regional transmission planning.

Given the reconsideration process, it seems unlikely that CAISO will ever ultimately direct an unwilling incumbent transmission owner to build a policy or economic line, but the persistence of such an obligation demonstrates an inconsistency in Order No. 1000’s premise that it creates an equal playing field for all competitors, which is the basis for the removal of the right of first refusal for incumbent transmission owners. Here, the Commission demonstrates that there really is no such level playing field. In CAISO, incumbent transmission owners no longer have the right to build, but can be directed to build lines that competitors rejected even if the lines are not necessary for reliability.

Finally, I reiterate here that in Order No. 1000 I would have preserved a federal right of first refusal for projects selected for cost allocation that are (1) determined by the regional planning coordinator as necessary to satisfy NERC reliability standards and (2) located entirely within the transmission provider’s franchised service territory.

Accordingly, I respectfully dissent in part,

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Tony Clark, Commissioner