



January 27, 2016

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: California Independent System Operator Corporation
Competitive Solicitation Enhancements
Docket No. ER16-____-000**

Dear Secretary Bose:

The California Independent System Operator Corporation (“CAISO”) submits for filing and acceptance amendments to the CAISO Tariff to enhance the procedures for the competitive solicitation process through which the CAISO selects approved project sponsors to construct certain regional transmission solutions included in the CAISO’s annual transmission plan.¹ First, the CAISO enhances the opportunity for project sponsors to collaborate on a joint application at the beginning of the competitive solicitation process (*i.e.*, prior to the due date for submitting project sponsor applications) and eliminates the collaboration period that occurs after project sponsors have submitted their applications and the CAISO has validated them. Among other things, this proposal streamlines the competitive solicitation process, eliminates undue delays, and eliminates a potential unfair advantage that exists under the current process for project sponsors that collaborate and submit a new joint application during the collaboration period.

Second, the CAISO proposes to revise Appendix X of the CAISO Tariff, the *pro forma* Approved Project Sponsor Agreement (“APSA”), to require an approved project sponsor that no longer has responsibility for constructing the project to transfer assets acquired for the project at their book value, determined in accordance with the Commission’s Uniform System of Accounts, to an alternative project sponsor that wishes to use such assets for the project. Such transfers are “subject to applicable law” to ensure the provision does not

¹ The CAISO makes this filing pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (2012) and Rule 385.205 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.205 (2015).

encroach on the Commission's jurisdiction or the applicable laws or orders of any other governmental authority or court. This proposal protects the CAISO ratepayers in situations where an approved project sponsor fails to carry out its responsibilities. Absent these protections, CAISO ratepayers could face undue cost increases or duplicative charges for essentially the same assets, or be "held hostage" to project sponsors that demand premiums in connection with projects that are time-sensitive for reliability of the CAISO controlled grid.

Third, the CAISO proposes to revise the tariff and the APSA to require project sponsors and approved project sponsors to provide the CAISO, participating transmission owners, and approved project sponsors with all initial Commission filings regarding the project. CAISO stakeholders requested this amendment because many project sponsors are special purpose entities unknown to them, and there have been instances where stakeholders and the CAISO were unaware of incentive rate and other project-related filings that project sponsors and approved project sponsors made with the Commission.²

Fourth, the CAISO proposes to revise section 4 of the CAISO tariff to exempt approved project sponsors from the requirements of the participating transmission owner application process because those requirements are essentially duplicative of matters addressed in the competitive solicitation process.³ Also, it is unfair for the CAISO to have the ability to preclude an approved project sponsor that the CAISO selected to construct a needed regional transmission facility from becoming a participating transmission owner and recovering its costs through the CAISO's transmission access charge.

The CAISO notes that it intends to continually assess and improve its competitive solicitation process as it gains more experience and will pursue additional enhancements when appropriate.

The CAISO requests that the Commission issue an order no later than March 28, 2016 approving the proposed tariff amendments so the CAISO can apply the new rules promptly and, in particular, implement the new collaboration process in connection with any competitive solicitation bid window that would open on April 1, 2016.

² Project sponsors are entities that have submitted applications in a competitive solicitation process but have not yet been selected by the CAISO as an approved project sponsor. An approved project sponsor is an entity that the CAISO selects in a competitive solicitation process to construct and own a particular transmission solution.

³ The CAISO also is proposing *de minimis* "clean-up" changes to the APSA.

I. BACKGROUND

A. The CAISO's Transmission Planning Process.

On December 16, 2010, the Commission approved the CAISO's proposed revised annual transmission planning process, which established three transmission planning phases and introduced a competitive solicitation process to determine construction and ownership responsibility for certain regional transmission solutions identified in the annual transmission plan.⁴ The CAISO submitted revisions to the transmission planning process in compliance with Order No. 1000,⁵ which the Commission approved on April 18, 2013.⁶ Subsequently, the CAISO submitted further revisions to the process. The Commission conditionally approved the revisions on March 31, 2014,⁷ and subsequently approved the CAISO's compliance filing on these amendments on November 26, 2014.⁸ These revisions did not fundamentally alter the three phase framework previously established. In phase one of the transmission planning process, the CAISO identifies study assumptions and develops a study plan.⁹ During phase two, the CAISO identifies the need for reliability-driven, policy-driven, and economic transmission solutions and develops the transmission solutions that most cost-effectively and efficiently meet those needs.¹⁰ These transmission solutions are set forth in a transmission plan that the CAISO's Board of Governors approves at the end of phase 2.

During phase 3, the CAISO conducts a competitive solicitation for project sponsors seeking to finance, own, design, construct, operate and maintain regional transmission facilities eligible for competitive solicitation included in the transmission plan.¹¹ The CAISO selects an approved project sponsor, which

⁴ *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010).

⁵ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, 136 FERC ¶ 61,051 (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).

⁶ *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,057 (2013). The Commission directed certain revisions to the CAISO's proposal, and approved the CAISO's compliance filing in response to those conditions on March 20, 2014. *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,198 (2014).

⁷ *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,237 (2014).

⁸ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,178 (2014).

⁹ CAISO Tariff § 24.3.

¹⁰ CAISO Tariff § 24.4.

¹¹ Under the CAISO tariff, the following transmission facilities are not subject to competitive solicitation: local transmission facilities (*i.e.*, those under 200 kV) located entirely within a participating transmission owner's service territory or footprint; and upgrades or additions to existing transmission facilities.

need not be an existing participating transmission owner, based on criteria set forth in the tariff.¹² Once selected, the approved project sponsor must enter into an approved project sponsor agreement with the CAISO.¹³

The CAISO first identified regional transmission facilities that were subject to the phase 3 competitive solicitation process in the 2012-2013 transmission planning process.

B. The Approved Project Sponsor Agreement.

With the first competitive solicitation project chosen in 2013, the CAISO negotiated approved project sponsor agreements separately with each approved project sponsor selected in the process and submitted these agreements to the Commission for approval. In addition, in response to stakeholder requests, the CAISO agreed to develop with stakeholders a *pro forma* APSA. The CAISO filed the *pro forma* APSA on September 10, 2014. The Commission conditionally approved the *pro forma* APSA on November 7, 2014,¹⁴ and approved the CAISO's compliance filing on February 12, 2015.¹⁵

II. COMPETITIVE SOLICITATION PROCESS ENHANCEMENTS STAKEHOLDER PROCESS

In March, 2014, the CAISO initiated a new stakeholder process to consider further enhancements to the competitive solicitation process. This process started with a stakeholder meeting to discuss "lessons learned" from the competitive solicitations arising from the 2012-2013 transmission planning process. At the meeting, the CAISO explained its intent to identify potential enhancements that could improve the efficiency and effectiveness of the competitive solicitation process. The CAISO differentiated between (1) potential enhancements that it could apply to Phase 3 of the 2013-2014 transmission planning process without the need for tariff modifications and (2) issues that had potential policy implications and required more comprehensive stakeholder consultation and potential tariff modification. The CAISO invited stakeholders to submit written comments following the March 6 meeting.¹⁶

Immediately following the March 6 "lessons learned" stakeholder meeting, and after reviewing and evaluating the written stakeholder comments, the CAISO

¹² CAISO Tariff § 24.5.

¹³ CAISO Tariff §§ 24.5.3.4 and 24.5.3.5.

¹⁴ *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,107 (2014).

¹⁵ Letter Order, Docket No. ER14-2924-001 (February 12, 2015).

¹⁶ The CAISO received seven sets of comments. [March 2014 Stakeholder Comments](#).

made several process improvements that did not require tariff amendments prior to the 2013-2014 competitive solicitation.¹⁷ The CAISO discussed these improvements with stakeholders in an October 7, 2014, status update and issue paper posted on the CAISO website.¹⁸ On an October 14, 2014 web conference, the CAISO discussed seven other issues that stakeholders had raised in their comments, and the CAISO solicited additional comments.

The CAISO received nine sets of written comments from stakeholders.¹⁹ Stakeholders suggested two new issues in these comments, bringing the number of outstanding topics to nine. After reviewing the comments, the CAISO developed and issued a straw proposal paper discussing each of the nine issues on June 9, 2015.²⁰ The CAISO discussed the straw proposal paper with stakeholders during a web conference on June 16 and invited stakeholders to submit written comments by close of business June 30. Based on a review of the written comments²¹ and on further consideration, the CAISO developed a revised straw proposal regarding the nine issues, which included both tariff revisions, policy commitments, and, on some issues, tentative conclusions that no action was necessary.²² The CAISO discussed the revised straw proposal paper with stakeholders during a web conference on September 8 and invited stakeholders to submit written comments by September 15. Based on a review of these written comments²³ the CAISO developed its final draft proposal.²⁴ The CAISO discussed this draft final proposal with stakeholders during a web conference on October 19, 2015, and solicited written comments on the draft final proposal by October 27, 2015.²⁵

The CAISO's final proposal included the three tariff revisions identified above and described in greater detail below. The CAISO posted draft tariff language on November 23, 2015 and requested comments. The CAISO received four sets of comments,²⁶ which it discussed on a web conference on December 7, 2015. The CAISO made minor revisions to the tariff language in

¹⁷ The CAISO posted a draft *pro forma* APSA, which led to the filing and approval of the APSA as discussed above.

¹⁸ [October 2014 Status Update/Issue Paper.](#)

¹⁹ [October 2014 Stakeholder Comments on Issue Paper](#)

²⁰ [Straw Proposal.](#)

²¹ [July 2015 Comments on Straw Proposal.](#)

²² [Revised Straw Proposal.](#)

²³ [September 2015 Comments on Revised Straw Proposal.](#)

²⁴ [Draft Final Proposal.](#)

²⁵ [October 2015 Comments on Draft Final Proposal.](#)

²⁶ [December 2015 Comments on Draft Tariff Language.](#)

response to comments and posted these revisions on December 18, 2015. The CAISO held a conference call with stakeholders to discuss the revised tariff language on January 12, 2016.

Separately from the competitive solicitation enhancements initiative, on September 30, 2015, the CAISO posted a proposal and draft tariff language to eliminate duplicative requirements in the competitive solicitation process and the participating transmission owner application process that would apply to approved projects sponsors the CAISO selects in a competitive solicitation.²⁷ The CAISO hosted a web conference on the proposal on October 7, 2015. The CAISO received comments from one stakeholder, who did not oppose the proposal but made wording suggestions that the CAISO accepted.²⁸

The CAISO Governing Board approved the requested competitive solicitation enhancements on December 18, 2015, and the Board approved eliminating the duplicative competitive solicitation and participating transmission owner application process on November 5, 2015.

III. PROPOSED TARIFF REVISIONS

A. Collaboration

Under section 24.5.2.3 of the CAISO tariff, after project sponsors submit their applications to construct and own a regional transmission facility subject to competitive solicitation and the CAISO validates²⁹ the submitted applications, the CAISO will, upon request, provide an opportunity for validated project sponsors to collaborate with other validated project sponsors to submit a new joint proposal. This opportunity to “re-bid” and submit a new joint application is only available to those validated project sponsors that collaborate during the collaboration period under section 24.5.2.3. This “re-bid” opportunity is not available to validated project sponsors that do not collaborate with other

²⁷ [Transmission Owner Application Process Cleanup Proposal.](#)

²⁸ [Comment on Cleanup Proposal.](#)

²⁹ In the validation phase, the CAISO reviews applications for completeness and verifies whether they contain sufficient information to allow the CAISO to determine whether a Project Sponsor is qualified to be selected as an approved project sponsor. See CAISO tariff section 24.5.2.2. Under the tariff, the CAISO notifies project sponsors if additional information is required, and project sponsors have an opportunity to cure any deficiencies. The CAISO's experience with nine competitive solicitations shows that project sponsors typically are required to provide additional information to the CAISO regarding their proposals. Following the validation process, the CAISO posts to its website the list of project sponsors whose applications contain sufficient information and have met the requirements set forth in the business practice manual. This posting only lists the project sponsors with validated applications (referred to hereinafter as validated project sponsors); it does not provide any information or details regarding their specific proposals.

validated project sponsors during this collaboration period and agree on a new joint proposal. If two or more validated project sponsors collaborate and submit a new joint application during the collaboration period, the CAISO will proceed to validate the new joint proposal.³⁰ Upon validating the new joint application, the CAISO will then proceed to qualify all of the project sponsors and undertake the comparative analysis to select an approved project sponsor.³¹

The CAISO proposes to modify the existing process to enhance the opportunity for collaboration prior to the deadline for submitting project sponsor proposals.³² The CAISO proposes to eliminate the existing collaboration opportunity under tariff section 24.5.2.3.

As part of this proposed modification, the CAISO will revise tariff section 24.5.1 to extend the two month minimum window for project sponsors to submit applications by approximately two weeks, so that, prospectively, competitive solicitation application windows will last a minimum of 10 weeks.³³ Under new section 24.5.2.1, entities that are interested in collaborating with other project sponsors will have two weeks after CAISO opens an application submission window for a competitive solicitation to notify the CAISO, after which the CAISO will post a list of interested entities on the CAISO website. Entities that decide to collaborate will submit their joint proposals during the same period as entities that are not collaborating. Prior notice to the CAISO is not a prerequisite to submitting an application, including a joint application, in a competitive solicitation process. In other words, entities can collaborate without notifying the CAISO or having the CAISO post their identity on the list of entities potentially interested in collaboration. The CAISO is essentially providing a service to identify entities that may be interested in collaborating, thus facilitating potential collaboration between transmission developers.

The graphs below show the timelines for the competitive solicitation process under the existing tariff and the timelines that would apply following approval of the proposed tariff amendment.³⁴

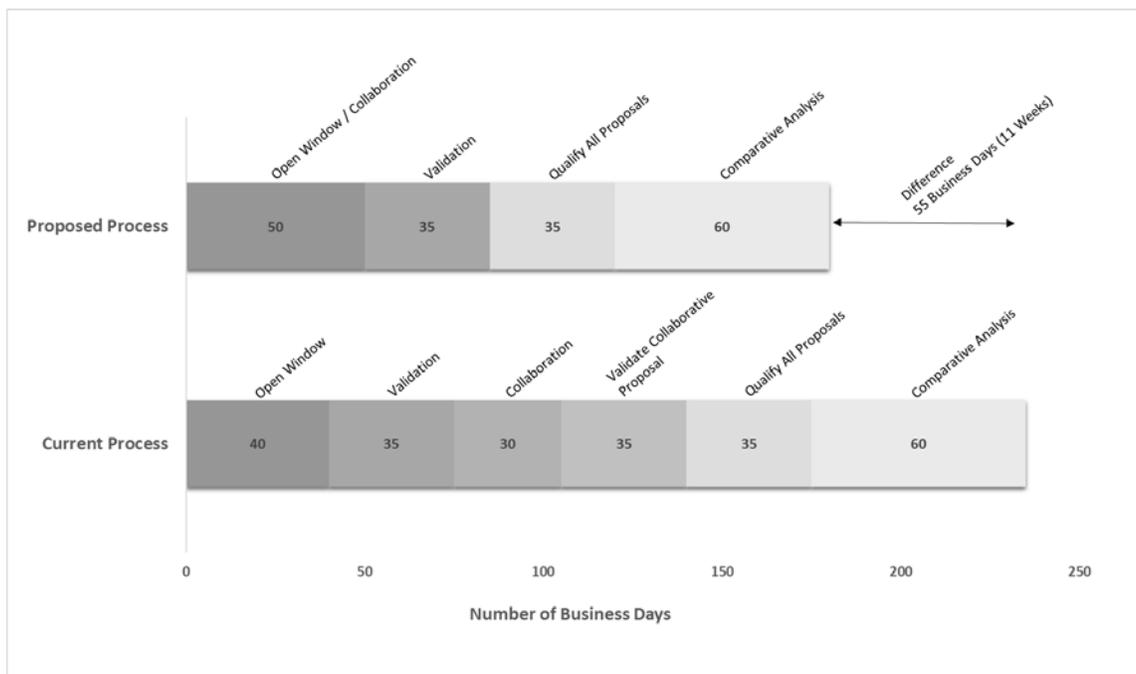
³⁰ The CAISO essentially repeats the process identified in the prior footnote to validate the joint application.

³¹ Under the CAISO's process, once project sponsors collaborate and submit a joint application, their individual applications are no longer under consideration, and the CAISO refunds any "unspent" amounts remaining from their individual deposits. The joint applicants submit a new deposit for their new joint application, and the CAISO assesses all future evaluation costs against that deposit.

³² See new tariff section 24.5.2.1.

³³ The CAISO also proposes to delete from tariff section 24.5.1 a sentence regarding the length of the window that has no prescriptive effect but is merely conclusory.

³⁴ The CAISO's business practice manual for the transmission planning process (Table 2-1 Transmission Planning Process Schedule) sets forth the following timelines for the competitive



The initial impetus for the proposed tariff revisions were stakeholder comments that the current collaboration process did not provide any benefits and unnecessarily extended the review period, delaying selection and potentially interfering with the ability of an approved project sponsor to complete seasonal environmental surveys in a timely manner (potentially jeopardizing completion of the project within the timeline needed by the CAISO). In response, the CAISO sought additional comments regarding potential modification of the collaboration process.

Additional comments confirmed that many stakeholders believe the current collaboration process unduly extends the competitive solicitation review period, and needlessly delays project sponsor selection and, ultimately,

solicitation processes: (1) the bid window is open for a minimum of two months, but the CAISO may stagger the closing of bid windows or hold them open for a longer period based on the number and complexity of the regional transmission facilities eligible for competitive solicitation; (2) validation of project sponsor applications can take up to 35 business days; (3) the CAISO allows up to 30 business days for project sponsors to collaborate and submit a new joint application and up to 35 business days for the CAISO to validate any new joint application; (4) the CAISO has up to 35 business days to complete the project sponsor qualification process; and (5) if there is more than one qualified project sponsor, the CAISO has up to 60 business days to conduct its comparative analysis and select a project sponsor.

The enhanced process proposed herein eliminates steps (3) and (4), extends step (1) by approximately two weeks, and facilitates potential collaboration during an extended step (1).

completion of the project. Some stakeholders also voiced significant concern that the existing collaboration framework affords an unfair advantage to validated project sponsors that collaborate during the collaboration period by allowing them -- and only them -- to revise their proposals and take advantage of market changes that occur or new information that becomes available after the original application window closes; whereas, the remaining validated project sponsors are not allowed to refresh their bids during the collaboration period.

After two rounds of stakeholder comments, the CAISO sought input on three proposals:

- (1) Allow potential bidders interested in collaborating to announce themselves shortly after the bid window opens and require all collaboration to be done prior to submitting an application at the close of the bid window. The CAISO would post the list of potential bidders interested in collaborating and their contact information on the CAISO website. The CAISO would retain the current bid window, which is a minimum of two months, however there would be no further collaboration window provided after the bid window is closed. There also would be no qualification requirement to announce interest in collaborating.
- (2) Retain the existing collaboration process, but allow non-collaborating parties to refresh their application if there is successful collaboration among bidders. The refresh of the application would have to be limited in scope and project sponsors would have to submit their refreshed bid by the end of the existing collaboration period.
- (3) To address concerns regarding potential gaming issues where there are only two validated project sponsors for a project, the CAISO would require that any collaboration among the two parties must result in an equal or lower cost (including cost containment) for CAISO ratepayers.

The table below provides a summary of the pros and cons the stakeholder process identified for each option and the existing process.³⁵

³⁵ One stakeholder suggested that if the CAISO were to adopt option one it should extend the existing application submission window to further facilitate up-front collaboration. The CAISO adopted this stakeholder's recommendation and extended the application submission window from a minimum of two months to a minimum of 10 weeks.

	Existing Process	Option 1	Option 2	Option 3
Pros	<p>Allows validated project sponsors to collaborate and potentially submit a stronger joint bid than their initial individual bids</p>	<p>Still provides an opportunity for meaningful collaboration</p> <p>Shortens the overall process by 11 weeks, potentially avoiding significant delays</p> <p>Eliminates an unfair advantage for collaborating project sponsors</p> <p>Moots the need for Option 3</p> <p>Reduces costs and workload for project sponsors and CAISO</p> <p>Adds two weeks to the bid window, thus enhancing the opportunity for up-front collaboration</p>	<p>Allows a re-bid opportunity for all project sponsors, not just collaborating project sponsors</p>	<p>Intended to prevent all validated project sponsors from collaborating and gaming the process by submitting a new, single joint application that increases costs to ratepayers (compared to the project sponsors' individual proposals that are terminated after the filing of a new joint application)</p>
Cons	<p>Can delay the process by up to 13 weeks</p> <p>Results in an unfair advantage for project sponsors that collaborate during the collaboration period</p> <p>Increases costs and workload for project sponsors and the CAISO</p> <p>Allows all validated project sponsors to collaborate and submit a single joint bid that increases costs to ratepayers</p>	<p>Eliminates the opportunity for collaboration after bid window closes</p>	<p>Does not eliminate the existing process's delays and could increase them</p> <p>Does not eliminate all of the potential unfairness of the existing process</p> <p>Would likely increase costs and workload for the CAISO and project sponsors</p> <p>Does not eliminate the opportunity for all validated project sponsors to collaborate, submit a single joint bid that increases costs to ratepayers, and be awarded the project</p>	<p>Does not eliminate the existing process's undue delays, unfair advantages, and added costs/workload</p> <p>Is unnecessary with the adoption of Option 1</p> <p>Does not address most of the problems identified with the existing process</p> <p>Adds complexity and raises unresolved implementation issues</p>

The CAISO decided to move forward with a modified form of the first option for several reasons.

First, the CAISO's proposal will avoid undue delays because the CAISO will not need to extend the period for evaluating proposals while project sponsors collaborate and will not need to review and validate applications a second time (once for each of the project sponsors individually and again for the joint application such collaborating project sponsors submit). The existing collaboration period, which occurs after project sponsors have submitted their applications, can extend a competitive solicitation by up to 13 weeks. The CAISO's proposal will streamline the collaboration process, combining multiple steps into one. Even with an extension of the minimum application submission window from two months to ten weeks, the CAISO's proposal will shorten the overall competitive solicitation process by up to 11 weeks. This is particularly critical time savings for reliability projects that are needed within a relatively short timeframe and for economic projects whose benefits are greater in the early years of the project (circumstances which the CAISO has faced). Delays under these circumstances could render the CAISO unable to meet reliability needs when they are expected to arise or reduce the economic benefits of projects. In instances where the benefit-to-cost ratio of an economic project is only slightly greater than one-to-one, even a modest delay potentially could render a project uneconomic. Another important consideration identified by stakeholders is that a delay in the selection process can also create further delays by interfering with an approved project sponsor's ability to complete seasonal environmental surveys in a timely manner.³⁶

As an example of the time it can take for the CAISO to complete its evaluation in a competitive solicitation where validated project sponsors collaborate during the section 24.5.2.3 collaboration period, the CAISO notes that it opened the bid window for the recently completed competitive solicitation process for the Harry Allen-Eldorado 500kV line on January 30, 2015 and did not issue its decision until January 11, 2016 – almost one-year later. The CAISO's proposal will hasten this process.

Second, based on stakeholder input, the CAISO concluded that option one best addressed stakeholder concerns about the potential unfair advantage for validated project sponsors that collaborate during the section 24.5.2.3 collaboration period because option one requires that **all** proposals be submitted at the same time, and there is no opportunity for project sponsors to collaborate

³⁶ For example based on previous experience, one stakeholder noted that project sponsors that cannot finalize certain environmental monitoring by March run the risk of missing a survey should conditions bring an early Spring. This could unnecessarily delay completion of a project environmental assessment and the survey until Spring of the following year. See Draft Final Proposal at 36.

and revise their proposals after the application window closes. Stakeholders pointed out that permitting collaborating sponsors to “rebid” after closure of the application submission deadline can allow such collaborators to take advantage of, and base their rebids on, new information, changed market conditions, or new insights into the CAISO’s decision making process that become available after the close of the initial application submission window – an opportunity no other project sponsor(s) would have. They stated that this could provide an unfair advantage to project sponsors that collaborate and submit a new joint application during the section 24.5.2.3 collaboration period.

For example, when the CAISO has a large number of approved projects eligible for competitive solicitation, it must stage (or phase) them. This can result in circumstances where project sponsors submit their applications to compete for projects in the second or third phase of competitive solicitations before the CAISO has issued its decision(s) on earlier competitive solicitation(s). The CAISO’s decision on an earlier collaboration may reveal additional information about a competing project sponsor (e.g., specific cost containment proposals, bidding strategies, innovative ideas, etc.) or new insights into the CAISO’s decision making process. Validated project sponsors who collaborate during the section 24.5.2.3 collaboration period would then be able to take advantage of such information and revise their bids accordingly; other project sponsors would not have that opportunity. Also, after the CAISO validates the project sponsor applications, the CAISO posts a list of the project sponsors with validated applications. Thus, validated project sponsors will know who their competitors are for the first time -- a fact that would not have been public when they first submitted their proposals. Validated project sponsors that collaborate during the collaboration potentially could use this information as a basis for revising their proposals.

Even when the CAISO does not stage/phase competitive solicitations, the current collaboration process affords validated project sponsors collaborating during the collaboration period the opportunity to (1) assess their competition and submit revised bids that are stronger, (2) take advantage of publically available information regarding competing project sponsors and potentially modify their proposals accordingly, or (3) take advantage of new market conditions. Because validated project sponsors that do not collaborate during the collaboration period do not have this opportunity, they potentially can be disadvantaged. Eliminating the “re-bid” opportunity for project sponsors that collaborate during the collaboration period ensures a more level playing field exists among all competing project sponsors and ensures that all proposals are based on the same information at the same point in the process.³⁷

³⁷ The CAISO’s proposal will also result in reduced costs for project sponsors. The existing collaboration process requires project sponsors to incur validation costs twice -- once when the

The aforementioned stakeholder concerns, and how they are remedied by the CAISO's proposal can be shown by the following hypothetical example.³⁸ The CAISO's transmission plan identifies several projects for competitive solicitation; given their scope and complexity the CAISO must conduct the competitive solicitations in two stages with staggered application submission windows. Assume that three project sponsors, A, B, and C, submit applications for Project Y in the second set of competitive solicitations and sponsor A submitted what would be deemed the strongest bid if there was no subsequent "re-bid" opportunity for validated project sponsors that collaborate during the collaboration period. Assume that sponsors A, B, and C also submitted bids on one of the projects in the first phase of competitive solicitations and that sometime between the close of the application submission window for Project Y and the date the collaboration period for Project Y begins, the CAISO issues a decisional report on the prior project on which A, B, and C submitted proposals. This decisional report contains specific information regarding sponsor A's bid (e.g., cost containment measures, unique financial arrangements, and advantages in permitting, engineering, operations maintenance or other). The CAISO's decisional report selects sponsor A as the approved project sponsor for the prior project and notes specific details regarding sponsor A's proposal and provides some new insights into the CAISO's decisional process not seen in prior reports; also, since the close of the application submission window for Project Y there has been a significant change in market conditions that are expected to persist and that potentially could reduce project costs. Also, new information becomes public regarding sponsor A's proposal. As permitted by the existing tariff, during the collaboration period for Project Y, sponsors B and C can collaborate and submit a new joint application that is stronger than their original individual applications. The new joint application includes some features sponsor A included in its bid for the earlier project, and which the CAISO noted as important in its decisional report, but which were not included in the individual applications of either sponsor B or C. Sponsor A does not collaborate (and was not able to collaborate because sponsors B and C collaborated) and, as such, under the existing tariff provisions, it is not eligible to revise its original proposal.

As described in the above example, the existing process potentially allows sponsors B and C to collaborate and submit a new joint proposal that differs from their individual proposals. Such new joint proposal can account for new information learned about competing project sponsors (including their bids in recently completed competitive solicitations and any other now public information), new market conditions, and newly available insights into the

CAISO validates the proposals submitted by the individual project sponsors and again when the CAISO must validate the new joint application(s) submitted during the collaboration period.

³⁸ There are numerous permutations of this example that would make the same point.

CAISO's decisional process. It also allows them to submit a more competitive proposal based simply on the fact that they now know who their competitors are (and what their strengths and weaknesses might be). Under the existing tariff, sponsor A does not get such a rebid opportunity. In addition to delaying the competitive solicitation process, the existing collaboration approach potentially gives sponsors B and C an unfair advantage. The CAISO's proposal eliminates this possibility. Using the example above, under the CAISO's proposal, sponsors B and C would be required to submit any joint application prior to the close of the application submission window (which will be extended by the CAISO's proposal), and there would be no re-bid opportunity. Thus, the proposals of all project sponsors would become final at the same time, and they would compete on a level playing field based on the information that is available at the time they submit their applications. There would not be an opportunity for only a subset of the project sponsors to take advantage of new information that might become available after the application submission window closes.

The CAISO does not believe that its proposal will result in the loss of any significant benefits. The CAISO is merely enhancing and facilitating the opportunity for collaboration earlier in the process; it is not eliminating collaboration altogether. There is no valid reason why collaborating project sponsors cannot submit joint bids during the initial application submission window that are as equally robust as the joint "re-bids" they can submit several months later under the existing collaboration window, except to the extent project sponsors are relying on new information, which is what renders the existing process inherently unfair. Transmission developers know what strengths they each bring to the table and are fully capable of ascertaining what the resulting efficiencies of any collaboration would be prior to the close of the application submission window. A 30-business day collaboration period occurring in the middle of the competitive solicitation process is not necessary to bring that information to light, particularly because the CAISO will now be facilitating collaboration up front by posting a list of all sponsors that have expressed an interest in collaborating. Project sponsors should submit their best bids up front and not be incentivized to wait until a later collaboration period when they may have new information, including knowledge of their competitors, to submit a revised joint bid.

The CAISO has conducted nine competitive solicitations thus far. In three competitive solicitations involving large transmission line projects -- Gates-Gregg, Sycamore-Penasquitos, and Delaney-Colorado -- certain project sponsors collaborated and submitted joint applications prior to the close of the application submission window, and the CAISO selected them as the approved project sponsors for those projects. There are several other examples of project sponsors collaborating at the start of the process and submitting joint applications prior to the close of the application submission window. This clearly demonstrates that effective collaboration can occur -- and has in fact occurred --

prior to the close of the application submission window. On the other hand, in the nine competitive solicitations the CAISO has conducted there are only two instances where validated project sponsors collaborated during the collaboration window (after bid submission) and submitted new joint applications.³⁹ Neither collaboration produced an approved project sponsor. Thus, after nine competitive solicitations, the facts show that there has been more collaboration -- and more effective collaboration -- between project sponsors prior to the close of the application submission window than during the post-validation collaboration period.

Although up-front collaboration has been fairly robust up until now, the existing collaboration period has the potential to dis-incentivize future up-front collaboration because two transmission developers interested in collaborating might determine that it is more strategic for them to submit individual applications during the application window because that would then allow them to “re-bid” and submit a new joint application later on during the collaboration window. At that time, they would have an opportunity to assess the competition, incorporate any new information into their joint application, and revise their bids. They would not have this opportunity if they had filed a joint application initially. At a minimum, the existing process potentially accords an undue preference to project sponsors that collaborate during the collaboration window compared to project sponsors

³⁹ The universe of potential (and eligible) project sponsors that might be interested in collaborating is larger at the start of the competitive solicitation process than it is at the time the section 24.5.2.3 collaboration period begins. In that regard, under existing section 24.5.2.3, only validated project sponsors can collaborate. This likely results in a much smaller subset of potential collaborators than the number of entities that might have been interested in collaborating at the start of the competitive solicitation process. Also, the existing process essentially requires validated project sponsors, in a short period of time, to “cold call” other validated project sponsors without knowing in advance whether they are in fact interested in collaborating or who their contact persons are, and then get them to agree to collaborate. On the other hand, under the instant proposal, the CAISO will post a list of parties that are interested in collaborating and their contact information, thus facilitating the collaboration process. The CAISO’s proposal also avoids the situation where project sponsors might become “wedded” to their individual proposals once submitted (proposals on which they have expended significant time, effort, and cost) potentially making it less likely they will be interested in collaborating. The CAISO is aware of instances where a validated project sponsor was interested in collaborating, but other validated project sponsors were not. Also, with the existing collaboration period, validated project sponsors will know who their competitors are. They may feel that they hold an upper hand and therefore have less incentive to collaborate. On the other hand, under the CAISO’s proposal, potential project sponsors will not know who their competitors ultimately will be at the time they submit their applications; so, there is more incentive to collaborate up-front if that will strengthen their proposal and improve their chances of being selected as an approved project sponsor. Further, under the existing process, project sponsors who have already submitted proposals may have to share the specific details of their individual bids. This potentially could deter collaboration because if one of the sponsors clearly has a stronger proposal, it may be disinclined to collaborate in the end because it may view itself as already being “ahead” of another competitor.

that collaborate prior to the application submission window (and project sponsors that do not collaborate).

The third major reason supporting the proposed revisions to the collaboration process is that, the existing collaboration rules allow for a scenario where, all of the validated project sponsors could chose to collaborate and submit a new, single, joint proposal that increases the overall cost to ratepayers or removes other advantages that were reflected in an individual proposal, but not in a joint application following collaboration. The CAISO's proposal avoids this problem because all collaboration must now occur before the close of the application submission window, eliminating any 'rebid' opportunity. Thus, option three is unnecessary under the CAISO's proposal.⁴⁰ In any event, there is no reason project sponsors cannot undertake collaboration at the front end of the process. The CAISO typically identifies the projects subject to competitive solicitation in its final draft transmission plan, which is usually posted by the end of February. Competitive solicitation windows typically do not open until April and, under this proposal, the CAISO is allowing a minimum of 10 weeks for the bid window. Thus, there is plenty of time and opportunity for potential project sponsors to collaborate -- indeed there is more time for project sponsors to

⁴⁰ Stakeholders noted that option three only addresses a single narrow concern, not the broader concerns associated with the existing collaboration window. Also, as the CAISO learned in evaluating option three more closely, it adds unnecessary complexity and implementation issues that were unresolved. Project sponsor proposals contain a large number of individual elements/proposals, all of which can affect the selection of the approved project sponsor. It is not as "black-and-white" as simply taking the bid with the lowest construction cost cap. For example, collaborating project sponsors could reduce their construction cost cap but use lower quality materials that could increase costs in the future. Or, they could propose a lower construction cost cap but provide an increased O&M cost estimate or increased return on equity cap making it impossible to determine with certainty whether the costs of the revised bid ultimately will be lower than the original bid. The CAISO's experience shows that cost containment commitments can take many forms, and often project sponsors are capping various individual cost elements and providing a variety of "outs" from their proposed caps. It a joint application revises a number of these elements, it may not be readily apparent whether the joint proposal will actually result in a cost reduction. Also, how would the CAISO handle a situation where a joint application reduces the construction cost cap, but increases the number of "outs"? Although the joint application shows a cost reduction on its face, the increased number of "outs" increases the risk that costs could increase above that level. Another possibility would be for the joint project sponsors to propose a slightly reduced construction cost cap but change the project team or other aspects of the proposal in a way that increases schedule or other risk. Any number of permutations can be identified to demonstrate the complexity of and problems associated with this option. On the other hand, the CAISO's proposal best addresses all of the concerns with the existing collaboration window, eliminating the need for option three and all the complexities and issues it raises.

collaborate up-front than there is during the current 30-business day collaboration period.⁴¹

Two stakeholders supported option two, but the CAISO rejected that approach for several reasons. Importantly, it would not address the CAISO's and stakeholders' concerns regarding the undue delay cause by the existing approach. Indeed, allowing all project sponsors, even the non-collaborating ones, to revise their proposals would only delay the selection process further because the CAISO likely would have to validate a larger number of revised proposals than it does under the current approach. Option two would also add work effort and costs for both project sponsors to prepare, and for the CAISO to review and evaluate, the revised proposals submitted by project sponsors.⁴² In particular, to avoid an even lengthier delay and ensure a more level playing field, all project sponsors, collaborating and non-collaborating, would need to submit their revised proposals at the same time.⁴³ In the event no project sponsors actually collaborated, project sponsors who worked to revise their proposals would have acted in vain because the CAISO would not consider any of the revised proposals because there was no collaboration.

Stakeholders also noted that unlike option one, option two does not completely eliminate the inherent unfairness of allowing project sponsors to revise their proposals to account for new information regarding a competing project sponsor that becomes available after the close of the application window.⁴⁴ For example, the CAISO could issue a decisional report in another competitive solicitation after the close of the application window for the current competitive solicitation. That decisional report could disclose key information regarding a competing project sponsor's bidding strategy, including specific,

⁴¹ Under the existing business practice manual, validated project sponsors have 10 business days to notify the CAISO that they are interested in collaborating, another 10 days to provide the CAISO with an agreement in principle to participate in a joint enterprise, and then 10 more days to submit a new joint application. Business Practice Manual for the Transmission Planning Process, section 5.4.

⁴² The stakeholder process also left unresolved what portions of their applications non-collaborating project sponsors would be able to revise if the CAISO selected option two -- only cost containment measures or all aspects of their proposals. The former would require less validation time (and thus result in less delay and work effort), but the latter would treat everyone on an equal basis. Adopting option one obviated the need for stakeholders to resolve this issue.

⁴³ In other words, it would be problematic for the collaborating project sponsors to submit their joint application, and then allow a separate additional period of time for all other project sponsors to develop and submit their revised proposals. That approach would not only re-create -- it would exacerbate -- the problems that exist under the current process.

⁴⁴ Also, option two does not address the situation where all validated project sponsors can combine on a new, single, joint application that increases costs to ratepayers and still be awarded the project.

innovative cost containment proposals, or it could compare that project sponsors' proposal to the proposal of a project sponsor who is seeking to collaborate in the instant competitive solicitation. Another possibility is that details regarding a non-collaborating sponsor's proposal become public after the close of the bid window or become apparent to competitors once the CAISO posts a list of all validated project sponsors. Two validated project sponsors could collaborate and revise their bids (or otherwise modify their proposals) in a new joint application based solely on this new information regarding a competitor, not because of any specific efficiencies produced by their collaboration. Stakeholders recognized that any opportunity to modify bids based on new information like this potentially can be one-sided, unfair, and call into question the integrity of the process. Project sponsors should be incented to submit their best bids up-front.

Finally, unlike option two, the CAISO's proposed approach recognizes the need for finality in the bidding process, and even though information may change, the CAISO cannot continually accommodate re-bids. The competitive solicitation process is not a moving target. The transmission projects the CAISO identifies as needed have in-service deadlines; the importance of meeting those deadlines, many of which are necessary to meet specified reliability needs, should not be ignored.

B. Transfer of Project Assets

Under section 24.6.4 of the CAISO tariff, if an approved project sponsor is unable to fulfill its responsibilities or otherwise abandons the project, the CAISO may, in certain circumstances, select a new (alternative) approved project sponsor. The previous approved project sponsor is obligated to work cooperatively and in good faith with the CAISO, any alternative project sponsor selected by the CAISO, and the affected participating transmission owner(s) to implement the transition. Section 5.8 of the APSA incorporates this requirement, and obligates the approved project sponsor to work with the CAISO, the alternative project sponsor, and any interconnection participating transmission owner to transfer responsibilities.

The CAISO proposes to revise section 5.8 of the APSA to provide that the approved project sponsor must undertake the aforementioned efforts in good faith (consistent with the existing tariff requirement). Further, if the alternative project sponsor desires to use any of the assets acquired by the approved project sponsor for the project, the approved project sponsor must, subject to applicable law, transfer such assets to the alternative project sponsor at book value, determined in accordance with the Commission's Uniform System of Accounts. This requirement would apply only to asset transfers that occur after the approved project sponsor has executed the APSA. Moreover, under the proposed tariff language, an approved project sponsor would not be precluded from filing with the Commission a proposal to recover any abandoned plant costs consistent with applicable precedent and policy, but any amount the approved

project sponsor proposes to recover must be reduced by the amount the alternative project sponsor pays the approved project sponsor to acquire any assets. Finally, this provision would survive termination of the APSA.⁴⁵ This ensures that termination of the APSA does not enable an approved project sponsor to avoid its obligation.

The issue of the transfer of project-related assets in circumstances where the CAISO must select an alternative project sponsor first arose during the stakeholder process regarding development of the *pro forma* APSA. One stakeholder advocated for a provision in the APSA requiring the approved project sponsor to transfer to the alternative project sponsor all rights, equity, ownership and interest in the project, including property rights and contractual rights. The CAISO did not include such a provision based on its initial conclusion that an approved project sponsor would have no motivation to hold rights in connection with a project when it is no longer in a position to recover the costs of the project as a participating transmission owner.

The stakeholder raised this issue again in its comments to the Commission when the CAISO filed the *pro forma* APSA. In its answer to protests, the CAISO acknowledged the stakeholder's concerns but noted that the proposal raised a number of concerns, including compensation to the approved project sponsor. Accordingly, the CAISO committed to address this issue in its "Competitive Solicitation Process Enhancements" stakeholder initiative -- the stakeholder initiative that led to the instant tariff amendment filing.⁴⁶ In its order approving the CAISO's *pro forma* APSA without a provision regarding the transfer of assets, the Commission acknowledged the CAISO's intent to address in this stakeholder process the issue of compensation to the approved project sponsor for its rights, title, or interest in assets the project sponsor has acquired for the project.⁴⁷ That stakeholder process ultimately led to the revisions to Section 5.8 of the APSA proposed herein.

Pages 65-71 of the CAISO's Draft Final Proposal (attached hereto as Attachment C) detail the extensive and robust discussion and evolving policy development regarding this topic that occurred during the underlying stakeholder process. The CAISO will not repeat that discussion and the iterations that led to the final proposal. The CAISO notes that it continually enhanced its proposal and tariff language in response to stakeholder input both during the policy development phase and during the tariff development phase.

⁴⁵ The CAISO also proposes a corresponding revision to APSA section 2.3.1 to reflect that section 5.8 survives termination of the APSA.

⁴⁶ CAISO Motion for Leave to Submit Answer to Comments and Protests and Answer, pp. 16-17, Docket No. ER14-2824 (October 14, 2014).

⁴⁷ 149 FERC ¶61,107 at P 51.

In light of the considerations raised during the stakeholder process, the CAISO concluded that its proposal best balances the needs of moving forward with the needed project and preventing excessive costs to ratepayers, while not interfering with the Commission's responsibilities. The CAISO believes the proposed transfer of assets provision is necessary to protect both the CAISO and ratepayers in the event an approved project sponsor does not carry out its responsibilities under the agreement or otherwise abandons the project. Currently, the APSA contains no such protections. The CAISO has already faced one instance where an approved project sponsor has terminated the APSA. In another instance, the parent company of a co-approved project sponsor has declared bankruptcy. The CAISO and ratepayers need to be protected if circumstances like these occur in the future and result in an approved project sponsor abandoning the project or not otherwise carrying out its responsibilities. Otherwise, the CAISO and ratepayers could face undue cost increases or delays for the project. For example, an approved project sponsor could hold the CAISO and ratepayers hostage by demanding premiums above the cost of book value of the facilities. This is especially a concern in instances where the CAISO needs a project to be in service by a date certain to meet an identified reliability need (or face penalties for violating reliability standards), ensure that a project will provide net economic benefits (especially when the economic benefits of a project are larger during the early years of the project), or interconnect new generation that is expected to be in service by a specified date. Under these circumstances, there may not be sufficient time to have an alternative project sponsor start the project entirely from scratch.⁴⁸ The proposal improves the chances that an abandoned project can still be completed in a timely manner, thus enabling the CAISO to meet its needs.

Also, if an approved project sponsor were to decline selling its assets to the alternative project sponsor and instead seek abandoned plant cost recovery for them, CAISO ratepayers could face duplicative costs for similar assets, once in connection with the abandoned plant cost recovery and again from the alternative project sponsor that had to start from scratch and procure the same assets the approved project sponsor would not sell. The CAISO's proposal avoids this untenable position and facilitates timely completion of needed projects at rates that are just and reasonable. Project sponsors selected by the CAISO to construct a project needed by the CAISO should not be given the

⁴⁸ Moreover, if the approved project sponsor has acquired land for transmission routes or substations, renegotiating or finding new land for the project could be excessive and potentially infeasible, severely impacting the project completion.

opportunity, after the fact, to demand a price above book value for any project-related assets.⁴⁹

Also, because the CAISO's transmission rates, and the Commission's Uniform System of Accounts are cost-based, an original approved project sponsor should not be able to impose additional costs on ratepayers by demanding a premium for the transfer of assets. Limiting compensation to the book value of the asset, determined in accordance with the Commission's Uniform System of Accounts, accomplishes that goal. At the same time, a transfer at this level fairly compensates the approved project sponsor for costs incurred to date of developing the project.

In comments on the proposed tariff language, one stakeholder raised several issues. The stakeholder stated that the proposed provision could create difficulty in financing the project. The CAISO concluded that this concern was misplaced. If the alternative project sponsor accepts the transfer of an asset, the original approved project sponsor will receive payment that can be used to satisfy its obligations to the financing entity. Because the book value of the asset represents the costs the approved project sponsor has incurred and the amount it could reasonably expect to recover in transmission rates for the asset, the amount available to satisfy the financing entity will not be "reduced." The tariff language clearly states that the transfer price shall be the book value of the asset determined in accordance with the Commission's Uniform System of Accounts. In addition, although the existing APSA does not preclude abandoned plant recovery, at the request of this stakeholder, the CAISO added language stating that the provision would not preclude any applicable abandoned plant recovery "as allowed by the Commission." Thus, the approved project sponsor is fully protected because it will be paid book value for the assets it sells to the alternative project sponsor and is eligible to seek abandoned plant cost recovery for any unrecovered costs. This cost recovery should be consistent with the reasonable expectations any financing entity.⁵⁰

In response to other stakeholders that commented on the draft tariff language regarding abandoned plant cost recovery, the CAISO clarified its proposal by clearly stating that the approved project sponsor must reduce the amount of any abandoned plant recovery it seeks from the Commission by any amounts it receives from the alternative project sponsor for transferred assets.

⁴⁹ Also, absent this provision, there could be an incentive for the approved project sponsor to procure equipment/materials and then, if prices increase, abandon the project if it can make a greater profit on the equipment sale.

⁵⁰ This provision does not encroach on Commission jurisdiction because the tariff language does not prescribe what cost recovery the Commission must allow (or disallow); it only dictates what costs the approved project sponsor may seek to recover in any filing with the Commission to recover abandoned plant costs.

Thus, approved project sponsors cannot seek a windfall in the form of double compensation for transferred assets, once in the form of abandoned plant recovery and again for the monies it receives from the alternative project sponsor for the transferred assets. This prevents ratepayers from paying twice for the similar assets needed for a project.

The stakeholder that expressed concerns with the asset-transfer proposal also commented that it was one-sided because it gives the alternative project sponsor the ability to pick and choose which assets to acquire out of the group of assets obtained for the project. The CAISO does not see this as an unfair disadvantage to the original approved project sponsor because, if the original approved project sponsor cannot recover all of its costs through the sale of its assets to the alternative project sponsor, it has the opportunity to seek abandoned plant recovery from the Commission for any remaining costs. The ability to transfer a portion of the assets at book value actually protects the approved project sponsor from Commission denial of abandoned cost recovery and from any decreases in market value. Also, it may assist the approved project sponsor in recovering abandoned plant costs by demonstrating proactive efforts to mitigate those costs.

In any event, requiring the alternative project sponsor to buy 100 percent of the project-related assets is unfair to the alternative project sponsor, and potentially can increase costs to CAISO ratepayers. The alternative project sponsor may not need all of the assets. For example, the alternative project sponsor may already have existing rights-of-way or facilities/equipment that it can use for the project and does not need to procure such assets from the original project sponsor. As indicated above, the approved project sponsor is fully protected because it can seek abandoned plant recovery for the assets it does not sell.

The CAISO also notes that its proposal places reasonable limitations reasonably on the asset-transfer requirement. First, it only applies to assets that the approved project sponsor has acquired for the project. Second, it only applies to asset transfers that occur after the APSA is executed,⁵¹ and under the APSA, once the approved project sponsor executes the Transmission Control Agreement and turns the completed facilities over to the CAISO's operational control, the Transmission Control Agreement governs the relationship between the CAISO and the approved project sponsor (who has become a participating transmission owner). In other words, the APSA does not govern any asset transfers that might occur after the approved project sponsor turns the project

⁵¹ Only after the APSA is executed does the CAISO have a contractual relationship with the approved project sponsor regarding the specific rights and obligations with respect to the project.

over to the CAISO's operational control. The CAISO added these limitations in response to stakeholder input.⁵²

Further, the CAISO's proposal will not encroach on the Commission's jurisdiction or any jurisdiction that some other governmental authority (e.g., with respect to siting authority) or court may have. In that regard, all asset transfers under section 5.8 are "subject to applicable law."

As a final matter, participating in the competitive solicitation process is voluntary. The transfer of assets provision is basically a condition of participating in and winning a competitive solicitation. Project sponsors will know in advance of participating what their obligations are and can plan accordingly. For the reasons discussed above, the provision is not unfair to project sponsors. However, it is necessary to protect the CAISO and ratepayers when an approved project sponsor abandons a project.

C. Rate Filings

The CAISO proposes to add a new section 25.5.2.2 of the CAISO tariff and a new section 12.6 of the APSA to require project sponsors and approved project sponsors, respectively, to provide the CAISO, participating transmission owners, and other approved project sponsors with copies of all initial Commission filings that affect the rates, terms, or conditions of service for the project. No stakeholders opposed these revisions.

In supplemental comments on the straw proposal, a stakeholder requested consideration of a requirement that project sponsors submitting applications in the competitive solicitation process provide the CAISO and participating transmission owners with Commission filings that pertain to the project. The stakeholder stated that including the CAISO, participating transmission owner and other approved project sponsors on the initial service list will alert these entities that filings have been made, so they can intervene if desired. The stakeholder noted that special purpose entities have been formed for the purpose of participating in the CAISO's competitive solicitation process and the identities of such special purpose entities are not always known to CAISO stakeholders. Thus, parties may not become aware of the relevance of the filings these entities submit.

⁵² One stakeholder asked that the alternative project sponsor be made a third party beneficiary for the purposes of enforcing an obligation to transfer the assets. The CAISO concluded that in light of the CAISO's responsibility for the competitive solicitation process and nature of the APSA, the right to enforce the APSA should remain with the CAISO, not a third party. Accordingly, the CAISO did not propose to give the alternative project sponsor third party beneficiary rights. This is consistent with the Commission's determination in its order on the *pro forma* APSA. 149 FERC ¶61,107 at P 55.

The stakeholder identified a situation where a special purpose entity (with a name unfamiliar to CAISO stakeholders), that was participating in an ongoing competitive solicitation, filed an application for rate incentives and an initial TO Tariff with the Commission before the CAISO had even completed the competitive solicitation and selected an approved project sponsor.⁵³ As a general matter, many interested parties were not aware of the rate filing and, as such, did not intervene.⁵⁴ The CAISO is also aware of another instance where an approved project sponsor who was a co-applicant did not copy the CAISO on an incentive rate and TO Tariff filing, and the CAISO did not become aware of the proceeding until after the Commission issued an order.

Based on these facts and stakeholder input, the CAISO concluded that it should include the requirement that project sponsors and approved project sponsors serve the CAISO, participating transmission owners and approved project sponsors all initial filings affecting the rates, terms, and conditions for the project. The revision to section 12.6 of the APSA applies to approved project sponsors that have executed the APSA. Tariff section 24.5.2.2 imposes this obligation on project sponsors. This addresses the situation where a project sponsor submits a filing before the CAISO has completed the competitive solicitation process. These entities have not executed the APSA; so, the corresponding provision in the APSA would not apply to them. As discussed above, there is one instance where a project sponsor that had not yet been selected as an approved project sponsor submitted a filing to the Commission proposing a formula rate (including a rate of return on equity) for recovery of its transmission revenue requirement in anticipation of being selected.

The CAISO notes that participating transmission owners and approved project sponsors have a similar obligation under the tariff with respect to transmission revenue requirement filings.⁵⁵ It is reasonable to extend this obligation back to the period during which facilities are being financed, designed, and constructed so that it applies to all initial filings pertaining to a project. The CAISO proposes to apply the obligation only with respect to initial filings in a Commission docket so that project sponsors and approved project sponsors do not have a continuing obligation to serve subsequent filing on entities that have not intervened in a proceeding.

D. Application Process Clean Up.

The CAISO proposes to revise section 4 of the CAISO tariff to exempt approved project sponsors from the application process for new participating

⁵³ See [Draft Final Proposal](#) at 27.

⁵⁴ Only one party intervened.

⁵⁵ CAISO tariff, Appendix F, Schedule 3, Section 9.1.

transmission owners.⁵⁶ They would still be required to sign the CAISO's Transmission Control Agreement. Ordinarily, if an entity desires to become a participating transmission owner and turn over operational control of its transmission facilities to the CAISO, the tariff and transmission control agreement provide for an application process, stakeholder review of the application, and a decision by the CAISO Board.⁵⁷ However, potential participating transmission owners that are approved project sponsors, will have already undergone the competitive solicitation process under section 24 of the CAISO tariff, which requires project sponsors to submit a detailed application to the CAISO that provides significant amounts of information including, *inter alia*, their qualifications to construct, own, operate, and maintain the project facilities and their ability to function as participating transmission owner.⁵⁸ Only after conducting a comprehensive evaluation of all applicants, including assessing their qualifications to build the project, operation and maintenance practices, and project cost and cost containment, does the CAISO award the project to the approved project sponsor.

The CAISO notes that under its tariff, in assessing whether a project sponsor is qualified for to compete for a specified regional transmission facility, the CAISO assesses

whether the Project Sponsor makes a commitment to become a Participating TO for the purpose of turning the Regional Transmission Facility that the Project Sponsor is selected to construct and own as a result of the complete solicitation process over to the CAISO's Operational Control, to enter into the Transmission Control Agreement with respect to the transmission solution, to adhere to all Applicable Reliability Criteria and to comply with NERC registration requirements and NERC and WECC standards, where applicable.⁵⁹

Requiring an approved project sponsor to undergo another application and stakeholder process after the CAISO has already determined it to be qualified to build, operate, and maintain the facilities would be both duplicative and burdensome. For example, the project sponsor application requires a project

⁵⁶ If an approved project sponsor is already a participating transmission owner then the project is just integrated into the transmission register similar to upgrades or modifications of any transmission equipment.

⁵⁷ See Transmission Control Agreement, section 2.2, *et seq.*; CAISO tariff section 4.3.1.

⁵⁸ The CAISO's project sponsor application is available at:
<http://www.caiso.com/Documents/TransmissionProjectSponsorApplication.doc>

⁵⁹ CAISO tariff section 24.5.3.1(f).

sponsor to demonstrate its ability to comply with the requirements of the Transmission Control Agreement and applicable reliability standards and to express its commitment to become a participating transmission owner. Further, in the transmission planning process leading up to the competitive solicitation, the CAISO will already have determined the transmission facilities that will be turned over to the CAISO's operational control. This is basically the same information that the CAISO requires a party to provide when it applies to becoming a participating transmission owner. Indeed, the project sponsor application requires entities to provide more information to the CAISO than the Transmission Control Agreement does.

Moreover, although the CAISO does not foresee any circumstance under which it would occur, fairness requires that the CAISO not have the ability to preclude an approved project sponsor that the CAISO has already selected to construct, and who has constructed, a needed transmission project in accordance with the APSA, from becoming a participating transmission owner and obtaining rate recovery for the project. No stakeholders objected to this proposal.⁶⁰

IV. ADDITIONAL NON-TARIFF ENHANCEMENTS

As a result of the competitive solicitation enhancements stakeholder initiative, the CAISO also committed to undertake several process enhancements in addition to the tariff amendments proposed herein. For informational purposes, those enhancements include the following:

- The CAISO will amend the project sponsor application form to eliminate any perceived disadvantage of a project financed proposal by clarifying that questions F-11 through F-16 (dealing with financing of the project) apply to all applicants;
- In future competitive solicitation decisional reports, the CAISO will strive to provide clearer explanations of the differences between project sponsors with respect to meeting the applicable criteria and their relevance in the decision making process, while balancing confidentiality concerns. In particular, the CAISO will disclose in its decisional report the specific details and dollar

⁶⁰ The CAISO also proposes certain non-substantive clean-up edits to the APSA. For example, the CAISO replaces the reference to "Affected Systems" in Appendix A to "Project Sponsors." The reference to Affected Systems was an inadvertent carry-over from the generator interconnection agreement on which the CAISO modeled the APSA. The CAISO identifies and resolves any affected system issues as part of the transmission planning process; so, it does not need to be done twice. There is no other reference to affected systems in the APSA. On the other hand, Section 5.5.5 of the APSA requires CAISO approval of changes to the project team, but the APSA heretofore has not included a listing of the project team which is proposed for Appendix A.

levels of all binding cost containment commitments (*e.g.*, the amount of any cost cap(s)) agreed to by the selected approved project sponsor. The CAISO commenced this practice with its Harry Allen-El Dorado decisional report posted on January 11, 2016;

- As requested by certain stakeholders; the CAISO will revise the project sponsor application to solicit additional information from project sponsors intending to seek FERC rate incentives; and
- The CAISO will update the project sponsor application to clarify the amount of cost detail a project sponsor is required to provide.

V. EFFECTIVE DATE

The CAISO requests that the Commission approve the proposed tariff revisions effective on March 28, 2016.

VI. SERVICE

The CAISO has served copies of this filing upon the California Public Utilities Commission, the California Energy Commission, and all parties with effective Scheduling Coordinator Service Agreements under the CAISO tariff. The CAISO has also posted the filing on its website.

VII. ATTACHMENTS

The following attachments are included with this filing:

- (A) A clean version of the proposed tariff revisions;
- (B) A marked version of the proposed tariff revisions;
- (C) The draft final proposal from the stakeholder process;
- (D) The CAISO Board of Governors decision on approved project sponsor enhancements; and
- (E) The CAISO Board of Governors decision on competitive solicitation process enhancements.

VIII. CORRESPONDENCE

The CAISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

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IX. CONCLUSION

The CAISO respectfully requests that the Commission accept this filing and permit the proposed tariff amendments to become effective March 28, 2016. If there are any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

/s/ Anthony J. Ivancovich

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CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California this 27th day of January, 2016.

/s/ Martha Sedgley
Martha Sedgley

Attachment A – Clean Tariff Records

Competitive Solicitation Enhancements

California Independent System Operator Corporation

4.3.1 Nature Of Relationship

Each Participating TO shall enter into the Transmission Control Agreement with the CAISO. In addition to converting Existing Rights in accordance with Section 16.1.4, and except as provided in Section 4.3.1.3, New Participating TOs will be required to turn over Operational Control of all facilities and Entitlements that: (1) satisfy the FERC's functional criteria for determining transmission facilities that should be placed under CAISO Operational Control; (2) satisfy the criteria adopted by the CAISO Governing Board identifying transmission facilities for which the CAISO should assume Operational Control; and (3) are the subject of mutual agreement between the CAISO and the Participating TOs. The CAISO shall notify Market Participants when an application has been received from a potential Participating TO and shall notify Market Participants that a New Participating TO has executed the Transmission Control Agreement and the date on which the CAISO will have Operational Control of the transmission facilities.

4.3.1.1 In any year, a Participating TO applicant must declare its intent in writing to the CAISO to become a New Participating TO by January 1 or July 1, and provide the CAISO with an application within fifteen (15) days of such notice of intent. Neither the written declaration of intent nor the application requirement applies to Approved Project Sponsors. Applicable agreements will be negotiated and filed with the Federal Energy Regulatory Commission as soon as possible for the New Participating TO, such that the agreements can be effective the following July 1 or January 1 or, for Participating TOs that are Approved Project Sponsors, upon energization of the transmission facilities that are subject to an Approved Project Sponsor Agreement made effective in accordance with its terms.

4.3.1.2 With respect to its submission of Bids, including Self-Schedules, to the CAISO, a New Participating TO shall become a Scheduling Coordinator or obtain the services of a Scheduling Coordinator that has been certified in accordance with Section 4.5.1, which Scheduling Coordinator shall not be the entity's Responsible Participating TO in accordance with the Responsible Participating Transmission Owner Agreement, unless mutually agreed, and shall operate in accordance with the CAISO Tariff and applicable agreements.

The New Participating TO shall assume responsibility for paying all Scheduling Coordinators' charges regardless of whether the New Participating TO elects to become a Scheduling Coordinator or obtains the services of a Scheduling Coordinator.

For the period between the effective date of this provision and ending December 31, 2010, the TAC Transition Date pursuant to Section 4.2 of Appendix F, Schedule 3, New Participating TOs that have joined the CAISO and turned over Operational Control of their facilities and Entitlements shall receive the IFM Congestion Credit in accordance with Section 11.2.1.5, which IFM Congestion Credit shall only be applicable to those facilities and Entitlements in existence on the effective date of the CAISO's initial assumption of Operational Control over the facilities and Entitlements of a New Participating TO.

4.3.1.2.1 New Participating TOs shall complete TRTC Instructions for their Converted Rights as provided in Section 16.4.5. To the extent such Converted Rights derive from ETCs with Original Participating TOs, the New Participating TOs and the appropriate Original Participating TO shall develop the TRTC Instructions together.

4.3.1.3 CAISO Relationship with Specific Participating TOs

- (a) **Western Path 15.** Western Path 15 shall be required to turn over to CAISO Operational Control only its rights and interests in the Path 15 Upgrade and shall not be required to turn over to CAISO Operational Control Central Valley Project transmission facilities, Pacific AC Intertie transmission facilities, California-Oregon Transmission Project facilities, or any other new transmission facilities or Entitlements not related to the Path 15 Upgrade. For purposes of the CAISO Tariff, Western Path 15 shall be treated with respect to revenue recovery as a Project Sponsor in accordance with Section 24.14.3.1.
- (b) **New Participating TOs After April 1, 2014.** An Approved Project Sponsor that was not a Participating TO as of April 1, 2014, shall be required to turn over to CAISO Operational Control only its rights and interests in the Regional Transmission Facilities it has been selected to finance, construct and own under section 24.5. Such a Participating Transmission Owner will be subject to all obligations of a Participating TO with regard to the facilities placed under CAISO Operational Control, except the obligation in Section 4.3.1.1 to declare its intent and submit an application to become a Participating TO and

the obligation in Section 2.2 of the Transmission Control Agreement to apply to become a Participating TO.

4.3.1.4 The capacity provided to the CAISO under the Transmission Exchange Agreement originally accepted by FERC in Docket No. ER04-688 is deemed to be CAISO Controlled Grid facilities and is subject to all terms and conditions of the CAISO Tariff.

4.3.1.5 Each Participating TO must provide its Local Reliability Criteria to the CAISO, as required by the TCA.

4.3.1.6 Converted Rights.

A recipient of transmission service under an Existing Contract that chooses to become a Participating TO and convert its rights to CAISO transmission service, and the Participating TO which provides the transmission service under the Existing Contract, shall change the terms and conditions of the contract to provide that:

- (a) The recipient of the transmission service received under an Existing Contract that has converted its rights to CAISO transmission service shall turn over Operational Control of its transmission Entitlement to the CAISO for management by the CAISO in accordance with the CAISO Tariff, applicable Operating Procedures, and Business Practice Manuals;
- (b) The recipient of the transmission service under an Existing Contract that has converted its rights to CAISO transmission service shall obtain all future transmission services within, into (starting at the CAISO Controlled Grid), out of, or through the CAISO Controlled Grid using the CAISO's bidding, scheduling, and operational procedures, the CAISO Tariff, and any applicable TO Tariff, provided that this provision shall not affect the rights, if any, of the contract parties to extend Existing Contracts;
- (c) For the capacity represented by its rights, the recipient of firm transmission service under an Existing Contract that has converted its rights to CAISO transmission service shall be entitled to receive all Wheeling revenue credits throughout the term that the capacity is available under the Existing Contract;

- (d) The recipient of the transmission service received under an Existing Contract that has converted its rights to CAISO transmission service shall continue to have the obligation to pay the provider of the service for its transmission service at the rates provided in the Existing Contract, as they may change from time to time under the terms of the Existing Contract, or as mutually agreed between the contract parties, through the term of the contract, subject to the terms and conditions of the contract, including the rights of the parties to the contract to seek unilateral or other changes pursuant to Section 205 or Section 206 of the Federal Power Act and the FERC's Rules and Regulations or as otherwise provided by law.
- (e) Other aspects of such an Existing Contract may also need to be changed. If the parties to the contract are unable to negotiate such changes, they shall seek appropriate changes through the mechanisms provided within the contract, including the rights, if any, to seek unilateral or other changes pursuant to Section 205 or Section 206 of the Federal Power Act and the FERC's Rules and Regulations or as otherwise provided by law.

4.3.1.7 Transmission Maintenance Coordination Committee

In accordance with the Transmission Control Agreement, the CAISO shall convene a Transmission Maintenance Coordination Committee to perform the functions described in Appendix C of the Transmission Control Agreement. The Transmission Maintenance Coordination Committee will function as an advisory body to CAISO management and the CAISO will provide all necessary administrative support and sufficient resources to ensure that the Transmission Maintenance Coordination Committee can fulfill the obligations specified in the Transmission Control Agreement.

24.5.1 Competitive Solicitation Process

According to the schedule set forth in the Business Practice Manual, in the month following the CAISO Governing Board's approval of the comprehensive Transmission Plan, the CAISO will initiate a period of

at least ten (10) weeks that will provide an opportunity for Project Sponsors to submit specific proposals to finance, own, and construct the Regional Transmission Facilities subject to competitive solicitation identified in the comprehensive Transmission Plan. If the transmission solution adopted in Phase 2 involves an upgrade or improvement to, addition on, or a replacement of a part of an existing Participating TO facility, the Participating TO will construct and own such upgrade, improvement, addition or replacement facilities unless a Project Sponsor and the Participating TO agree to a different arrangement. For Regional 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, the ten week period will be initiated following management approval of the facility, and the Project Sponsor selection process may follow an accelerated schedule described in the Business Practice Manual. Such proposals must include plan of service details and supporting information as set forth in the Business Practice Manual sufficient to: (1) enable the CAISO to determine whether the Project Sponsor meets the qualification criteria specified in section 24.5.3.1; (2) enable the CAISO to determine whether a Project Sponsor's proposal meets the proposal qualification criteria in section 24.5.3.2; and (3) enable the CAISO, if there are multiple qualified Project Sponsors bidding on the same Regional Transmission Facility, to conduct a comparative analysis of the proposals and Project Sponsors and select an Approved Project Sponsor as described in section 24.5.2.5. The project proposal will identify the authorized governmental body from which the Project Sponsor will seek siting approval for the project.

Within 30 days after the CAISO posts the draft comprehensive Transmission Plan to its website, for each Regional Transmission Facility identified in the comprehensive Transmission Plan that is subject to competitive solicitation, the CAISO will post, for informational purposes only, those existing qualification criteria and selection factors, in addition to any binding cost containment commitments, which the CAISO believes are key for purposes of selecting an Approved Project Sponsor for the particular transmission solution, consistent with the comparative analysis described in section 24.5.4 and the project sponsor qualification and selection criteria specified in sections 24.5.3.1 and 24.5.4, respectively. The posting of such key criteria is solely intended to provide information to Project Sponsors to assist them in the preparation of their applications and to highlight specific topics to which particular attention should be paid in the application given their importance in connection with a particular Regional Transmission Facility.

The posting of the key selection criteria is not a replacement or substitute for the qualification and selection criteria set forth in sections 24.5.3.1 and 24.5.4, and in its comparative analysis conducted in accordance with section 24.5.4, the ISO is required to comparatively assess all of the qualification and selection criteria, not just those listed as key selection criteria. In its posting of the key selection criteria, the ISO cannot add new or different criteria than those already specified in sections 24.5.3.1 and 24.5.4. To determine the key criteria for each transmission solution subject to competitive solicitation, the ISO will consider: (1) the nature, scope and urgency of the need for the transmission solution; (2) expected severity of siting or permitting challenges; (3) the size of the transmission solution, potential financial risk associated with the transmission solution, expected capital cost magnitude, cost overrun likelihood and the ability of the Project Sponsor to contain costs; (4) the degree of permitting, rights-of-way, construction, operation and maintenance difficulty; (5) risks associated with the construction, operation and maintenance of the transmission solution ; (6) technical and engineering design difficulty or whether specific expertise in design or construction is required; (7) special circumstances or difficulty associated with topography, terrain or configuration; (8) specific facility technologies or materials associated with the transmission solution; (9) binding cost containment measures, including cost caps; (10) abandonment risk; and (11) whether the overall cost of the transmission solution impacts the ISO's prior determination of, and inclusion in, the comprehensive Transmission Plan of the more efficient or cost effective solution during Phase 2 of the transmission planning process.

The posting of the key selection criteria shall not undermine the ISO's prior determination in Phase 2 of the transmission planning process of the more efficient or cost-effective transmission solution to be reflected in the comprehensive Transmission Plan, nor shall the posting of the key criteria replace or be inconsistent with the ISO's obligation under section 24.5.4 to undertake a comparative analysis of each Project Sponsor with respect to each Project Sponsor qualification and selection criterion. If the CAISO determines in Phase 2 of the transmission planning process that more than one transmission solution could constitute the more efficient or cost-effective solution to meet a specific identified need depending on the outcome of the competitive solicitation, the CAISO shall have the authority to identify more than one potential transmission solution in the comprehensive Transmission Plan. Under those circumstances, based on the outcome of the competitive solicitation, the CAISO will make the final

determination of which alternative transmission solution identified in the Board-approved comprehensive Transmission Plan constitutes the more efficient or cost-effective transmission solution to be selected for construction.

24.5.2 Project Sponsor Application and Information Requirement

All project sponsors must submit a Project Sponsor application form as set forth in the Business Practice Manual and posted on the CAISO website. Any entity may submit a Project Sponsor application to finance, construct, own, operate and maintain a transmission solution identified in the comprehensive Transmission Plan subject to the competitive solicitation process. There is no requirement that a Project Sponsor first be qualified before it may submit a Project Sponsor application for such a transmission solution.

24.5.2.1 Opportunity for Collaboration

Any entity interested in collaborating with another entity may notify the CAISO of such interest within two weeks after the CAISO opens the competitive solicitation window for a specified Regional Transmission Facility. The CAISO will post a list of entities interested in collaborating and their contact information on the CAISO website. Prior notice to the CAISO is not a prerequisite for a Project Sponsor to submit an application, including a joint application, to finance, own, construct, operate, and maintain a Regional Transmission Facility under Section 24.5. All Project Sponsors, including collaborating Project Sponsors, must submit an application prior to the close of the competitive solicitation window.

24.5.2.2

A Project Sponsor will provide to the CAISO, Participating TOs (as listed on Appendix F to the Transmission Control Agreement), and Approved Project Sponsors a copy of all initial filings it submits in a FERC docket that affect the rates (including the Transmission Revenue Requirement), terms, or conditions of service for any Regional Transmission Facility that is the subject of an ongoing competitive solicitation process under this section 24.5. The Project Sponsor will provide such copy either via email or first class U.S. mail on the same day it makes the filing with FERC; provided that if the copy is sent via U.S. mail, the Project Sponsor will satisfy the requirement if it places the copy in the mail on the date of filing.

24.5.2.3 Project Sponsor Information Requirements

The application to be submitted to the CAISO by an entity desiring to become an Approved Project Sponsor shall include the following general information (as well as related details) in response to the questions on the application form:

- (a) The following financial information:
 - (i) A proposed financial plan demonstrating that adequate capital resources are available to the Project Sponsor to finance the transmission solution, and that constructing, operating and maintaining the facilities will not significantly impair the Project Sponsor's creditworthiness or financial condition;
 - (ii) A showing from the Project Sponsor's most recent audited financial statements that the Project Sponsor's assets are in excess of liabilities as a percentage of the total cost of the transmission solution;
 - (iii) Financial funding ratios from the most recent audited financial statements;
 - (iv) Credit arrangements between affiliated entities, including corporate parent, and compliance with regulatory restrictions and requirements; and,
 - (v) Bankruptcy, dissolution, merger or acquisition history;
- (b) The credit rating from Moody's Investor Services and Standard & Poors of the Project Sponsor, or its parent company, controlling shareholder, or any other entity providing a bond guaranty or corporate commitment to the Project Sponsor;
- (c) Information showing the Project Sponsor's ability to assume liability for major losses resulting from failure of, or damage to, the transmission facility, including damage after the facility has been placed into operation;
- (d) The projected in-service date of each transmission solution with a construction plan and

timetable;

- (e) A description of the Project Sponsor's proposed engineering, construction, maintenance and management teams, including relevant capability and experience;
- (f) A description of the Project Sponsor's resources for operating and maintaining the transmission solution after it is placed in-service;
- (g) A discussion of the capability and experience of the Project Sponsor that would enable it to comply with all on-going scheduling, operating, and maintenance activities required for each transmission solution, including those required by the tariff, business practice manuals, policies, rules, guidelines, and procedures established by the CAISO;
- (h) Resumes for all key management personnel, including contractors, that will be involved in obtaining siting approval and other required regulatory approvals and for constructing, operating and maintaining each transmission solution;
- (i) A description of the Project Sponsor's business practices that demonstrate consistency with Good Utility Practice for proper licensing, designing and right-of-way acquisition for constructing, operating and maintaining transmission solutions that will become part of the CAISO Controlled Grid;
- (j) The Project Sponsor's previous record regarding construction, operation and maintenance of transmission facilities within and outside the CAISO Controlled Grid;
- (k) The Project Sponsor's pre-existing procedures and practices for acquiring and managing right of way and other land for transmission facility, or, in the absence of preexisting procedures or practices, a detailed description of its plan for right of way and other land acquisition;
- (l) A description of existing rights of way or substations upon which all or a portion of the transmission facility can be located and incremental costs, if any, that would be incurred in connection with placing new or additional facilities associated with the transmission

solution on such existing rights of way;

- (m) The Project Sponsor's preexisting practices or procedures for mitigating the impact of the transmission solution on affected landowners and for addressing public concerns regarding facilities associated with the transmission solution. In the absence of such preexisting practices or procedures, the Project Sponsor shall provide a detailed plan for mitigating such impacts and addressing public concerns;
- (n) A description of the following and any related or relevant information regarding:
 - (i) the proposed structure types and composition, conductor size and type;
 - (ii) the proposed route and rights of way; and
 - (iii) a plan for addressing topography issues;
- (o) Cost containment capabilities and cost cap, if any;
- (p) Description of the Project Sponsor's plan for complying with standardized maintenance and operation practices and all applicable reliability standards;
- (q) Any other strengths and advantages that the Project Sponsor and its team may have to build and own the transmission solution, as well as any specific efficiencies or benefits demonstrated in its Project Sponsor proposal; and
- (r) The authorized government body from which the Project Sponsor will seek siting approval for the transmission solution and the authority of the selected siting authority to impose binding cost caps or cost containment measures on the Project Sponsor, as well as its history of imposing such measures.

Additional details about the information that must be submitted is set forth in the Business Practice Manual and on the application form. On the CAISO's request, the Project Sponsor will provide additional information that the CAISO reasonably determines is necessary to conduct its qualification and selection

evaluation with respect to the particular transmission solutions that are subject to competitive solicitation.

24.5.2.4 Posting Applications With Sufficient Information

Upon receipt of a Project Sponsor's application, the CAISO will review the application for completeness and will verify that the application contains sufficient information for the CAISO to determine whether the Project Sponsor is qualified to be selected as an Approved Project Sponsor. By the deadline set forth in the Business Practice Manual, the ISO will notify each Project Sponsor whether the application is complete or whether additional information is required. Project Sponsors will be given an opportunity to cure any deficiencies in their application submissions in accordance with the schedule set forth in the Business Practice Manual. After the end of the cure period, and subject to the confidentiality provisions set forth in Tariff Section 20, the CAISO will post to its Website a list of Project Sponsors whose applications contain sufficient information and have met the requirements set forth in the Business Practice Manual.

Appendix X
Approved Project Sponsor Agreement (APSA)

APPROVED PROJECT SPONSOR AGREEMENT (APSA)
BETWEEN

[APPROVED PROJECT SPONSOR]

AND

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

PROJECT: _____

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APPROVED PROJECT SPONSOR AGREEMENT

[APPROVED PROJECT SPONSOR]

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

THIS APPROVED PROJECT SPONSOR AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20____, between [the Approved Project Sponsor], organized and existing under the laws of the State of _____ ("Approved Project Sponsor"), and the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO"). Approved Project Sponsor and the CAISO each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the CAISO exercises Operational Control over the CAISO Controlled Grid; and

WHEREAS, the Approved Project Sponsor intends to construct, finance, and own the _____ Project ("Project") consisting of transmission facilities identified in Appendix A to this Agreement; and

WHEREAS, if applicable, the Approved Project Sponsor will seek interconnection of the Project from the Interconnecting PTO or other entity in accordance with the requirements provided in this Agreement; and

WHEREAS, the Parties agree that the Approved Project Sponsor will enter into the Transmission Control Agreement to become a Participating Transmission Owner ("Participating TO"), if it is not already a Participating TO, effective upon energization of the Project, and will turn the Project over to the Operational Control of the CAISO; and

WHEREAS, the Parties recognize that the Approved Project Sponsor has certain rights and obligations related to the Project that arise prior to the date upon which the Approved Project Sponsor will place the facilities under the CAISO's Operational Control and, if not already a Participating TO, will become a Participating TO and which may remain in effect for a discrete period of time after the Approved Project Sponsor enters into the Transmission Control Agreement; and

WHEREAS, the Approved Project Sponsor and the CAISO thus have agreed to enter into this Agreement for the purpose of identifying rights and obligations associated with the Project that arise prior to the effective date of the Approved Project Sponsor's execution of the Transmission Control Agreement;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

When used in this Agreement, a term with initial capitalization shall have the meaning set forth in this Article 1 or the recitals, or if not defined in this Article 1 or the recitals, shall have the meaning specified in the Article in which it is used or in the CAISO Tariff, Appendix A.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state, and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits, and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the Western Electricity Coordinating Council or its successor.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Interconnecting PTO's Transmission System to which the Project is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Confidential Information shall mean any confidential, proprietary, or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy, or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 19.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 14 of this Agreement.

Effective Date shall mean the date on which this Agreement becomes effective as specified in Article 2.

Environmental Law shall mean Applicable Laws and Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, earthquake, or explosion, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond the reasonable control of the Parties that could not have been avoided through the exercise of Good Utility Practice. A Force Majeure event does not include (1) acts of negligence or intentional wrongdoing by the Party claiming Force Majeure; (2) economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic; (3) economic hardship of either Party; or (4) failure or delay in granting of necessary permits for reasons not caused by Force Majeure.

Governmental Authority shall mean any federal, state, local, or other governmental, regulatory, or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Approved Project Sponsor, the CAISO, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants," or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any applicable Environmental Law.

Interconnecting PTO shall mean any Participating TO, other than the Approved Project Sponsor, that owns or is building transmission facilities to which the Project will interconnect.

Interconnection Handbook shall mean a handbook, developed by the Interconnecting PTO and posted on the Interconnecting PTO's web site or otherwise made available by the Interconnecting PTO,

describing technical and operational requirements for controls and protection equipment for transmission connected to the Interconnecting PTO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Interconnecting PTO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice.

Loss shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

Metering Equipment shall mean all metering equipment installed or to be installed for measuring the Balancing Authority Area boundary pursuant to this Agreement at the metering points, including instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

Party or Parties shall mean the CAISO, the Approved Project Sponsor, or the applicable combination of the above.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

System Protection Facilities shall mean equipment, including necessary protection signal communications equipment, that protect (1) the Interconnecting PTO's Transmission System, Interconnecting PTO's Transmission Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances and (2) the Approved Project Sponsor's Transmission System from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Interconnecting PTO's Transmission Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

Transmission Interconnection Facilities shall mean the Interconnecting PTO's or other entity's transmission facilities, including any modification, additions, or upgrades, that are necessary to physically and electrically interconnect the Project to the Interconnecting PTO's Transmission System.

Transmission Interconnection Service shall mean the service defined in Section 4.2 of this Agreement.

ARTICLE 2. EFFECTIVE DATE, TERM, AND TERMINATION

2.1 Effective Date. This Agreement shall become effective upon execution by all Parties, subject to acceptance by FERC (if applicable). The CAISO shall promptly file this Agreement with FERC upon execution in accordance with Section 3.1, if required.

2.2 Term of Agreement. This Agreement shall remain in effect until termination consistent with Section 2.3.

2.3 Agreement Termination.

2.3.1 Except for the obligations set forth in Sections 5.6, 5.8, 5.10, 10.1.1, 10.3, and 15.3, this Agreement shall terminate when the Project has been turned over to CAISO Operational Control.

2.3.2 A Party may terminate this Agreement in accordance with Section 5.8 or Article 14.

2.3.3 Notwithstanding Sections 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination and, if applicable, FERC has accepted the notice of termination.

ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE

- 3.1 Filing.** The CAISO shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. The Approved Project Sponsor may request that any information included in such filing be subject to the confidentiality provisions of Article 19. If the Approved Project Sponsor has executed this Agreement, or any amendment to this Agreement, the Approved Project Sponsor shall reasonably cooperate with the CAISO with respect to such filing and to provide any information reasonably requested by the CAISO needed to comply with applicable regulatory requirements.
- 3.2 Agreement Subject to CAISO Tariff.** The Approved Project Sponsor shall comply with all applicable provisions of the CAISO Tariff.
- 3.3 Relationship Between this Agreement and the CAISO Tariff.** If and to the extent a provision of this Agreement is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Approved Project Sponsor, the CAISO Tariff shall govern.
- 3.4. Requirement to Become a Participating TO.** The Approved Project Sponsor agrees that the Project shall be placed under CAISO Operational Control upon completion of the Project. To the extent the Approved Project Sponsor is not already a Participating TO, the Approved Project Sponsor further agrees that it shall enter into the Transmission Control Agreement in sufficient time for its execution to become effective as of the date of energization of the Project and that it has met or shall meet all other CAISO Tariff requirements to become a Participating TO in accordance with Section 4.3 of the CAISO Tariff.
- 3.5 Relationship Between this Agreement and the Transmission Control Agreement.** Once the Approved Project Sponsor has entered into the Transmission Control Agreement, if and to the extent a matter specifically addressed in this Agreement is inconsistent with the Transmission Control Agreement, the terms of the Transmission Control Agreement shall govern.

ARTICLE 4. SCOPE OF SERVICE

- 4.1 Transmission Facilities.** The Approved Project Sponsor shall build and connect to the CAISO Controlled Grid the Project identified in Appendix A.
- 4.2 Transmission Interconnection Service.** Transmission Interconnection Service allows the Approved Project Sponsor to connect the Project to the facilities of an Interconnecting PTO or a transmission system that is not part of the CAISO Controlled Grid. Unless the Project connects solely to the facilities of the Approved Project Sponsor, the Approved Project Sponsor shall request Transmission Interconnection Service from the Interconnecting PTO or other entity according to the milestones set forth in Appendix B and shall comply with the Interconnecting PTO's or other entity's applicable transmission interconnection procedures. The Approved Project Sponsor must obtain a separate agreement for Transmission Interconnection Service from the Interconnecting PTO or any other entity to whose facilities the Project will interconnect. This separate agreement with each Interconnecting PTO or other entity must provide, at a minimum, for the Interconnecting PTO or other entity to take any procedural steps required in this Agreement with respect to the transmission interconnection, including Sections 5.3.4, 5.4.2, 5.4.3, 5.5.1.3, 5.6.2, 6.1, 8.1, and 9.2, and must identify the Transmission Interconnection Facilities that an Interconnecting PTO is responsible for, and must pay for in accordance with Section 24.14.2 of the CAISO Tariff. The CAISO may facilitate the coordination between the Approved Project Sponsor and the Interconnecting PTO contemplated by this Agreement.
- 4.2.1** The Transmission Interconnection Service agreement shall require that the Interconnecting PTO or other entity providing Transmission Interconnection Service provide to the CAISO, every ninety (90) calendar days until the Project is energized and

under CAISO Operational Control, a Transmission Interconnection Facilities status report. Such status report shall include project schedule; permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status, if required; land acquisition status, if required; design and engineering status; status of contracts for project work, including land, procurement, and staffing; construction status; testing status; events creating risks and obstacles to project completion; and project budget, including actuals, estimate to complete, and contingency. The format for the report shall be in accordance with the Business Practice Manual for the Transmission Planning Process.

4.3 Approved Project Sponsor to Meet Requirements of the Interconnecting PTO's Interconnection Handbook. If applicable, the Approved Project Sponsor shall comply with the Interconnecting PTO's Interconnection Handbook for the transmission interconnections.

4.4 Performance Standards. Each Party shall perform all of its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice. To the extent a Party is required to take or prevented from or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its lack of compliance therewith, and if such Party is the CAISO, then the CAISO shall have the authority to amend this Agreement unilaterally to eliminate the conflict with such regulations or standards and shall submit the amendment to FERC for approval, if applicable.

ARTICLE 5. FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

5.1 General. The Approved Project Sponsor shall, at its expense, design, procure, construct, own, and install the Project, as set forth in Appendix A. The Approved Project Sponsor shall comply with all requirements of law and shall assume responsibility for the design, procurement, and construction of the Project using Good Utility Practice and the standards and specifications provided by the Interconnecting PTO or other entity, if applicable. The Project shall be based on the assumed accuracy and completeness of all technical information received by the CAISO from the Approved Project Sponsor and by the Approved Project Sponsor from any Interconnecting PTO or other entity providing Transmission Interconnection Service. Changes to the Project design described in this Agreement must be approved by the CAISO in accordance with Section 5.9 of this Agreement. Unless otherwise agreed by the Parties, the Approved Project Sponsor shall select the testing date and the energization date for the Project consistent with the Approved Project Sponsor's application approved by the CAISO, and such dates shall be set forth in Appendix B (Milestones).

5.2 Information Exchange. As soon as reasonably practicable after the Effective Date, the Approved Project Sponsor shall provide information to the CAISO regarding the design and compatibility of the Project and the Transmission Interconnection Facilities, and shall work diligently and in good faith to make any necessary design changes to the Project, subject to approval by the CAISO in accordance with Section 5.9. The Parties shall amend the description of the Project set forth in Appendix A to reflect any agreed changes to the Project.

5.3 Initial Construction Plan and Reporting Requirements. The Approved Project Sponsor shall keep the CAISO advised monthly as to the progress of the financing, procurement, and construction efforts with respect to the Project, via email or verbal discussion as agreed upon by the Parties, and in accordance with the timeframes specified herein.

5.3.1 The Approved Project Sponsor shall provide the CAISO with the initial construction plan one hundred twenty (120) calendar days after the Approved Project Sponsor has been selected in accordance with Section 24.4.1 of the CAISO Tariff. The plan shall include: land acquisition and permits requirements, status, and schedule; materials procurement requirements, status, and schedule; construction financing status and schedule; and Project contact information, if different than as identified in the selection process.

- 5.3.2** Every ninety (90) calendar days after the initial construction plan is received until the Project is energized and under CAISO Operational Control, the Approved Project Sponsor shall provide the CAISO with a construction plan status report. Such status report shall include the Project schedule; permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status; land acquisition status; design and engineering status; events that might affect the ability to meet design specifications; status of contracts for project work, including land, procurement, and staffing; Interconnecting PTO or other entity interconnection agreements; construction status; testing status; risks and obstacles to project completion; and Project budget status, including actuals, estimate to complete, and contingency. The format for the report shall be in accordance with the Business Practice Manual for the Transmission Planning Process.
- 5.3.3** Pursuant to Section 24.6.1 of the CAISO Tariff, the CAISO will send Project status reports received in accordance with Section 5.3.2 to the applicable Interconnecting PTO and then the CAISO will hold a call with the Interconnecting PTO to review the status report, including completion date and items of concern.
- 5.3.4** If, at any time, the Approved Project Sponsor determines, in consultation with the CAISO and Interconnecting PTO or other entity providing Transmission Interconnection Service, that the completion of the Interconnecting PTO's or other entity's Transmission Interconnection Facilities will not be required until after the specified energization date set forth in Appendix B (Milestones), the Approved Project Sponsor shall provide written notice to the Interconnecting PTO or other entity and to the CAISO of such later date upon which the completion of the Interconnecting PTO's or other entity's Transmission Interconnection Facilities will be required.

5.4 Submission and Review of Project Specifications.

- 5.4.1** The Approved Project Sponsor shall submit specifications for major Project equipment and/or materials, including System Protection Facilities, to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service, for review and comment at least thirty (30) calendar days prior to the date on which the Approved Project Sponsor solicits offers to provide specific equipment or material to which the specifications apply or otherwise commences procurement. The Approved Project Sponsor shall provide the CAISO and the Interconnecting PTO or other entity the opportunity to review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the CAISO and the Interconnecting PTO or other entity providing Transmission Interconnection Service, and to provide comment on such specifications within fifteen (15) calendar days after the submission. All specifications provided hereunder shall be deemed Confidential Information subject to the provisions of Article 19.
- 5.4.2** The Approved Project Sponsor shall submit final specifications for major Project equipment and/or materials, including System Protection Facilities, if the specification differs from the specification submitted in accordance with Section 5.4.1, to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service, for review at least one hundred eighty (180) calendar days prior to the date that testing is scheduled to commence pursuant to Appendix B (Milestones). The Approved Project Sponsor shall submit to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service final specifications for review and comment at least ninety (90) calendar days prior to the date testing is scheduled to commence. If material and/or equipment is different from the original specification submittal, the Approved Project Sponsor shall provide the CAISO and the Interconnecting

PTO or other entity the opportunity to review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements and to provide comments within thirty (30) calendar days after each submission. All specifications provided hereunder shall be deemed Confidential Information subject to the provisions of Article 19.

- 5.4.3** Final specification review by the CAISO and by the Interconnecting PTO or other entity shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability, or reliability of the Project or the Interconnecting PTO's Transmission Interconnection Facilities. As described in Section 5.4.2, Approved Project Sponsor shall make such changes to the Project as may reasonably be required by the Interconnecting PTO, other entity, or the CAISO, in accordance with Good Utility Practice, to ensure that the Project is compatible with the technical specifications, Operational Control, and safety requirements of the Interconnecting PTO, other entity, or the CAISO.

5.5 Construction Activities.

- 5.5.1** The Approved Project Sponsor shall commence construction of the Project as soon as practicable, consistent with the schedule set forth in Appendix B (Milestones), after the following additional conditions are satisfied:
 - 5.5.1.1** The Approved Project Sponsor has obtained appropriate Governmental Authority approval for any facilities requiring regulatory approval.
 - 5.5.1.2** The Approved Project Sponsor has obtained necessary permits, real property rights, and rights-of-way, to the extent required for the construction of the Project.
- 5.5.2** At least thirty (30) calendar days prior to commencement of Project construction, the Approved Project Sponsor shall provide to the CAISO, for informational purposes, a construction schedule for the Interconnecting PTO's or other entity's Transmission Interconnection Facilities.
- 5.5.3** At any time during construction, should any phase of the Project engineering, equipment procurement, or construction not meet the standards and specifications provided by the Interconnecting PTO or other entity, the Approved Project Sponsor shall be obligated to remedy deficiencies in that portion of the Project. The Approved Project Sponsor may seek approval from FERC to recover in its transmission revenue requirement just and reasonable costs associated with such remedy.
- 5.5.4** The Approved Project Sponsor shall indemnify the CAISO for claims arising under this Agreement resulting from Project construction under the terms and procedures specified in Section 15.1 Indemnity, other than for losses arising from actions that are not within the control of the Approved Project Sponsor.
- 5.5.5** If, during Project development, siting, design, engineering, construction, or testing, the Approved Project Sponsor decides to use a vendor, or any other Project team member, that is different than the vendor or team member specifically set forth in the Project Sponsor proposal submitted by the Approved Project Sponsor in accordance with the Business Practice Manual for the Transmission Planning Process, the Approved Project Sponsor shall notify the CAISO within ten (10) calendar days after the decision to make the change. Upon notification, the CAISO may take whatever action is necessary to ensure that the selected vendor or Project team member will at a minimum provide the same level of service that would have been provided by the vendor or Project team member described in the Approved Project Sponsor's proposal.

5.6 Final Project Design

- 5.6.1** As soon as reasonably practicable, but within twelve months after Project construction completion, the Approved Project Sponsor shall provide a summary of the final construction cost, which summary shall set forth sufficient detail to enable the CAISO to understand the Project costs, including a written explanation for the use of contingency and any cost overruns in excess of the cost estimate provided in Appendix E.
- 5.6.2** The Project shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) calendar days after the Project has been turned over to the CAISO's Operational Control, unless the CAISO and Approved Project Sponsor agree on another mutually acceptable date, the Approved Project Sponsor shall deliver to the Interconnecting PTO or other entity and to the CAISO "as-built" drawings, information, and documents for the Project. This information shall include, as applicable: (i) a one-line diagram; (ii) a site plan drawing showing the Project, including plan and elevation drawings showing the layout of the Transmission Interconnection Facilities; (iii) a relay functional diagram, relaying AC and DC schematic wiring diagrams, and relay settings for all facilities associated with the Project; and (iv) the impedances, determined by factory tests, for the associated transformers. The Approved Project Sponsor shall provide the Interconnecting PTO or other entity and the CAISO specifications for the protection settings, transformer tap settings, and communications, if applicable. The Interconnecting PTO or other entity and the CAISO shall assess any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Approved Project Sponsor pursuant to the appropriate provisions of this Agreement and the agreement between the Approved Project Sponsor and the Interconnecting PTO or other entity.
- 5.6.3** The obligations under this Section 5.6, including Sections 5.6.1, 5.6.2, and 5.6.3, shall survive termination of this Agreement.

5.7 Delay in Project. If the CAISO receives notification from the Approved Project Sponsor that Project energization will be delayed beyond the date by which the CAISO found the Project to be needed, pursuant to Section 24.6.2 of the CAISO Tariff the CAISO shall issue a market notice to market participants stating that the Project is delayed. If applicable, the market notice shall also state that a plan is being developed to address potential NERC reliability standard violations as set forth in Section 24.6.3 of the CAISO Tariff, as well as any material concerns.

- 5.7.1** The CAISO shall determine if there is a potential NERC violation, for either the CAISO or applicable Interconnecting PTO, arising from any Project energization delay and will determine if there are other material issues of concern as required in accordance with Section 24.6.3 of the CAISO Tariff. If there are potential violations or material issues, the CAISO, Approved Project Sponsor, and applicable Interconnecting PTO shall develop a plan to address the delay. The plan may include the CAISO directing the Interconnecting PTO to develop a mitigation plan.
- 5.7.2** If violations or material issues cannot be promptly and adequately addressed, the CAISO will take action to resolve the issues, including determining if an alternative Project Sponsor is required.

5.8 Delay in Approvals, Property Acquisition, or Construction. If the timeline set forth in Appendix B is unreasonably delayed, the CAISO shall consult with the Approved Project Sponsor. After such consultation, should the CAISO determine that, for reasons other than a delay caused by the Interconnecting PTO, (i) the Approved Project Sponsor cannot secure necessary approvals or property rights, including fee title, right of way grant, and easement and license rights, essential for construction of the Project, or (ii) the Approved Project Sponsor is otherwise unable to timely construct the Project, or (iii) an alternative Project Sponsor is

necessary pursuant to Section 24.6.4 of the CAISO Tariff; or, alternatively, if the Approved Project Sponsor determines that it is unable to proceed with construction and so notifies the CAISO, the CAISO shall take such action, including termination of this Agreement, as it determines to be necessary and appropriate in accordance with Section 24.6.4 of the CAISO Tariff. If either Party determines that an alternative Project Sponsor should be selected consistent with Section 24.6.4 of the CAISO Tariff, the Approved Project Sponsor agrees to work in good faith with CAISO, the alternative Project Sponsor, and, if applicable, the Interconnecting PTO to transfer responsibility for the Project to the alternative Project Sponsor. If the alternative Project Sponsor desires to use any of the assets acquired by the Approved Project Sponsor for the Project, the Approved Project Sponsor will, subject to applicable law, transfer such assets to the alternative Project Sponsor at their book value determined in accordance with FERC's Uniform System of Accounts; provided that this requirement applies only to asset transfers that occur after the Approved Project Sponsor has executed this Agreement; and provided further, that this requirement does not preclude the Approved Project Sponsor from filing with FERC a proposal to recover abandoned plant costs consistent with applicable FERC orders and policy in the event the Project is abandoned, but such amounts the Approved Project Sponsor proposes to recover shall be reduced by the amount the alternative Project Sponsor pays the Approved Project Sponsor to acquire the assets. The provisions under this Section 5.8 will survive termination of this Agreement.

5.9 Modification.

- 5.9.1** The Approved Project Sponsor may undertake modifications to its facilities only with the approval of the CAISO and subject to the provisions of this Agreement and the CAISO Tariff. If the Approved Project Sponsor plans to undertake a modification, it shall provide such information regarding such modification to the CAISO as the CAISO deems necessary to evaluate the potential impact of such modification prior to commencement of the work. Such information shall include information concerning the timing of such modification, any technical information, and cost impact. The Approved Project Sponsor shall provide the relevant drawings, plans, and specifications to the CAISO at least ninety (90) calendar days in advance of the commencement of the work or within such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned, or delayed. The CAISO shall determine if a modification is in accordance with the original Project criteria and intent and whether to approve the modification within thirty (30) calendar days after the Approved Project Sponsor's submission.
- 5.9.2** Any additions, modifications, or replacements made to the Project's facilities shall be designed, constructed, and operated in accordance with this Agreement, Applicable Laws and Regulations, and Good Utility Practice.
- 5.9.3** Any modifications to the Project's facilities ordered by a siting agency are not subject to CAISO approval. However, the Approved Project Sponsor is required to notify the CAISO within thirty (30) calendar days after the siting agency has issued an order directing Project modifications.

5.10 Generator Interconnection Study Process.

- 5.10.1** The Approved Project Sponsor shall be responsible for completing any existing studies for generator interconnection to the Project that were in the Approved Project Sponsor's generation interconnection queue upon the Effective Date of this Agreement. The CAISO and any impacted Participating TO will perform studies regarding such requests as an Affected System.
- 5.10.2** Any requests for generation interconnection to the Project submitted to the Approved Project Sponsor following the Effective Date of this Agreement shall be directed to the

CAISO Interconnection Request process. The Approved Project Sponsor shall assume the functions of a Participating TO in accordance with Appendix DD of the CAISO Tariff, including performing Phase I, Phase II, and reassessment analysis for generator interconnection requests to the Project. The Approved Project Sponsor will be reimbursed the actual costs incurred for the analysis similar to the Participating TOs.

- 5.10.3** Any Generator Interconnection Agreements for interconnection to the Project shall be executed consistent with the relevant terms and conditions of the CAISO Tariff.
- 5.10.4** The obligations under this Section 5.10, including Sections 5.10.1, 5.10.2, 5.10.3, and 5.10.4 shall survive termination of this Agreement.
- 5.11 Planning Authority.** The CAISO is the Planning Authority, as that term is defined by NERC, for the Project from the time it is identified in the CAISO's Transmission Planning Process and approved by the CAISO Governing Board, regardless of the status of Project construction or energization. As such, the Approved Project Sponsor shall be subject to the rights and obligations set forth in CAISO Tariff Section 24 that are applicable to Participating TOs as they pertain to the Project.
- 5.12 Tax Status.** Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the CAISO's or the Approved Project Sponsor's tax exempt status with respect to the issuance of bonds, including Local Furnishing Bonds, if any.

ARTICLE 6. TESTING AND INSPECTION

- 6.1 Testing and Modifications.** Prior to energizing the Project for testing, the Interconnecting PTO or other entity shall test the Interconnecting PTO's or other entity's Transmission Interconnection Facilities, and the Approved Project Sponsor shall test the Project to ensure their safe and reliable operation. All testing shall be coordinated and approved by the CAISO to ensure grid reliability. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Approved Project Sponsor shall not commence initial parallel operation of the Project until the Interconnecting PTO or other entity provides prior written approval to the CAISO and the Approved Project Sponsor.
- 6.2 Right to Observe Testing.** The Approved Project Sponsor shall notify the CAISO at least fourteen (14) calendar days in advance of its performance of tests. The CAISO has the right, at its own expense, to observe such testing.
- 6.3 Right to Inspect.** The CAISO shall have the right, but shall have no obligation, to (i) observe the Approved Project Sponsor's tests and/or inspection of any of its System Protection Facilities and other protective equipment; and (ii) review the settings of the Approved Project Sponsor's System Protection Facilities and other protective equipment at its expense. The CAISO may exercise these rights from time to time as it deems necessary upon reasonable notice to the Approved Project Sponsor. The exercise or non-exercise by CAISO of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Project or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that CAISO obtains through the exercise of any of its rights under this Section 6.3 shall be deemed to be Confidential Information and treated pursuant to Article 19 of this Agreement.

ARTICLE 7. METERING

(Only required if Balancing Authority Area boundary change)

- 7.1 General.** The Approved Project Sponsor shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements regarding metering. The Approved Project Sponsor and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Power flows to and from the Project shall be measured at or, at the CAISO's option for its respective Metering Equipment, compensated to, the Scheduling Point. The CAISO shall provide metering quantities to the Approved Project Sponsor upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Approved Project Sponsor shall bear all reasonable documented costs associated with the purchase, installation, operation, testing, and maintenance of the Metering Equipment.

ARTICLE 8. COMMUNICATIONS

- 8.1 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Interconnecting PTO's or other entity's dispatcher or such other representative designated by the Interconnecting PTO or other entity during synchronization, testing, and energization. The Approved Project Sponsor shall provide standard voice line, dedicated voice line, and facsimile communications at the Project's control room or central dispatch facility through use of either the public telephone system or a voice communications system that does not rely on the public telephone system. The Approved Project Sponsor shall also provide the dedicated data circuits necessary to provide Approved Project Sponsor data to the CAISO and Interconnecting PTO as set forth in Appendix C, Security Arrangements Details. The data circuits shall extend from the Project to the locations specified by the CAISO and Interconnecting PTO. Any required maintenance of such communications equipment shall be performed by the Approved Project Sponsor. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, and equipment clearances.

ARTICLE 9. OPERATIONS

- 9.1 General.** Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council operating requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 CAISO Obligations.** The CAISO shall cause the Interconnecting PTO's transmission system to be operated and controlled in a safe and reliable manner during testing and synchronization and before the Approved Project Sponsor turns the Project over to CAISO Operational Control. The CAISO may provide operating instructions to the Approved Project Sponsor consistent with this Agreement and the Interconnecting PTO's and CAISO's operating protocols and procedures as they may change from time to time. The Interconnecting PTO and CAISO will consider changes to their operating protocols and procedures proposed by the Approved Project Sponsor.
- 9.3 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall at its own expense operate, maintain, and control the Project in a safe and reliable manner and in accordance with this Agreement in advance of turning over Operational Control to the CAISO. Appendix A, Project Details, sets forth applicable requirements of the CAISO Balancing Authority Area and may be modified by mutual agreement of the Parties to reflect changes to the requirements as they may change from time to time. The Approved Project Sponsor shall not energize the Project with the Interconnecting PTO's or other entity's transmission system until the Interconnecting PTO or other entity provides prior written approval.
- 9.4 Start-Up and Synchronization.** The Parties shall establish agreed procedures for start-up, testing, and energization of the Project to the CAISO Controlled Grid prior to start-up of the

Project. The Approved Project Sponsor shall be responsible for proper start-up and energization of the Project in compliance with the established procedures.

ARTICLE 10. COST RECOVERY, BILLING, AND PAYMENT

- 10.1 Transmission Revenue Requirement.** The Approved Project Sponsor may apply to FERC for a Transmission Revenue Requirement for transmission facilities not yet in operation, but approved under the transmission planning provisions of the CAISO Tariff, that will be Regional Transmission Facilities or Local Transmission Facilities when placed under the CAISO's Operational Control. If FERC approves such Transmission Revenue Requirement, the CAISO shall incorporate the Transmission Revenue Requirement into the Regional Access Charge or Local Access Charge in accordance with the CAISO Tariff. The Approved Project Sponsor acknowledges and agrees with the cost estimates and the binding cost cap, or other binding cost containment measures, if applicable, set forth in Appendix E.

[Include the following clause if the Approved Project Sponsor agrees to a cost cap or other binding cost containment measures.]

- 10.1.1 The Approved Project Sponsor agrees that it shall not seek, for recovery through its Transmission Revenue Requirement, higher costs than the maximum costs specified in, or determined in accordance with, any cost cap or other binding cost containment measures as specified in Appendix E except for costs incurred to comply with any additional specifications of the CAISO or Interconnecting PTO beyond the functional requirements for the transmission facility that the CAISO issued for the competitive solicitation. The Approved Project Sponsor shall not seek recovery through its Transmission Revenue Requirement of any incentives or other costs that it has agreed to forego, as specified in Appendix E. The Approved Project Sponsor further agrees that the Transmission Control Agreement shall incorporate the Project cost cap or any other agreed-to binding cost containment measures agreed to or proposed by the Approved Project Sponsor. The provisions of this Section 10.1.1 shall survive termination of this Agreement.*

- 10.2 Application of CAISO Tariff.** The CAISO and Approved Project Sponsor shall comply with the billing and payment provisions set forth in the CAISO Tariff.
- 10.3 Refund Obligation.** The Approved Project Sponsor, whether or not it is subject to FERC rate jurisdiction under Section 205 and Section 206 of the Federal Power Act, shall make all refunds, adjustments to its Transmission Revenue Requirement, and adjustments to its Approved Project Sponsor Tariff, and do all other things required to implement any FERC order related to the CAISO Tariff, including any FERC order the implementation of which necessitates the CAISO making payment adjustments or paying refunds to, or receiving prior period overpayments from, the Approved Project Sponsor. All such refunds and adjustments shall be made, and all other actions taken, in accordance with the CAISO Tariff, unless the applicable FERC order requires otherwise. These obligations under this Section 10.3 shall survive termination of this Agreement.

ARTICLE 11. REGULATORY REQUIREMENTS AND GOVERNING LAWS

- 11.1 Regulatory Requirements.** Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, and compliance with the prior notice requirements of such Governmental Authorities. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require the Approved Project Sponsor to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

11.2 Governing Law.

11.2.1 The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of California, without regard to its conflicts of law principles.

11.2.2 This Agreement is subject to all Applicable Laws and Regulations.

11.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 12. NOTICES

12.1 **General.** Unless otherwise provided in this Agreement, any notice, demand, or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered, or delivered by (i) recognized national courier, (ii) depositing the same with the United States Postal Service with postage prepaid for delivery by certified or registered mail, addressed to the Party, or (iii) personal delivery to the Party, at the address set out in Appendix D, Addresses for Delivery of Notices and Billings.

A Party must update the information in Appendix D as information changes. A Party may change the notice information in this Agreement by giving five Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this Agreement.

12.2 **Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to another and not required by this Agreement to be given in writing may be given by telephone, facsimile, or e-mail to the telephone numbers and e-mail addresses set out in Appendix D.

12.4 **Operations Notice.** Each Party shall notify the other Party in writing of the identity of the person that it designates as the point of contact with respect to the implementation of Article 9.

12.5 **Project Management.** If the Approved Project Sponsor desires to change the identified project management, including key personnel, the Approved Project Sponsor shall notify the CAISO in writing thirty (30) calendar days in advance for approval. Such approval shall not be unreasonably withheld.

12.6 **Notice of Regulatory Filings.** The Approved Project Sponsor will provide to the CAISO. Participating TOs (as listed on Appendix F to the Transmission Control Agreement), and other Approved Project Sponsors, a copy of all initial filings it submits in a FERC docket that affect the rates (including Transmission Revenue Requirement), terms, or conditions of service for the Project. The Approved Project Sponsor will provide such copy either via email or first-class U.S. mail on the same day it makes the filing with FERC; provided that if the copy is sent via U.S. mail, the requirement will be satisfied if the Approved Project Sponsor places the copy in the mail on the date of filing. **ARTICLE 13. FORCE MAJEURE**

13.1 Force Majeure.

13.1.1 No Party shall be considered to be in Default with respect to any obligation hereunder if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Section shall be confirmed in writing as soon as reasonably possible and

shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

- 13.1.2** If required, the Parties shall revise this Agreement, including Appendix B and Appendix E, following a Force Majeure event.

ARTICLE 14. DEFAULT

- 14.1. General.** No Default shall exist where failure to discharge an obligation, other than the payment of money, is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party shall give written notice of such Breach to the Breaching Party. The Breaching Party shall have thirty (30) calendar days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) calendar days, the Breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 14.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party shall have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs and be relieved of any further obligation hereunder and, whether or not such Party terminates this Agreement, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.
- 14.3 Notice to Financing Parties.** If, as contemplated by Section 16.1, the Approved Project Sponsor has provided notice to the CAISO of an assignment of this Agreement for collateral security purposes to aid in providing financing for the Project, then (a) if such notice of collateral assignment so indicates and contains notice information for the collateral assignee, the CAISO shall provide a copy to collateral assignee identified in such notice of any notice of Breach given by the CAISO to the Approved Project Sponsor and (b) such collateral assignee shall have the right, but no obligation, to effect cure of the Breach on behalf of the Approved Project Sponsor, and any performance of any obligations under this Agreement by such collateral assignee shall be accepted by the CAISO to the same extent as though the Approved Project Sponsor had directly performed such obligations.

ARTICLE 15. INDEMNITY, CONSEQUENTIAL DAMAGES, AND INSURANCE

- 15.1 Indemnity.** Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and hold the other Party (the "Indemnified Party") harmless from any and all Losses arising out of or resulting from the Indemnifying Party's action or inactions of its obligations under this Agreement, except in cases of negligence or intentional wrongdoing by the Indemnified Party.
- 15.1.1 Indemnified Party.** If the Indemnified Party is entitled to indemnification under this Article 15 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Section 15.1 to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle, or consent to the entry of any judgment with respect to, or pay in full, such claim.
- 15.1.2 Indemnifying Party.** If the Indemnifying Party is obligated to indemnify and hold the Indemnified Party harmless under this Article 15, the amount owing to the Indemnified

Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

15.1.3 Indemnity Procedures. Promptly after receipt by the Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Section 15.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include the Indemnified Party and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it that are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit, or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit, or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit, or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in which event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit, or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned, or delayed.

15.2 Consequential Damages. In no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including loss of profit or revenue, loss of the use of equipment, cost of capital, or cost of temporary equipment or services, whether based in whole or in part in contract or in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement shall not be considered to be special, indirect, incidental, or consequential damages hereunder.

15.3 Insurance. The Approved Project Sponsor shall carry insurance for the Project in accordance with good utility practice.

15.4 Continuity of Obligations. The obligations and liability limitations under this Article 15 shall survive termination of the Agreement.

ARTICLE 16. ASSIGNMENT

16.1 Assignment. With the exception of assignment for collateral security purposes in accordance with this Section and Section 14.3, this Agreement may be assigned by a Party only with the written consent of the other Party, which consent shall not be unreasonably withheld. The CAISO will not approve the assignment unless the assignee (i) meets the competitive solicitation qualification requirements set for in CAISO Tariff Section 24.5.3.1; (ii) agrees to honor the cost containment measures or cost caps specified in Appendix E, if applicable; (iii) agrees to meet the

factors that the CAISO relied upon in selecting the Approved Project Sponsor; and (iv) assumes the rights and obligations contained in this Agreement; provided, however, that the Approved Project Sponsor shall have the right to assign this Agreement, without the consent of the CAISO, for collateral security purposes to aid in providing financing for the Project, provided that the Approved Project Sponsor shall promptly notify the CAISO of any such assignment, including identification of the assignee and contact information. Any financing arrangement entered into by the Approved Project Sponsor pursuant to this Article shall provide that prior to or upon the exercise of the secured party's, trustee's, or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee, or mortgagee shall notify the CAISO of the date and particulars of any such exercise of assignment rights. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

ARTICLE 17. SEVERABILITY

- 17.1 Severability.** If any provision in this Agreement is finally determined to be invalid, void, or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement, or covenant of this Agreement.

ARTICLE 18. COMPARABILITY

- 18.1 Comparability.** The Parties shall comply with all applicable comparability and code of conduct laws, rules, and regulations, as amended from time to time.

ARTICLE 19. CONFIDENTIALITY

- 19.1 Confidentiality.** Confidential Information shall include all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by a Party to the other Party prior to the execution of this Agreement.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by a Party, the other Party shall provide in writing the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 19.1.1 Term.** During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article, each Party shall hold in confidence and shall not disclose Confidential Information to any person.

- 19.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly

known through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Section 19.1.7 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

- 19.1.3 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's regulations, 18 C.F.R. Section 358), and subcontractors, or to parties who may be or considering providing financing to or equity participation with the Approved Project Sponsor, or to potential purchasers or assignees of the Approved Project Sponsor, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article.
- 19.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 19.1.5 No Warranties.** The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Party or to enter into any further agreements or proceed with any other relationship or joint venture.
- 19.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication, or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements.
- 19.1.7 Order of Disclosure.** If a court or another Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request or requirement so that the other Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.
- 19.1.8 Termination of Agreement.** Upon termination of this Agreement for any reason, each Party shall, within ten (10) calendar days after receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete, with such destruction, erasure, and deletion certified in writing to the other Party, or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party, unless subject to retention for litigation or regulatory purposes.

19.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article.

19.1.10 Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article to the contrary, and pursuant to 18 C.F.R. Section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. Section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. A Party is prohibited from notifying the other Party prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Party when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. Section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

19.1.11 Subject to the Exception in Section 19.1.10. Subject to the exception in Section 19.1.10 and consistent with the provisions of Sections 19.1.3 and 19.1.7, Confidential Information shall not be disclosed by a Party to any person not employed or retained by that Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this Section 19.1.11, the disclosing Party shall promptly notify the other Party in writing and shall assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order, or other reasonable measures.

ARTICLE 20. ENVIRONMENTAL RELEASES

20.1 Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, including hazardous wastes as defined by local, state, and federal law, any asbestos or lead abatement activities, or any type of remediation activities related to the Project or the Transmission Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (i) provide the notice as soon as practicable, for

an occurrence that may present an immediate risk to human health or the environment; (ii) make a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence for an event that may present an immediate risk to human health or the environment; and (iii) promptly furnish to the other Party information necessary for the designated Party to notify any Governmental Authorities of the event as required by law or Project-specific conditions. Copies of any publicly available reports shall be distributed to the other Party regarding such events.

ARTICLE 21. INFORMATION ACCESS AND AUDIT RIGHTS

- 21.1 Information Access.** Each Party (the “disclosing Party”) shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Section 21.1 and to enforce their rights under this Agreement. Nothing in this Article shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.
- 21.2 Reporting of Non-Force Majeure Events.** Each Party (the “notifying Party”) shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation, or information provided under this Section shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.
- 21.3 Audit Rights.** Subject to the requirements of confidentiality under Article 19 of this Agreement, the CAISO audit rights shall include the CAISO’s right to audit the Approved Project Sponsor’s costs pertaining to performance or satisfaction of obligations under this Agreement.
- 21.3.1** The CAISO shall have the right, during normal business hours, and upon prior reasonable notice to the Approved Project Sponsor, to audit at its own expense the accounts and records pertaining to satisfaction of obligations under this Agreement. Subject to Section 21.3.2, any audit authorized by this Section 21.3 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to performance and satisfaction of obligations under this Agreement. The Approved Project Sponsor shall keep such accounts and records for a period equivalent to the audit rights periods described in Section 21.4.
- 21.3.2** Notwithstanding anything to the contrary in this Agreement, the Approved Project Sponsor’s rights to audit the CAISO’s accounts and records shall be as set forth in Section 21.1 of the CAISO Tariff.
- 21.4 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Project constructed by the Approved Project Sponsor shall be subject to audit and verification by the CAISO for a period of twenty-four months following the issuance of a final cost summary in accordance with Section 5.2.7.

ARTICLE 22. SUBCONTRACTORS

- 22.1 General.** Subject to Section 5.5.5, nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services, and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 22.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO be liable for the actions or inactions of the Approved Project Sponsor or its subcontractors with respect to obligations of the Approved Project Sponsor under Article 4 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

ARTICLE 23. DISPUTES

- 23.1 General.** All disputes arising out of or in connection with this Agreement whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Section 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Section 13 of the CAISO Tariff shall be read as references to this Agreement. Disputes arising out of or in connection with this Agreement not subject to provisions of Section 13 of the CAISO Tariff shall be resolved as follows:
- 23.2 Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance, such Party (the “disputing Party”) shall provide the other Party with written notice of the dispute or claim (“Notice of Dispute”). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days after the other Party’s receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.
- 23.3 External Arbitration Procedures.** Any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days after the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration, except prior arbitration. The arbitrator shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“Arbitration Rules”) and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article, the terms of this Article shall prevail.
- 23.4 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator shall render a decision within ninety (90) calendar days after appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator shall be authorized only to interpret and

apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with, and approved by, FERC if it affects jurisdictional rates, terms, and conditions of service, Transmission Interconnection Facilities, or Network Upgrades.

- 23.5 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 24. REPRESENTATIONS, WARRANTIES, AND COVENANTS

- 24.1 General.** Each Party makes the following representations, warranties, and covenants:

- 24.1.1 Good Standing.** Such Party is duly organized, validly existing, and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Project and transmission facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted, and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.
- 24.1.2 Authority.** Such Party has the right, power, and authority to enter into this Agreement, to become a Party hereto, and to perform its obligations hereunder. This Agreement is a legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting creditors' rights generally and by general equitable principles, regardless of whether enforceability is sought in a proceeding in equity or at law.
- 24.1.3 No Conflict.** The execution, delivery, and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement, or instrument applicable to or binding upon such Party or any of its assets.
- 24.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this Agreement, will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery, and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.
- 24.1.5 Technical Specifications Accurate.** The technical specifications provided by the Approved Project Sponsor to the CAISO are accurate and complete.

ARTICLE 25. MISCELLANEOUS

- 25.1 Binding Effect.** This Agreement and the rights and obligations hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.

- 25.2 Conflicts.** In the event of a conflict between the body of this Agreement and any attachment, appendices, or exhibits hereto, the terms and provisions of the body of this Agreement shall prevail and be deemed the final intent of the Parties.
- 25.3 Rules of Interpretation.** This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement, including this Agreement, document, instrument, or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section, or Appendix means such Article or Section of this Agreement or such Appendix to this Agreement, or such Section of the CAISO Tariff or such Appendix to the CAISO Tariff, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section, or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 25.4 Entire Agreement.** This Agreement, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.
- 25.5 No Third Party Beneficiaries.** This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest, and, where permitted, their assigns.
- 25.6 Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement shall not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.
- Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or Default of this Agreement for any reason by the Approved Project Sponsor shall not constitute a waiver of the Approved Project Sponsor's legal rights to obtain an interconnection from the CAISO. Any waiver of any provision of this Agreement shall, if requested, be provided in writing.
- 25.7 Headings.** The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.
- 25.8 Multiple Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which constitute one and the same instrument.

- 25.9 Amendment.** The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 25.10 Modification by the Parties.** Except as described in Appendices B and E, the Parties may by mutual agreement amend the Appendices to this Agreement by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 25.11 Reservation of Rights.** The CAISO has the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to any rates, terms and conditions, charges, classifications of service, rule, or regulation. The Approved Project Sponsor shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations. Each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.
- 25.12 No Partnership.** This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- 25.13 Joint and Several Obligations.** Except as otherwise provided in this Agreement, the obligations of the CAISO and the Approved Project Sponsor are several, and are neither joint nor joint and several.

IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple originals, each of which shall constitute and be an original effective agreement between the Parties.

[Approved Project Sponsor]

By: _____

Name: _____

Title: _____

Date: _____

California Independent System Operator Corporation

By: _____

Name: _____

Title: _____

Date: _____

Appendices to Agreement

Appendix A Project Details

Appendix B Milestones

Appendix C Security Arrangements Details

Appendix D Addresses for Delivery of Notices and Billings

Appendix E Approved Project Sponsor's Costs of Project

Appendix A

Project Details

- 1. Description**

- 2. Transmission Interconnection Facilities**

- 3. Network Upgrades**

- 4. Distribution Upgrades**

- 5. Diagram of Project:**

- 6. Project Team:**

Appendix B

Milestones

1. Milestone Dates

[Example: The Milestones will be determined on a case-by-case basis.]

Item	Milestone	Responsible Party	Due Date ^{1/}
	Submit Construction Plan in accordance with Section 5.3.1 of this Agreement	Approved Project Sponsor	*
	Submit request for Transmission Interconnection Service to the applicable Interconnecting PTO	Approved Project Sponsor	
	Commence development activities including commencement of regulatory approvals; acquisition of land; and permits	Approved Project Sponsor	
	Commence engineering design	Approved Project Sponsor	
	Submit Construction Plan Status Report in accordance with Section 5.3.2 of this Agreement	Approved Project Sponsor	
	Complete engineering design	Approved Project Sponsor	
	Submit Project specifications in accordance with Section 5.4.1 of this Agreement	Approved Project Sponsor	
	Provide comments on Project specifications in accordance with Section 5.4.1 of this Agreement	CAISO	
	Commence procurement including material and resources	Approved Project Sponsor	
	Complete permitting activities in accordance with Section 5.5.1.1 of this Agreement	Approved Project Sponsor	
	Complete procurement including material and resources	Approved Project Sponsor	
	Execute agreement with applicable Interconnecting PTO prior to commencement of construction	Approved Project Sponsor	
	Commence Construction	Approved Project Sponsor	
	Submit a Participating TO application for the Project to the CAISO in accordance with Section 4.3.1.1 of the CAISO Tariff	Approved Project Sponsor	

Milestone Responsible Party Due Date ^{1/}			
	Submit final Project specifications in accordance with Section 5.4.2 of this Agreement	Approved Project Sponsor	
	Provide comments on final Project specifications in accordance with Section 5.4.2 of this Agreement	CAISO	
	Commence Testing	Approved Project Sponsor	
	Energization Date	Approved Project Sponsor	*
	Complete Construction	Approved Project Sponsor	
	In accordance with Section 5.6.2 provide final “as-built” drawings, information and other documents	Approved Project Sponsor	
	In accordance with Section 5.6.1 provide final costs of the Project	Approved Project Sponsor	

- ^{1/} Dates in this Appendix B are good faith estimates and can be modified as follows:
- * Change in milestone date requires an amendment to this Agreement pursuant to Section 25.10.
 - ** Change in milestone date can be agreed to in writing by the representatives listed in Appendix D to this Agreement without further regulatory approval.

Appendix C

Security Arrangements Details

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, and Approved Project Sponsor interconnected to the CAISO Controlled Grid to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Approved Project Sponsor shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: <http://www.caiso.com/pubinfo/info-security/index.html>.

Appendix D

Addresses for Delivery of Notices and Billings

Notices:

Approved Project Sponsor:

[Name]
[Address]

With a copy to:

[Name]
[Address]

Email:

CAISO:

California ISO
Attn: Infrastructure Contracts & Management
250 Outcropping Way
Folsom, CA 95630

[QueueManagement@CAISO.com <mailto:QueueManagement@CAISO.com>](mailto:QueueManagement@CAISO.com)

Attachment B – Marked Tariff Records

Competitive Solicitation Enhancements

California Independent System Operator Corporation

4.3.1 Nature Of Relationship

Each Participating TO shall enter into the Transmission Control Agreement with the CAISO. In addition to converting Existing Rights in accordance with Section 16.1.4, and except as provided in Section 4.3.1.3, New Participating TOs will be required to turn over Operational Control of all facilities and Entitlements that: (1) satisfy the FERC's functional criteria for determining transmission facilities that should be placed under CAISO Operational Control; (2) satisfy the criteria adopted by the CAISO Governing Board identifying transmission facilities for which the CAISO should assume Operational Control; and (3) are the subject of mutual agreement between the CAISO and the Participating TOs. The CAISO shall notify Market Participants when an application has been received from a potential Participating TO and shall notify Market Participants that a New Participating TO has executed the Transmission Control Agreement and the date on which the CAISO will have Operational Control of the transmission facilities.

4.3.1.1 In any year, a Participating TO applicant must declare its intent in writing to the CAISO to become a New Participating TO by January 1 or July 1, and provide the CAISO with an application within fifteen (15) days of such notice of intent. Neither the written declaration of intent nor the application requirement applies to Approved Project Sponsors. Applicable agreements will be negotiated and filed with the Federal Energy Regulatory Commission as soon as possible for the New Participating TO, such that the agreements can be effective the following July 1 or January 1 or, for Participating TOs that are Approved Project Sponsors, upon energization of the transmission facilities that are subject to an Approved Project Sponsor Agreement made effective in accordance with its terms.

4.3.1.2 With respect to its submission of Bids, including Self-Schedules, to the CAISO, a New Participating TO shall become a Scheduling Coordinator or obtain the services of a Scheduling Coordinator that has been certified in accordance with Section 4.5.1, which Scheduling Coordinator shall not be the entity's Responsible Participating TO in accordance with the Responsible Participating Transmission Owner Agreement, unless mutually agreed, and shall operate in accordance with the CAISO Tariff and applicable agreements.

The New Participating TO shall assume responsibility for paying all Scheduling Coordinators' charges regardless of whether the New Participating TO elects to become a Scheduling Coordinator or obtains the services of a Scheduling Coordinator.

For the period between the effective date of this provision and ending December 31, 2010, the TAC Transition Date pursuant to Section 4.2 of Appendix F, Schedule 3, New Participating TOs that have joined the CAISO and turned over Operational Control of their facilities and Entitlements shall receive the IFM Congestion Credit in accordance with Section 11.2.1.5, which IFM Congestion Credit shall only be applicable to those facilities and Entitlements in existence on the effective date of the CAISO's initial assumption of Operational Control over the facilities and Entitlements of a New Participating TO.

4.3.1.2.1 New Participating TOs shall complete TRTC Instructions for their Converted Rights as provided in Section 16.4.5. To the extent such Converted Rights derive from ETCs with Original Participating TOs, the New Participating TOs and the appropriate Original Participating TO shall develop the TRTC Instructions together.

4.3.1.3 CAISO Relationship with Specific Participating TOs

- (a) **Western Path 15.** Western Path 15 shall be required to turn over to CAISO Operational Control only its rights and interests in the Path 15 Upgrade and shall not be required to turn over to CAISO Operational Control Central Valley Project transmission facilities, Pacific AC Intertie transmission facilities, California-Oregon Transmission Project facilities, or any other new transmission facilities or Entitlements not related to the Path 15 Upgrade. For purposes of the CAISO Tariff, Western Path 15 shall be treated with respect to revenue recovery as a Project Sponsor in accordance with Section 24.14.3.1.
- (b) **New Participating TOs After April 1, 2014.** An Approved Project Sponsor~~s~~ that was not a Participating TO as of April 1, 2014, shall be required to turn over to CAISO Operational Control only its rights and interests in the Regional Transmission Facilities it has been selected to finance, construct and own under section 24.5. Such a Participating Transmission Owner will be subject to all obligations of a Participating TO with regard to the facilities placed under CAISO Operational Control, except the obligation in Section 4.3.1.1 to declare its intent and submit an application to become a Participating TO and

the obligation in Section 2.2 of the Transmission Control Agreement to apply to become a Participating TO.

4.3.1.4 The capacity provided to the CAISO under the Transmission Exchange Agreement originally accepted by FERC in Docket No. ER04-688 is deemed to be CAISO Controlled Grid facilities and is subject to all terms and conditions of the CAISO Tariff.

4.3.1.5 Each Participating TO must provide its Local Reliability Criteria to the CAISO, as required by the TCA.

4.3.1.6 Converted Rights.

A recipient of transmission service under an Existing Contract that chooses to become a Participating TO and convert its rights to CAISO transmission service, and the Participating TO which provides the transmission service under the Existing Contract, shall change the terms and conditions of the contract to provide that:

- (a) The recipient of the transmission service received under an Existing Contract that has converted its rights to CAISO transmission service shall turn over Operational Control of its transmission Entitlement to the CAISO for management by the CAISO in accordance with the CAISO Tariff, applicable Operating Procedures, and Business Practice Manuals;
- (b) The recipient of the transmission service under an Existing Contract that has converted its rights to CAISO transmission service shall obtain all future transmission services within, into (starting at the CAISO Controlled Grid), out of, or through the CAISO Controlled Grid using the CAISO's bidding, scheduling, and operational procedures, the CAISO Tariff, and any applicable TO Tariff, provided that this provision shall not affect the rights, if any, of the contract parties to extend Existing Contracts;
- (c) For the capacity represented by its rights, the recipient of firm transmission service under an Existing Contract that has converted its rights to CAISO transmission service shall be entitled to receive all Wheeling revenue credits throughout the term that the capacity is available under the Existing Contract;

- (d) The recipient of the transmission service received under an Existing Contract that has converted its rights to CAISO transmission service shall continue to have the obligation to pay the provider of the service for its transmission service at the rates provided in the Existing Contract, as they may change from time to time under the terms of the Existing Contract, or as mutually agreed between the contract parties, through the term of the contract, subject to the terms and conditions of the contract, including the rights of the parties to the contract to seek unilateral or other changes pursuant to Section 205 or Section 206 of the Federal Power Act and the FERC's Rules and Regulations or as otherwise provided by law.
- (e) Other aspects of such an Existing Contract may also need to be changed. If the parties to the contract are unable to negotiate such changes, they shall seek appropriate changes through the mechanisms provided within the contract, including the rights, if any, to seek unilateral or other changes pursuant to Section 205 or Section 206 of the Federal Power Act and the FERC's Rules and Regulations or as otherwise provided by law.

4.3.1.7 Transmission Maintenance Coordination Committee

In accordance with the Transmission Control Agreement, the CAISO shall convene a Transmission Maintenance Coordination Committee to perform the functions described in Appendix C of the Transmission Control Agreement. The Transmission Maintenance Coordination Committee will function as an advisory body to CAISO management and the CAISO will provide all necessary administrative support and sufficient resources to ensure that the Transmission Maintenance Coordination Committee can fulfill the obligations specified in the Transmission Control Agreement.

24.5.1 Competitive Solicitation Process

According to the schedule set forth in the Business Practice Manual, in the month following the CAISO Governing Board's approval of the comprehensive Transmission Plan, the CAISO will initiate a period of

at least ~~two (2) months~~ ten (10) weeks that will provide an opportunity for Project Sponsors to submit specific proposals to finance, own, and construct the Regional Transmission Facilities subject to competitive solicitation identified in the comprehensive Transmission Plan. If the transmission solution adopted in Phase 2 involves an upgrade or improvement to, addition on, or a replacement of a part of an existing Participating TO facility, the Participating TO will construct and own such upgrade, improvement, addition or replacement facilities unless a Project Sponsor and the Participating TO agree to a different arrangement. For Regional 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, the ~~two-month~~ ten week period will be initiated following management approval of the facility, and the Project Sponsor selection process may follow an accelerated schedule described in the Business Practice Manual. Such proposals must include plan of service details and supporting information as set forth in the Business Practice Manual sufficient to: (1) enable the CAISO to determine whether the Project Sponsor meets the qualification criteria specified in section 24.5.3.1; (2) enable the CAISO to determine whether a Project Sponsor's proposal meets the proposal qualification criteria in section 24.5.3.2; and (3) enable the CAISO, if there are multiple qualified Project Sponsors bidding on the same Regional Transmission Facility, to conduct a comparative analysis of the proposals and Project Sponsors and select an Approved Project Sponsor as described in section 24.5.2.5. The project proposal will identify the authorized governmental body from which the Project Sponsor will seek siting approval for the project.

Within 30 days after the CAISO posts the draft comprehensive Transmission Plan to its website, for each Regional Transmission Facility identified in the comprehensive Transmission Plan that is subject to competitive solicitation, the CAISO will post, for informational purposes only, those existing qualification criteria and selection factors, in addition to any binding cost containment commitments, which the CAISO believes are key for purposes of selecting an Approved Project Sponsor for the particular transmission solution, consistent with the comparative analysis described in section 24.5.4 and the project sponsor qualification and selection criteria specified in sections 24.5.3.1 and 24.5.4, respectively. ~~Thus, Project Sponsors will have a minimum of ninety (90) days after the posting of key selection criteria before the deadline for submitting proposals to construct, own, operate, and maintain a transmission solution subject to competitive solicitation.~~ The posting of such key criteria is solely intended to provide information to

Project Sponsors to assist them in the preparation of their applications and to highlight specific topics to which particular attention should be paid in the application given their importance in connection with a particular Regional Transmission Facility. The posting of the key selection criteria is not a replacement or substitute for the qualification and selection criteria set forth in sections 24.5.3.1 and 24.5.4, and in its comparative analysis conducted in accordance with section 24.5.4, the ISO is required to comparatively assess all of the qualification and selection criteria, not just those listed as key selection criteria. In its posting of the key selection criteria, the ISO cannot add new or different criteria than those already specified in sections 24.5.3.1 and 24.5.4. To determine the key criteria for each transmission solution subject to competitive solicitation, the ISO will consider: (1) the nature, scope and urgency of the need for the transmission solution; (2) expected severity of siting or permitting challenges; (3) the size of the transmission solution, potential financial risk associated with the transmission solution, expected capital cost magnitude, cost overrun likelihood and the ability of the Project Sponsor to contain costs; (4) the degree of permitting, rights-of-way, construction, operation and maintenance difficulty; (5) risks associated with the construction, operation and maintenance of the transmission solution ; (6) technical and engineering design difficulty or whether specific expertise in design or construction is required; (7) special circumstances or difficulty associated with topography, terrain or configuration; (8) specific facility technologies or materials associated with the transmission solution; (9) binding cost containment measures, including cost caps; (10) abandonment risk; and (11) whether the overall cost of the transmission solution impacts the ISO's prior determination of, and inclusion in, the comprehensive Transmission Plan of the more efficient or cost effective solution during Phase 2 of the transmission planning process.

The posting of the key selection criteria shall not undermine the ISO's prior determination in Phase 2 of the transmission planning process of the more efficient or cost-effective transmission solution to be reflected in the comprehensive Transmission Plan, nor shall the posting of the key criteria replace or be inconsistent with the ISO's obligation under section 24.5.4 to undertake a comparative analysis of each Project Sponsor with respect to each Project Sponsor qualification and selection criterion. If the CAISO determines in Phase 2 of the transmission planning process that more than one transmission solution could constitute the more efficient or cost-effective solution to meet a specific identified need depending

on the outcome of the competitive solicitation, the CAISO shall have the authority to identify more than one potential transmission solution in the comprehensive Transmission Plan. Under those circumstances, based on the outcome of the competitive solicitation, the CAISO will make the final determination of which alternative transmission solution identified in the Board-approved comprehensive Transmission Plan constitutes the more efficient or cost-effective transmission solution to be selected for construction.

24.5.2 Project Sponsor Application and Information Requirement

All project sponsors must submit a Project Sponsor application form as set forth in the Business Practice Manual and posted on the CAISO website. Any entity may submit a Project Sponsor application to finance, construct, own, operate and maintain a transmission solution identified in the comprehensive Transmission Plan subject to the competitive solicitation process. There is no requirement that a Project Sponsor first be qualified before it may submit a Project Sponsor application for such a transmission solution.

24.5.2.1 Opportunity for Collaboration

Any entity interested in collaborating with another entity may notify the CAISO of such interest within two weeks after the CAISO opens the competitive solicitation window for a specified Regional Transmission Facility. The CAISO will post a list of entities interested in collaborating and their contact information on the CAISO website. Prior notice to the CAISO is not a prerequisite for a Project Sponsor to submit an application, including a joint application, to finance, own, construct, operate, and maintain a Regional Transmission Facility under Section 24.5. All Project Sponsors, including collaborating Project Sponsors, must submit an application prior to the close of the competitive solicitation window.

24.5.2.2

A Project Sponsor will provide to the CAISO, Participating TOs (as listed on Appendix F to the Transmission Control Agreement), and Approved Project Sponsors a copy of all initial filings it submits in a FERC docket that affect the rates (including the Transmission Revenue Requirement), terms, or conditions of service for any Regional Transmission Facility that is the subject of an ongoing competitive solicitation process under this section 24.5. The Project Sponsor will provide such copy either via email or

first class U.S. mail on the same day it makes the filing with FERC; provided that if the copy is sent via U.S. mail, the Project Sponsor will satisfy the requirement if it places the copy in the mail on the date of filing.

24.5.2.1-3 Project Sponsor Information Requirements

The application to be submitted to the CAISO by an entity desiring to become an Approved Project Sponsor shall include the following general information (as well as related details) in response to the questions on the application form:

- (a) The following financial information:
 - (i) A proposed financial plan demonstrating that adequate capital resources are available to the Project Sponsor to finance the transmission solution, and that constructing, operating and maintaining the facilities will not significantly impair the Project Sponsor's creditworthiness or financial condition;
 - (ii) A showing from the Project Sponsor's most recent audited financial statements that the Project Sponsor's assets are in excess of liabilities as a percentage of the total cost of the transmission solution;
 - (iii) Financial funding ratios from the most recent audited financial statements;
 - (iv) Credit arrangements between affiliated entities, including corporate parent, and compliance with regulatory restrictions and requirements; and,
 - (v) Bankruptcy, dissolution, merger or acquisition history;
- (b) The credit rating from Moody's Investor Services and Standard & Poors of the Project Sponsor, or its parent company, controlling shareholder, or any other entity providing a bond guaranty or corporate commitment to the Project Sponsor;
- (c) Information showing the Project Sponsor's ability to assume liability for major losses

resulting from failure of, or damage to, the transmission facility, including damage after the facility has been placed into operation;

- (d) The projected in-service date of each transmission solution with a construction plan and timetable;
- (e) A description of the Project Sponsor's proposed engineering, construction, maintenance and management teams, including relevant capability and experience;
- (f) A description of the Project Sponsor's resources for operating and maintaining the transmission solution after it is placed in-service;
- (g) A discussion of the capability and experience of the Project Sponsor that would enable it to comply with all on-going scheduling, operating, and maintenance activities required for each transmission solution, including those required by the tariff, business practice manuals, policies, rules, guidelines, and procedures established by the CAISO;
- (h) Resumes for all key management personnel, including contractors, that will be involved in obtaining siting approval and other required regulatory approvals and for constructing, operating and maintaining each transmission solution;
- (i) A description of the Project Sponsor's business practices that demonstrate consistency with Good Utility Practice for proper licensing, designing and right-of-way acquisition for constructing, operating and maintaining transmission solutions that will become part of the CAISO Controlled Grid;
- (j) The Project Sponsor's previous record regarding construction, operation and maintenance of transmission facilities within and outside the CAISO Controlled Grid;
- (k) The Project Sponsor's pre-existing procedures and practices for acquiring and managing right of way and other land for transmission facility, or, in the absence of preexisting procedures or practices, a detailed description of its plan for right of way and other land acquisition;

- (l) A description of existing rights of way or substations upon which all or a portion of the transmission facility can be located and incremental costs, if any, that would be incurred in connection with placing new or additional facilities associated with the transmission solution on such existing rights of way;
- (m) The Project Sponsor's preexisting practices or procedures for mitigating the impact of the transmission solution on affected landowners and for addressing public concerns regarding facilities associated with the transmission solution. In the absence of such preexisting practices or procedures, the Project Sponsor shall provide a detailed plan for mitigating such impacts and addressing public concerns;
- (n) A description of the following and any related or relevant information regarding:
 - (i) the proposed structure types and composition, conductor size and type;
 - (ii) the proposed route and rights of way; and
 - (iii) a plan for addressing topography issues;
- (o) Cost containment capabilities and cost cap, if any;
- (p) Description of the Project Sponsor's plan for complying with standardized maintenance and operation practices and all applicable reliability standards;
- (q) Any other strengths and advantages that the Project Sponsor and its team may have to build and own the transmission solution, as well as any specific efficiencies or benefits demonstrated in its Project Sponsor proposal; and
- (r) The authorized government body from which the Project Sponsor will seek siting approval for the transmission solution and the authority of the selected siting authority to impose binding cost caps or cost containment measures on the Project Sponsor, as well as its history of imposing such measures.

Additional details about the information that must be submitted is set forth in the Business Practice Manual and on the application form. On the CAISO's request, the Project Sponsor will provide additional information that the CAISO reasonably determines is necessary to conduct its qualification and selection evaluation with respect to the particular transmission solutions that are subject to competitive solicitation.

24.5.2.42 Posting Applications With Sufficient Information

Upon receipt of a Project Sponsor's application, the CAISO will review the application for completeness and will verify that the application contains sufficient information for the CAISO to determine whether the Project Sponsor is qualified to be selected as an Approved Project Sponsor. By the deadline set forth in the Business Practice Manual, the ISO will notify each Project Sponsor whether the application is complete or whether additional information is required. Project Sponsors will be given an opportunity to cure any deficiencies in their application submissions in accordance with the schedule set forth in the Business Practice Manual. After the end of the cure period, and subject to the confidentiality provisions set forth in Tariff Section 20, the CAISO will post to its Website a list of Project Sponsors whose applications contain sufficient information and have met the requirements set forth in the Business Practice Manual.

~~**24.5.2.3 Multiple Project Sponsor Proposals: Collaboration**~~

~~If two (2) or more Project Sponsors submit proposals to finance, own, and construct the same transmission solution, the CAISO will, upon request, facilitate an opportunity for the Project Sponsors to collaborate with each other to submit a joint proposal to meet such need. Following the collaboration period, if any Project Sponsors submit a joint proposal, the CAISO will determine whether the joint Project Sponsors are qualified to finance, construct, own, operate and maintain the transmission solution in accordance with the qualification criteria described in Section 24.5.3.~~

**Appendix X
Approved Project Sponsor Agreement (APSA)**

**APPROVED PROJECT SPONSOR AGREEMENT (APSA)
BETWEEN**

[APPROVED PROJECT SPONSOR]

AND

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

PROJECT: _____

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APPROVED PROJECT SPONSOR AGREEMENT

[APPROVED PROJECT SPONSOR]

CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

THIS APPROVED PROJECT SPONSOR AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20____, between [the Approved Project Sponsor], organized and existing under the laws of the State of _____ ("Approved Project Sponsor"), and the California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("CAISO"). Approved Project Sponsor and the CAISO each may be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the CAISO exercises Operational Control over the CAISO Controlled Grid; and

WHEREAS, the Approved Project Sponsor intends to construct, finance, and own the _____ Project ("Project") consisting of transmission facilities identified in Appendix A to this Agreement; and

WHEREAS, if applicable, the Approved Project Sponsor will seek interconnection of the Project from the Interconnecting PTO or other entity in accordance with the requirements provided in this Agreement; and

WHEREAS, the Parties agree that the Approved Project Sponsor will enter into the Transmission Control Agreement to become a Participating Transmission Owner ("Participating TO"), if it is not already a Participating TO, effective upon energization of the Project, and will turn the Project over to the Operational Control of the CAISO; and

WHEREAS, the Parties recognize that the Approved Project Sponsor has certain rights and obligations related to the Project that arise prior to the date upon which the Approved Project Sponsor will place the facilities under the CAISO's Operational Control and, if not already a Participating TO, will become a Participating TO and which may remain in effect for a discrete period of time after the Approved Project Sponsor enters into the Transmission Control Agreement; and

WHEREAS, the Approved Project Sponsor and the CAISO thus have agreed to enter into this Agreement for the purpose of identifying rights and obligations associated with the Project that arise prior to the effective date of the Approved Project Sponsor's execution of the Transmission Control Agreement;

NOW, THEREFORE, in consideration of and subject to the mutual covenants contained herein, it is agreed:

ARTICLE 1. DEFINITIONS

When used in this Agreement, a term with initial capitalization shall have the meaning set forth in this Article 1 or the recitals, or if not defined in this Article 1 or the recitals, shall have the meaning specified in the Article in which it is used or in the CAISO Tariff, Appendix A.

Applicable Laws and Regulations shall mean all duly promulgated applicable federal, state, and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits, and other duly authorized actions of any Governmental Authority.

Applicable Reliability Council shall mean the Western Electricity Coordinating Council or its successor.

Applicable Reliability Standards shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Interconnecting PTO's Transmission System to which the Project is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

Breach shall mean the failure of a Party to perform or observe any material term or condition of this Agreement.

Breaching Party shall mean a Party that is in Breach of this Agreement.

Confidential Information shall mean any confidential, proprietary, or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy, or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 19.

Default shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 14 of this Agreement.

Effective Date shall mean the date on which this Agreement becomes effective as specified in Article 2.

Environmental Law shall mean Applicable Laws and Regulations relating to pollution or protection of the environment or natural resources.

Federal Power Act shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, earthquake, or explosion, any order, regulation, or restriction imposed by governmental, military, or lawfully established civilian authorities, or any other cause beyond the reasonable control of the Parties that could not have been avoided through the exercise of Good Utility Practice. A Force Majeure event does not include (1) acts of negligence or intentional wrongdoing by the Party claiming Force Majeure; (2) economic conditions that render a Party's performance of this Agreement unprofitable or otherwise uneconomic; (3) economic hardship of either Party; or (4) failure or delay in granting of necessary permits for reasons not caused by Force Majeure.

Governmental Authority shall mean any federal, state, local, or other governmental, regulatory, or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Approved Project Sponsor, the CAISO, or any Affiliate thereof.

Hazardous Substances shall mean any chemicals, materials, or substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "hazardous constituents," "restricted hazardous materials," "extremely hazardous substances," "toxic substances," "radioactive substances," "contaminants," "pollutants," "toxic pollutants," or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material, or substance, exposure to which is prohibited, limited, or regulated by any applicable Environmental Law.

Interconnecting PTO shall mean any Participating TO, other than the Approved Project Sponsor, that owns or is building transmission facilities to which the Project will interconnect.

Interconnection Handbook shall mean a handbook, developed by the Interconnecting PTO and posted on the Interconnecting PTO's web site or otherwise made available by the Interconnecting PTO,

describing technical and operational requirements for controls and protection equipment for transmission connected to the Interconnecting PTO's portion of the CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Interconnecting PTO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice.

Loss shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

Metering Equipment shall mean all metering equipment installed or to be installed for measuring the Balancing Authority Area boundary pursuant to this Agreement at the metering points, including instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

Party or Parties shall mean the CAISO, the Approved Project Sponsor, or the applicable combination of the above.

Reasonable Efforts shall mean, with respect to an action required to be attempted or taken by a Party under this Agreement, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

System Protection Facilities shall mean equipment, including necessary protection signal communications equipment, that protect (1) the Interconnecting PTO's Transmission System, Interconnecting PTO's Transmission Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances and (2) the Approved Project Sponsor's Transmission System from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Interconnecting PTO's Transmission Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

Transmission Interconnection Facilities shall mean the Interconnecting PTO's or other entity's transmission facilities, including any modification, additions, or upgrades, that are necessary to physically and electrically interconnect the Project to the Interconnecting PTO's Transmission System.

Transmission Interconnection Service shall mean the service defined in Section 4.2 of this Agreement.

ARTICLE 2. EFFECTIVE DATE, TERM, AND TERMINATION

2.1 Effective Date. This Agreement shall become effective upon execution by all Parties, subject to acceptance by FERC (if applicable). The CAISO shall promptly file this Agreement with FERC upon execution in accordance with Section 3.1, if required.

2.2 Term of Agreement. This Agreement shall remain in effect until termination consistent with Section 2.3.

2.3 Agreement Termination.

2.3.1 -Except for the obligations set forth in Sections 5.6, 5.8, 5.10, 10.1.1, 10.3, and 15.3, this Agreement shall terminate when the Project has been turned over to CAISO Operational Control.

2.3.2 A Party may terminate this Agreement in accordance with Section 5.8 or Article 14.

2.3.3 Notwithstanding Sections 2.3.1 and 2.3.2, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination and, if applicable, FERC has accepted the notice of termination.

ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE

- 3.1 Filing.** The CAISO shall file this Agreement (and any amendment hereto) with the appropriate Governmental Authority, if required. The Approved Project Sponsor may request that any information included in such filing be subject to the confidentiality provisions of Article 19. If the Approved Project Sponsor has executed this Agreement, or any amendment to this Agreement, the Approved Project Sponsor shall reasonably cooperate with the CAISO with respect to such filing and to provide any information reasonably requested by the CAISO needed to comply with applicable regulatory requirements.
- 3.2 Agreement Subject to CAISO Tariff.** The Approved Project Sponsor shall comply with all applicable provisions of the CAISO Tariff.
- 3.3 Relationship Between this Agreement and the CAISO Tariff.** If and to the extent a provision of this Agreement is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Approved Project Sponsor, the CAISO Tariff shall govern.
- 3.4. Requirement to Become a Participating TO.** The Approved Project Sponsor agrees that the Project shall be placed under CAISO Operational Control upon completion of the Project. To the extent the Approved Project Sponsor is not already a Participating TO, the Approved Project Sponsor further agrees that it shall enter into the Transmission Control Agreement in sufficient time for its execution to become effective as of the date of energization of the Project and that it has met or shall meet all other CAISO Tariff requirements to become a Participating TO in accordance with Section 4.3 of the CAISO Tariff.
- 3.5 Relationship Between this Agreement and the Transmission Control Agreement.** Once the Approved Project Sponsor has entered into the Transmission Control Agreement, if and to the extent a matter specifically addressed in this Agreement is inconsistent with the Transmission Control Agreement, the terms of the Transmission Control Agreement shall govern.

ARTICLE 4. SCOPE OF SERVICE

- 4.1 Transmission Facilities.** The Approved Project Sponsor shall build and connect to the CAISO Controlled Grid the Project identified in Appendix A.
- 4.2 Transmission Interconnection Service.** Transmission Interconnection Service allows the Approved Project Sponsor to connect the Project to the facilities of an Interconnecting PTO or a transmission system that is not part of the CAISO Controlled Grid. Unless the Project connects solely to the facilities of the Approved Project Sponsor, the Approved Project Sponsor shall request Transmission Interconnection Service from the Interconnecting PTO or other entity according to the milestones set forth in Appendix B and shall comply with the Interconnecting PTO's or other entity's applicable transmission interconnection procedures. The Approved Project Sponsor must obtain a separate agreement for Transmission Interconnection Service from the Interconnecting PTO or any other entity to whose facilities the Project will interconnect. This separate agreement with each Interconnecting PTO or other entity must provide, at a minimum, for the Interconnecting PTO or other entity to take any procedural steps required in this Agreement with respect to the transmission interconnection, including Sections 5.3.4, 5.4.2, 5.4.3, 5.5.1.3, 5.6.2, 6.1, 8.1, and 9.2, and must identify the Transmission Interconnection Facilities that an Interconnecting PTO is responsible for, and must pay for in accordance with Section 24.14.2 of the CAISO Tariff. The CAISO may facilitate the coordination between the Approved Project Sponsor and the Interconnecting PTO contemplated by this Agreement.
- 4.2.1** The Transmission Interconnection Service agreement shall require that the Interconnecting PTO or other entity providing Transmission Interconnection Service provide to the CAISO, every ninety (90) calendar days until the Project is energized and

under CAISO Operational Control, a Transmission Interconnection Facilities status report. Such status report shall include project schedule; permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status, if required; land acquisition status, if required; design and engineering status; status of contracts for project work, including land, procurement, and staffing; construction status; testing status; events creating risks and obstacles to project completion; and project budget, including actuals, estimate to complete, and contingency. The format for the report shall be in accordance with the Business Practice Manual for the Transmission Planning Process.

4.3 Approved Project Sponsor to Meet Requirements of the Interconnecting PTO's Interconnection Handbook. If applicable, the Approved Project Sponsor shall comply with the Interconnecting PTO's Interconnection Handbook for the transmission interconnections.

4.4 Performance Standards. Each Party shall perform all of its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice. To the extent a Party is required to take or prevented from or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this Agreement for its lack of compliance therewith, and if such Party is the CAISO, then the CAISO shall have the authority to amend this Agreement unilaterally to eliminate the conflict with such regulations or standards and shall submit the amendment to FERC for approval, if applicable.

ARTICLE 5. FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION

5.1 General. The Approved Project Sponsor shall, at its expense, design, procure, construct, own, and install the Project, as set forth in Appendix A. The Approved Project Sponsor shall comply with all requirements of law and shall assume responsibility for the design, procurement, and construction of the Project using Good Utility Practice and the standards and specifications provided by the Interconnecting PTO or other entity, if applicable. The Project shall be based on the assumed accuracy and completeness of all technical information received by the CAISO from the Approved Project Sponsor and by the Approved Project Sponsor from any Interconnecting PTO or other entity providing Transmission Interconnection Service. Changes to the Project design described in this Agreement must be approved by the CAISO in accordance with Section 5.9 of this Agreement. Unless otherwise agreed by the Parties, the Approved Project Sponsor shall select the testing date and the energization date for the Project consistent with the Approved Project Sponsor's application approved by the CAISO, and such dates shall be set forth in Appendix B (Milestones).

5.2 Information Exchange. As soon as reasonably practicable after the Effective Date, the Approved Project Sponsor shall provide information to the CAISO regarding the design and compatibility of the Project and the Transmission Interconnection Facilities, and shall work diligently and in good faith to make any necessary design changes to the Project, subject to approval by the CAISO in accordance with Section 5.9. The Parties shall amend the description of the Project set forth in Appendix A to reflect any agreed changes to the Project.

5.3 Initial Construction Plan and Reporting Requirements. The Approved Project Sponsor shall keep the CAISO advised monthly as to the progress of the financing, procurement, and construction efforts with respect to the Project, via email or verbal discussion as agreed upon by the Parties, and in accordance with the timeframes specified herein.

5.3.1 The Approved Project Sponsor shall provide the CAISO with the initial construction plan one hundred twenty (120) calendar days after the Approved Project Sponsor has been selected in accordance with Section 24.4.1 of the CAISO Tariff. The plan shall include: land acquisition and permits requirements, status, and schedule; materials procurement requirements, status, and schedule; construction financing status and schedule; and Project contact information, if different than as identified in the selection process.

- 5.3.2** Every ninety (90) calendar days after the initial construction plan is received until the Project is energized and under CAISO Operational Control, the Approved Project Sponsor shall provide the CAISO with a construction plan status report. Such status report shall include the Project schedule; permit and license status, including environmental, state, and local permits and licenses; right-of-way acquisition status; land acquisition status; design and engineering status; events that might affect the ability to meet design specifications; status of contracts for project work, including land, procurement, and staffing; Interconnecting PTO or other entity interconnection agreements; construction status; testing status; risks and obstacles to project completion; and Project budget status, including actuals, estimate to complete, and contingency. The format for the report shall be in accordance with the Business Practice Manual for the Transmission Planning Process.
- 5.3.3** Pursuant to Section 24.6.1 of the CAISO Tariff, the CAISO will send Project status reports received in accordance with Section 5.3.2 to the applicable Interconnecting PTO and then the CAISO will hold a call with the Interconnecting PTO to review the status report, including completion date and items of concern.
- 5.3.4** If, at any time, the Approved Project Sponsor determines, in consultation with the CAISO and Interconnecting PTO or other entity providing Transmission Interconnection Service, that the completion of the Interconnecting PTO's or other entity's Transmission Interconnection Facilities will not be required until after the specified energization date set forth in Appendix B (Milestones), the Approved Project Sponsor shall provide written notice to the Interconnecting PTO or other entity and to the CAISO of such later date upon which the completion of the Interconnecting PTO's or other entity's Transmission Interconnection Facilities will be required.

5.4 Submission and Review of Project Specifications.

- 5.4.1** The Approved Project Sponsor shall submit specifications for major Project equipment and/or materials, including System Protection Facilities, to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service, for review and comment at least thirty (30) calendar days prior to the date on which the Approved Project Sponsor solicits offers to provide specific equipment or material to which the specifications apply or otherwise commences procurement. The Approved Project Sponsor shall provide the CAISO and the Interconnecting PTO or other entity the opportunity to review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the CAISO and the Interconnecting PTO or other entity providing Transmission Interconnection Service, and to provide comment on such specifications within fifteen (15) calendar days after the submission. All specifications provided hereunder shall be deemed Confidential Information subject to the provisions of Article 19.
- 5.4.2** The Approved Project Sponsor shall submit final specifications for major Project equipment and/or materials, including System Protection Facilities, if the specification differs from the specification submitted in accordance with Section 5.4.1, to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service, for review at least one hundred eighty (180) calendar days prior to the date that testing is scheduled to commence pursuant to Appendix B (Milestones). The Approved Project Sponsor shall submit to the CAISO and to the Interconnecting PTO or other entity providing Transmission Interconnection Service final specifications for review and comment at least ninety (90) calendar days prior to the date testing is scheduled to commence. If material and/or equipment is different from the original specification submittal, the Approved Project Sponsor shall provide the CAISO and the Interconnecting

PTO or other entity the opportunity to review such specifications to ensure that the Project is compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements and to provide comments within thirty (30) calendar days after each submission. All specifications provided hereunder shall be deemed Confidential Information subject to the provisions of Article 19.

5.4.3 -Final specification review by the CAISO and by the Interconnecting PTO or other entity shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability, or reliability of the Project or the Interconnecting PTO's Transmission Interconnection Facilities. As described in Section 5.4.2, Approved Project Sponsor shall make such changes to the Project as may reasonably be required by the Interconnecting PTO, other entity, or the CAISO, in accordance with Good Utility Practice, to ensure that the Project is compatible with the technical specifications, Operational Control, and safety requirements of the Interconnecting PTO, other entity, or the CAISO.

5.5 Construction Activities.

5.5.1 —The Approved Project Sponsor shall commence construction of the Project as soon as practicable, consistent with the schedule set forth in Appendix B (Milestones), after the following additional conditions are satisfied:

5.5.1.1 The Approved Project Sponsor has obtained appropriate Governmental Authority approval for any facilities requiring regulatory approval.

5.5.1.2 The Approved Project Sponsor has obtained necessary permits, real property rights, and rights-of-way, to the extent required for the construction of the Project.

5.5.2 —At least thirty (30) calendar days prior to commencement of Project construction, the Approved Project Sponsor shall provide to the CAISO, for informational purposes, a construction schedule for the Interconnecting PTO's or other entity's Transmission Interconnection Facilities.

5.5.3 At any time during construction, should any phase of the Project engineering, equipment procurement, or construction not meet the standards and specifications provided by the Interconnecting PTO or other entity, the Approved Project Sponsor shall be obligated to remedy deficiencies in that portion of the Project. The Approved Project Sponsor may seek approval from FERC to recover in its transmission revenue requirement just and reasonable costs associated with such remedy.

5.5.4 The Approved Project Sponsor shall indemnify the CAISO for claims arising under this Agreement resulting from -Project construction under the terms and procedures specified in Section 15.1 Indemnity, other than for losses arising from actions that are not within the control of the Approved Project Sponsor.

5.5.5 If, during Project development, siting, design, engineering, construction, or testing, the Approved Project Sponsor decides to use a vendor, or any other Project team member, that is different than the vendor or team member specifically set forth in the Project Sponsor proposal submitted by the Approved Project Sponsor in accordance with the Business Practice Manual for the Transmission Planning Process, the Approved Project Sponsor shall notify the CAISO within ten (10) calendar days after the decision to make the change. Upon notification, the CAISO may take whatever action is necessary to ensure that the selected vendor or Project team member will at a minimum provide the same level of service that would have been provided by the vendor or Project team member described in the Approved Project Sponsor's proposal.

5.6 Final Project Design

- 5.6.1** As soon as reasonably practicable, but within twelve months after Project construction completion, the Approved Project Sponsor shall provide a summary of the final construction cost, which summary shall set forth sufficient detail to enable the CAISO to understand the Project costs, including a written explanation for the use of contingency and any cost overruns in excess of the cost estimate provided in Appendix E.
- 5.6.2** The Project shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) calendar days after the Project has been turned over to the CAISO's Operational Control, unless the CAISO and Approved Project Sponsor agree on another mutually acceptable date, the Approved Project Sponsor shall deliver to the Interconnecting PTO or other entity and to the CAISO "as-built" drawings, information, and documents for the Project. This information shall include, as applicable: (i) a one-line diagram; (ii) a site plan drawing showing the Project, including plan and elevation drawings showing the layout of the Transmission Interconnection Facilities; (iii) a relay functional diagram, relaying AC and DC schematic wiring diagrams, and relay settings for all facilities associated with the Project; and (iv) the impedances, determined by factory tests, for the associated transformers. The Approved Project Sponsor shall provide the Interconnecting PTO or other entity and the CAISO specifications for the protection settings, transformer tap settings, and communications, if applicable. The Interconnecting PTO or other entity and the CAISO shall assess any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Approved Project Sponsor pursuant to the appropriate provisions of this Agreement and the agreement between the Approved Project Sponsor and the Interconnecting PTO or other entity.
- 5.6.3** The obligations under this Section 5.6, including Sections 5.6.1, 5.6.2, and 5.6.3, shall survive termination of this Agreement.

5.7 Delay in Project. If the CAISO receives notification from the Approved Project Sponsor that Project energization will be delayed beyond the date by which the CAISO found the Project to be needed, pursuant to Section 24.6.2 of the CAISO Tariff the CAISO shall issue a market notice to market participants stating that the Project is delayed. If applicable, the market notice shall also state that a plan is being developed to address potential NERC reliability standard violations as set forth in Section 24.6.3 of the CAISO Tariff, as well as any material concerns.

- 5.7.1** The CAISO shall determine if there is a potential NERC violation, for either the CAISO or applicable Interconnecting PTO, arising from any Project energization delay and will determine if there are other material issues of concern as required in accordance with Section 24.6.3 of the CAISO Tariff. If there are potential violations or material issues, the CAISO, Approved Project Sponsor, and applicable Interconnecting PTO shall develop a plan to address the delay. The plan may include the CAISO directing the Interconnecting PTO to develop a mitigation plan.
- 5.7.2** If violations or material issues cannot be promptly and adequately addressed, the CAISO will take action to resolve the issues, including determining if an alternative Project Sponsor is required.

5.8 Delay in Approvals, Property Acquisition, or Construction. If the timeline set forth in Appendix B is unreasonably delayed, the CAISO shall consult with the Approved Project Sponsor. After such consultation, should the CAISO determine that, for reasons other than a delay caused by the Interconnecting PTO, (i) the Approved Project Sponsor cannot secure necessary approvals or property rights, including fee title, right of way grant, and easement and license rights, essential for construction of the Project, or (ii) the Approved Project Sponsor is otherwise unable to timely construct the Project, or (iii) an alternative Project Sponsor is

necessary pursuant to Section 24.6.4 of the CAISO Tariff; or, alternatively, if the Approved Project Sponsor determines that it is unable to proceed with construction and so notifies the CAISO, the CAISO shall take such action, including termination of this Agreement, as it determines to be necessary and appropriate in accordance with Section 24.6.4 of the CAISO Tariff. If either Party determines that an alternative Project Sponsor should be selected consistent with Section 24.6.4 of the CAISO Tariff, the Approved Project Sponsor agrees to work in good faith with CAISO, the alternative Project Sponsor, and, if applicable, the Interconnecting PTO to transfer responsibility for the Project to the alternative Project Sponsor. If the alternative Project Sponsor desires to use any of the assets acquired by the Approved Project Sponsor for the Project, the Approved Project Sponsor will, subject to applicable law, transfer such assets to the alternative Project Sponsor at their book value determined in accordance with FERC's Uniform System of Accounts; provided that this requirement applies only to asset transfers that occur after the Approved Project Sponsor has executed this Agreement; and provided further, that this requirement does not preclude the Approved Project Sponsor from filing with FERC a proposal to recover abandoned plant costs consistent with applicable FERC orders and policy in the event the Project is abandoned, but such amounts the Approved Project Sponsor proposes to recover shall be reduced by the amount the alternative Project Sponsor pays the Approved Project Sponsor to acquire the assets. The provisions under this Section 5.8 will survive termination of this Agreement.

5.9 Modification.

- 5.9.1** The Approved Project Sponsor may undertake modifications to its facilities only with the approval of the CAISO and subject to the provisions of this Agreement and the CAISO Tariff. If the Approved Project Sponsor plans to undertake a modification, it shall provide such information regarding such modification to the CAISO as the CAISO deems necessary to evaluate the potential impact of such modification prior to commencement of the work. Such information shall include information concerning the timing of such modification, any technical information, and cost impact. The Approved Project Sponsor shall provide the relevant drawings, plans, and specifications to the CAISO at least ninety (90) calendar days in advance of the commencement of the work or within such shorter period upon which the Parties may agree, which agreement shall not unreasonably be withheld, conditioned, or delayed. The CAISO shall determine if a modification is in accordance with the original Project criteria and intent and whether to approve the modification within thirty (30) calendar days after the Approved Project Sponsor's submission.
- 5.9.2** Any additions, modifications, or replacements made to the Project's facilities shall be designed, constructed, and operated in accordance with this Agreement, Applicable Laws and Regulations, and Good Utility Practice.
- 5.9.3** Any modifications to the Project's facilities ordered by a siting agency are not subject to CAISO approval. However, the Approved Project Sponsor is required to notify the CAISO within thirty (30) calendar days after the siting agency has issued an order directing Project modifications.

5.10 Generator Interconnection Study Process.

- 5.10.1** The Approved Project Sponsor shall be responsible for completing any existing studies for generator interconnection to the Project that were in the Approved Project Sponsor's generation interconnection queue upon the Effective Date of this Agreement. The CAISO and any impacted Participating TO will perform studies regarding such requests as an Affected System.
- 5.10.2** Any requests for generation interconnection to the Project submitted to the Approved Project Sponsor following the Effective Date of this Agreement shall be directed to the

CAISO Interconnection Request process. The Approved Project Sponsor shall assume the functions of a Participating TO in accordance with Appendix DD of the CAISO Tariff, including performing Phase I, Phase II, and reassessment analysis for generator interconnection requests to the Project. The Approved Project Sponsor will be reimbursed the actual costs incurred for the analysis similar to the Participating TOs.

- 5.10.3** Any Generator Interconnection Agreements for interconnection to the Project shall be executed consistent with the relevant terms and conditions of the CAISO Tariff.
- 5.10.4** The obligations under this Section 5.10, including Sections 5.10.1, 5.10.2, 5.10.3, and 5.10.4 shall survive termination of this Agreement.
- 5.11 Planning Authority.** The CAISO is the Planning Authority, as that term is defined by NERC, for the Project from the time it is identified in the CAISO's Transmission Planning Process and approved by the CAISO Governing Board, regardless of the status of Project construction or energization. As such, the Approved Project Sponsor shall be subject to the rights and obligations set forth in CAISO Tariff Section 24 that are applicable to Participating TOs as they pertain to the Project.
- 5.12 Tax Status.** Each Party shall cooperate with the other to maintain the other Party's tax status. Nothing in this Agreement is intended to adversely affect the CAISO's or the Approved Project Sponsor's tax exempt status with respect to the issuance of bonds, including Local Furnishing Bonds, if any.

ARTICLE 6. TESTING AND INSPECTION

- 6.1 Testing and Modifications.** Prior to energizing the Project for testing, the Interconnecting PTO or other entity shall test the Interconnecting PTO's or other entity's Transmission Interconnection Facilities, and the Approved Project Sponsor shall test the Project to ensure their safe and reliable operation. All testing shall be coordinated and approved by the CAISO to ensure grid reliability. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Approved Project Sponsor shall not commence initial parallel operation of the Project until the Interconnecting PTO or other entity provides prior written approval to the CAISO and the Approved Project Sponsor.
- 6.2 Right to Observe Testing.** The Approved Project Sponsor shall notify the CAISO at least fourteen (14) calendar days in advance of its performance of tests. The CAISO has the right, at its own expense, to observe such testing.
- 6.3 Right to Inspect.** The CAISO shall have the right, but shall have no obligation, to (i) observe the Approved Project Sponsor's tests and/or inspection of any of its System Protection Facilities and other protective equipment; and (ii) review the settings of the Approved Project Sponsor's System Protection Facilities and other protective equipment at its expense. The CAISO may exercise these rights from time to time as it deems necessary upon reasonable notice to the Approved Project Sponsor. The exercise or non-exercise by CAISO of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Project or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that CAISO obtains through the exercise of any of its rights under this Section 6.3 shall be deemed to be Confidential Information and treated pursuant to Article 19 of this Agreement.

ARTICLE 7. METERING

(Only required if Balancing Authority Area boundary change)

- 7.1 General.** The Approved Project Sponsor shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements regarding metering. The Approved Project Sponsor and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Power flows to and from the Project shall be measured at or, at the CAISO's option for its respective Metering Equipment, compensated to, the Scheduling Point. The CAISO shall provide metering quantities to the Approved Project Sponsor upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Approved Project Sponsor shall bear all reasonable documented costs associated with the purchase, installation, operation, testing, and maintenance of the Metering Equipment.

ARTICLE 8. COMMUNICATIONS

- 8.1 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Interconnecting PTO's or other entity's dispatcher or such other representative designated by the Interconnecting PTO or other entity during synchronization, testing, and energization. The Approved Project Sponsor shall provide standard voice line, dedicated voice line, and facsimile communications at the Project's control room or central dispatch facility through use of either the public telephone system or a voice communications system that does not rely on the public telephone system. The Approved Project Sponsor shall also provide the dedicated data circuits necessary to provide Approved Project Sponsor data to the CAISO and Interconnecting PTO as set forth in Appendix C, Security Arrangements Details. The data circuits shall extend from the Project to the locations specified by the CAISO and Interconnecting PTO. Any required maintenance of such communications equipment shall be performed by the Approved Project Sponsor. Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, and equipment clearances.

ARTICLE 9. OPERATIONS

- 9.1 General.** Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council operating requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 CAISO Obligations.** The CAISO shall cause the Interconnecting PTO's transmission system to be operated and controlled in a safe and reliable manner during testing and synchronization and before the Approved Project Sponsor turns the Project over to CAISO Operational Control. The CAISO may provide operating instructions to the Approved Project Sponsor consistent with this Agreement and the Interconnecting PTO's and CAISO's operating protocols and procedures as they may change from time to time. The Interconnecting PTO and CAISO will consider changes to their operating protocols and procedures proposed by the Approved Project Sponsor.
- 9.3 Approved Project Sponsor Obligations.** The Approved Project Sponsor shall at its own expense operate, maintain, and control the Project in a safe and reliable manner and in accordance with this Agreement in advance of turning over Operational Control to the CAISO. Appendix A, Project Details, sets forth applicable requirements of the CAISO Balancing Authority Area and may be modified by mutual agreement of the Parties to reflect changes to the requirements as they may change from time to time. The Approved Project Sponsor shall not energize the Project with the Interconnecting PTO's or other entity's transmission system until the Interconnecting PTO or other entity provides prior written approval.
- 9.4 Start-Up and Synchronization.** The Parties shall establish agreed procedures for start-up, testing, and energization of the Project to the CAISO Controlled Grid prior to start-up of the

Project. The Approved Project Sponsor shall be responsible for proper start-up and energization of the Project in compliance with the established procedures.

ARTICLE 10. COST RECOVERY, BILLING, AND PAYMENT

- 10.1 Transmission Revenue Requirement.** The Approved Project Sponsor may apply to FERC for a Transmission Revenue Requirement for transmission facilities not yet in operation, but approved under the transmission planning provisions of the CAISO Tariff, that will be Regional Transmission Facilities or Local Transmission Facilities when placed under the CAISO's Operational Control. If FERC approves such Transmission Revenue Requirement, the CAISO shall incorporate the Transmission Revenue Requirement into the Regional Access Charge or Local Access Charge in accordance with the CAISO Tariff. The Approved Project Sponsor acknowledges and agrees with the cost estimates and the binding cost cap, or other binding cost containment measures, if applicable, set forth in Appendix E.

[Include the following clause if the Approved Project Sponsor agrees to a cost cap or other binding cost containment measures.]

- 10.1.1 The Approved Project Sponsor agrees that it shall not seek, for recovery through its Transmission Revenue Requirement, higher costs than the maximum costs specified in, or determined in accordance with, any cost cap or other binding cost containment measures as specified in Appendix E except for costs incurred to comply with any additional specifications of the CAISO or Interconnecting PTO beyond the functional requirements for the transmission facility that the CAISO issued for the competitive solicitation. The Approved Project Sponsor shall not seek recovery through its Transmission Revenue Requirement of any incentives or other costs that it has agreed to forego, as specified in Appendix E. The Approved Project Sponsor further agrees that the Transmission Control Agreement shall incorporate the Project cost cap or any other agreed-to binding cost containment measures agreed to or proposed by the Approved Project Sponsor. The provisions of this Section 10.1.1 shall survive termination of this Agreement.*

- 10.2 Application of CAISO Tariff.** The CAISO and Approved Project Sponsor shall comply with the billing and payment provisions set forth in the CAISO Tariff.
- 10.3 Refund Obligation.** The Approved Project Sponsor, whether or not it is subject to FERC rate jurisdiction under Section 205 and Section 206 of the Federal Power Act, shall make all refunds, adjustments to its Transmission Revenue Requirement, and adjustments to its Approved Project Sponsor Tariff, and do all other things required to implement any FERC order related to the CAISO Tariff, including any FERC order the implementation of which necessitates the CAISO making payment adjustments or paying refunds to, or receiving prior period overpayments from, the Approved Project Sponsor. All such refunds and adjustments shall be made, and all other actions taken, in accordance with the CAISO Tariff, unless the applicable FERC order requires otherwise. These obligations under this Section 10.3 shall survive termination of this Agreement.

ARTICLE 11. REGULATORY REQUIREMENTS AND GOVERNING LAWS

- 11.1 Regulatory Requirements.** Each Party's obligations under this Agreement shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, and compliance with the prior notice requirements of such Governmental Authorities. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this Agreement shall require the Approved Project Sponsor to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

11.2 Governing Law.

11.2.1 The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the laws of the state of California, without regard to its conflicts of law principles.

11.2.2 This Agreement is subject to all Applicable Laws and Regulations.

11.2.3 Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

ARTICLE 12. NOTICES

12.1 **General.** Unless otherwise provided in this Agreement, any notice, demand, or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered, or delivered by (i) recognized national courier, (ii) depositing the same with the United States Postal Service with postage prepaid for delivery by certified or registered mail, addressed to the Party, or (iii) personal delivery to the Party, at the address set out in Appendix D, Addresses for Delivery of Notices and Billings.

A Party must update the information in Appendix D as information changes. A Party may change the notice information in this Agreement by giving five Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this Agreement.

12.2 **Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to another and not required by this Agreement to be given in writing may be given by telephone, facsimile, or e-mail to the telephone numbers and e-mail addresses set out in Appendix D.

12.4 **Operations Notice.** Each Party shall notify the other Party in writing of the identity of the person that it designates as the point of contact with respect to the implementation of Article 9.

12.5 **Project Management.** If the Approved Project Sponsor desires to change the identified project management, including key personnel, the Approved Project Sponsor shall notify the CAISO in writing thirty (30) calendar days in advance for approval. Such approval shall not be unreasonably withheld.

12.6 **Notice of Regulatory Filings.** The Approved Project Sponsor will provide to the CAISO, Participating TOs (as listed on Appendix F to the Transmission Control Agreement), and other Approved Project Sponsors, a copy of all initial filings it submits in a FERC docket that affect the rates (including Transmission Revenue Requirement), terms, or conditions of service for the Project. The Approved Project Sponsor will provide such copy either via email or first-class U.S. mail on the same day it makes the filing with FERC; provided that if the copy is sent via U.S. mail, the requirement will be satisfied if the Approved Project Sponsor places the copy in the mail on the date of filing.

ARTICLE 13. FORCE MAJEURE

13.1 Force Majeure.

13.1.1 No Party shall be considered to be in Default with respect to any obligation hereunder if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given

pursuant to this Section shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred, and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

- 13.1.2** If required, the Parties shall revise this Agreement, including Appendix B and Appendix E, following a Force Majeure event.

ARTICLE 14. DEFAULT

- 14.1. General.** No Default shall exist where failure to discharge an obligation, other than the payment of money, is the result of Force Majeure as defined in this Agreement or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party shall give written notice of such Breach to the Breaching Party. The Breaching Party shall have thirty (30) calendar days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) calendar days, the Breaching Party shall commence such cure within thirty (30) calendar days after notice and continuously and diligently complete such cure within ninety (90) calendar days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.
- 14.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party shall have the right to declare a Default and terminate this Agreement by written notice at any time until cure occurs and be relieved of any further obligation hereunder and, whether or not such Party terminates this Agreement, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article shall survive termination of this Agreement.
- 14.3 Notice to Financing Parties.** If, as contemplated by Section 16.1, the Approved Project Sponsor has provided notice to the CAISO of an assignment of this Agreement for collateral security purposes to aid in providing financing for the Project, then (a) if such notice of collateral assignment so indicates and contains notice information for the collateral assignee, the CAISO shall provide a copy to collateral assignee identified in such notice of any notice of Breach given by the CAISO to the Approved Project Sponsor and (b) such collateral assignee shall have the right, but no obligation, to effect cure of the Breach on behalf of the Approved Project Sponsor, and any performance of any obligations under this Agreement by such collateral assignee shall be accepted by the CAISO to the same extent as though the Approved Project Sponsor had directly performed such obligations.

ARTICLE 15. INDEMNITY, CONSEQUENTIAL DAMAGES, AND INSURANCE

- 15.1 Indemnity.** Each Party (the "Indemnifying Party") shall at all times indemnify, defend, and hold the other Party (the "Indemnified Party") harmless from any and all Losses arising out of or resulting from the Indemnifying Party's action or inactions of its obligations under this Agreement, except in cases of negligence or intentional wrongdoing by the Indemnified Party.
- 15.1.1 Indemnified Party.** If the Indemnified Party is entitled to indemnification under this Article 15 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Section 15.1 to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle, or consent to the entry of any judgment with respect to, or pay in full, such claim.

15.1.2 Indemnifying Party. If the Indemnifying Party is obligated to indemnify and hold the Indemnified Party harmless under this Article 15, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

15.1.3 Indemnity Procedures. Promptly after receipt by the Indemnified Party of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in Section 15.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include the Indemnified Party and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it that are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit, or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit, or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit, or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in which event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit, or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned, or delayed.

15.2 Consequential Damages. In no event shall any Party be liable under any provision of this Agreement for any losses, damages, costs, or expenses for any special, indirect, incidental, consequential, or punitive damages, including loss of profit or revenue, loss of the use of equipment, cost of capital, or cost of temporary equipment or services, whether based in whole or in part in contract or in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under another agreement shall not be considered to be special, indirect, incidental, or consequential damages hereunder.

15.3 Insurance. The Approved Project Sponsor shall carry insurance for the Project in accordance with good utility practice.

15.4 Continuity of Obligations. The obligations and liability limitations under this Article 15 shall survive termination of the Agreement.

ARTICLE 16. ASSIGNMENT

16.1 Assignment. With the exception of assignment for collateral security purposes- in accordance with this Section and Section 14.3, this Agreement may be assigned by a Party only with the written consent of the other Party, which consent shall not be unreasonably withheld. The CAISO will not approve the assignment unless the assignee (i) meets the competitive solicitation

qualification requirements set for in CAISO Tariff Section 24.5.3.1; (ii) agrees to honor the cost containment measures or cost caps specified in Appendix E, if applicable; (iii) agrees to meet the factors that the CAISO relied upon in selecting the Approved Project Sponsor; and (iv) assumes the rights and obligations contained in this Agreement; provided, however, that the Approved Project Sponsor shall have the right to assign this Agreement, without the consent of the CAISO, for collateral security purposes to aid in providing financing for the Project, provided that the Approved Project Sponsor shall promptly notify the CAISO of any such assignment, including identification of the assignee and contact information. Any financing arrangement entered into by the Approved Project Sponsor pursuant to this Article shall provide that prior to or upon the exercise of the secured party's, trustee's, or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee, or mortgagee shall notify the CAISO of the date and particulars of any such exercise of assignment rights. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this Agreement shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof.

ARTICLE 17. SEVERABILITY

- 17.1 Severability.** If any provision in this Agreement is finally determined to be invalid, void, or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement, or covenant of this Agreement.

ARTICLE 18. COMPARABILITY

- 18.1 Comparability.** The Parties shall comply with all applicable comparability and code of conduct laws, rules, and regulations, as amended from time to time.

ARTICLE 19. CONFIDENTIALITY

- 19.1 Confidentiality.** Confidential Information shall include all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by a Party to the other Party prior to the execution of this Agreement.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Party receiving the information that the information is confidential.

If requested by a Party, the other Party shall provide in writing the basis for asserting that the information referred to in this Article warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 19.1.1 Term.** During the term of this Agreement, and for a period of three (3) years after the expiration or termination of this Agreement, except as otherwise provided in this Article, each Party shall hold in confidence and shall not disclose Confidential Information to any person.
- 19.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such

information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known through no wrongful act or omission of the receiving Party or Breach of this Agreement; or (6) is required, in accordance with Section 19.1.7 of this Agreement, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this Agreement. Information designated as Confidential Information shall no longer be deemed confidential if the Party that designated the information as confidential notifies the other Party that it no longer is confidential.

- 19.1.3 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's regulations, 18 C.F.R. Section 358), and subcontractors, or to parties who may be or considering providing financing to or equity participation with the Approved Project Sponsor, or to potential purchasers or assignees of the Approved Project Sponsor, on a need-to-know basis in connection with this Agreement, unless such person has first been advised of the confidentiality provisions of this Article and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article.
- 19.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Party. The disclosure by each Party to the other Party of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.
- 19.1.5 No Warranties.** The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Party or to enter into any further agreements or proceed with any other relationship or joint venture.
- 19.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication, or dissemination. Each Party may use Confidential Information solely to fulfill its obligations to the other Party under this Agreement or its regulatory requirements.
- 19.1.7 Order of Disclosure.** If a court or another Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Party with prompt notice of such request or requirement so that the other Party may seek an appropriate protective order or waive compliance with the terms of this Agreement. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party shall use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.
- 19.1.8 Termination of Agreement.** Upon termination of this Agreement for any reason, each Party shall, within ten (10) calendar days after receipt of a written request from the other Party, use Reasonable Efforts to destroy, erase, or delete, with such destruction, erasure, and deletion certified in writing to the other Party, or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information

received from the other Party, unless subject to retention for litigation or regulatory purposes.

19.1.9 Remedies. The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article. Each Party accordingly agrees that the other Party shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article.

19.1.10—Disclosure to FERC, its Staff, or a State. Notwithstanding anything in this Article to the contrary, and pursuant to 18 C.F.R. Section 1b.20, if FERC or its staff, during the course of an investigation or otherwise, requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this Agreement, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. Section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. A Party is prohibited from notifying the other Party prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Party when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. Section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

19.1.11—Subject to the Exception in Section 19.1.10. Subject to the exception in Section 19.1.10 and consistent with the provisions of Sections 19.1.3 and 19.1.7, Confidential Information shall not be disclosed by a Party to any person not employed or retained by that Party, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Party, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this Agreement or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Party in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this Section 19.1.11, the disclosing Party shall promptly notify the other Party in writing and shall assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order, or other reasonable measures.

ARTICLE 20. ENVIRONMENTAL RELEASES

- 20.1** Each Party shall notify the other Party, first orally and then in writing, of the release of any Hazardous Substances, including hazardous wastes as defined by local, state, and federal law, any asbestos or lead abatement activities, or any type of remediation activities related to the Project or the Transmission Interconnection Facilities, each of which may reasonably be expected to affect the other Party. The notifying Party shall (i) provide the notice as soon as practicable, for an occurrence that may present an immediate risk to human health or the environment; (ii) make a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence for an event that may present an immediate risk to human health or the environment; and (iii) promptly furnish to the other Party information necessary for the designated Party to notify any Governmental Authorities of the event as required by law or Project-specific conditions. Copies of any publicly available reports shall be distributed to the other Party regarding such events.

ARTICLE 21. INFORMATION ACCESS AND AUDIT RIGHTS

- 21.1 Information Access.** Each Party (the “disclosing Party”) shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this Agreement; and (ii) carry out its obligations and responsibilities under this Agreement. The Parties shall not use such information for purposes other than those set forth in this Section 21.1 and to enforce their rights under this Agreement. Nothing in this Article shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.
- 21.2 Reporting of Non-Force Majeure Events.** Each Party (the “notifying Party”) shall notify the other Party when the notifying Party becomes aware of its inability to comply with the provisions of this Agreement for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation, or information provided under this Section shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this Agreement.
- 21.3 Audit Rights.** Subject to the requirements of confidentiality under Article 19 of this Agreement, the CAISO audit rights shall include the CAISO’s right to audit the Approved Project Sponsor’s costs pertaining to performance or satisfaction of obligations under this Agreement.
- 21.3.1** The CAISO shall have the right, during normal business hours, and upon prior reasonable notice to the Approved Project Sponsor, to audit at its own expense the accounts and records pertaining to satisfaction of obligations under this Agreement. Subject to Section 21.3.2, any audit authorized by this Section 21.3 shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to performance and satisfaction of obligations under this Agreement. The Approved Project Sponsor shall keep such accounts and records for a period equivalent to the audit rights periods described in Section 21.4.
- 21.3.2** Notwithstanding anything to the contrary in this Agreement, the Approved Project Sponsor’s rights to audit the CAISO’s accounts and records shall be as set forth in Section 21.1 of the CAISO Tariff.

- 21.4 Audit Rights Period for Construction-Related Accounts and Records.** Accounts and records related to the design, engineering, procurement, and construction of Project constructed by the Approved Project Sponsor shall be subject to audit and verification by the CAISO for a period of twenty-four months following the issuance of a final cost summary in accordance with Section 5.2.7.

ARTICLE 22. SUBCONTRACTORS

- 22.1 General.** Subject to Section 5.5.5, nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services, and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 22.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this Agreement. The hiring Party shall be fully responsible to the other Party for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO be liable for the actions or inactions of the Approved Project Sponsor or its subcontractors with respect to obligations of the Approved Project Sponsor under Article 4 of this Agreement. Any applicable obligation imposed by this Agreement upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.

ARTICLE 23. DISPUTES

- 23.1 General.** All disputes arising out of or in connection with this Agreement whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Section 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Section 13 of the CAISO Tariff shall be read as references to this Agreement. Disputes arising out of or in connection with this Agreement not subject to provisions of Section 13 of the CAISO Tariff shall be resolved as follows:
- 23.2 Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement or its performance, such Party (the “disputing Party”) shall provide the other Party with written notice of the dispute or claim (“Notice of Dispute”). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days after the other Party’s receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this Agreement.
- 23.3 External Arbitration Procedures.** Any arbitration initiated under this Agreement shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days after the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration, except prior arbitration. The arbitrator shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (“Arbitration Rules”) and

any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article, the terms of this Article shall prevail.

- 23.4 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator shall render a decision within ninety (90) calendar days after appointment and shall notify the Parties in writing of such decision and the reasons therefor. The arbitrator shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator may be appealed solely on the grounds that the conduct of the arbitrator, or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with, and approved by, FERC if it affects jurisdictional rates, terms, and conditions of service, Transmission Interconnection Facilities, or Network Upgrades.
- 23.5 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

ARTICLE 24. REPRESENTATIONS, WARRANTIES, AND COVENANTS

- 24.1 General.** Each Party makes the following representations, warranties, and covenants:
- 24.1.1 Good Standing.** Such Party is duly organized, validly existing, and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Project and transmission facilities owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted, and to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement.
- 24.1.2 Authority.** Such Party has the right, power, and authority to enter into this Agreement, to become a Party hereto, and to perform its obligations hereunder. This Agreement is a legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, or other similar laws affecting creditors' rights generally and by general equitable principles, regardless of whether enforceability is sought in a proceeding in equity or at law.
- 24.1.3 No Conflict.** The execution, delivery, and performance of this Agreement does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement, or instrument applicable to or binding upon such Party or any of its assets.
- 24.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this Agreement, will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery, and performance of this Agreement, and it will provide to any Governmental Authority notice of any actions under this Agreement that are required by Applicable Laws and Regulations.
- 24.1.5 Technical Specifications Accurate.** The technical specifications provided by the Approved Project Sponsor to the CAISO are accurate and complete.

ARTICLE 25. MISCELLANEOUS

- 25.1 Binding Effect.** This Agreement and the rights and obligations hereof shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.
- 25.2 Conflicts.** In the event of a conflict between the body of this Agreement and any attachment, appendices, or exhibits hereto, the terms and provisions of the body of this Agreement shall prevail and be deemed the final intent of the Parties.
- 25.3 Rules of Interpretation.** This Agreement, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this Agreement, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement, including this Agreement, document, instrument, or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section, or Appendix means such Article or Section of this Agreement or such Appendix to this Agreement, or such Section of the CAISO Tariff or such Appendix to the CAISO Tariff, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular Article, Section, or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 25.4 Entire Agreement.** This Agreement, including all Appendices and Schedules attached hereto, constitutes the entire agreement between the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between the Parties with respect to the subject matter of this Agreement. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this Agreement.
- 25.5 No Third Party Beneficiaries.** This Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest, and, where permitted, their assigns.
- 25.6 Waiver.** The failure of a Party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement shall not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, or duty of this Agreement. Termination or Default of this Agreement for any reason by the Approved Project Sponsor shall not constitute a waiver of the Approved Project Sponsor's legal rights to obtain an interconnection from the CAISO. Any waiver of any provision of this Agreement shall, if requested, be provided in writing.

- 25.7 Headings.** The descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this Agreement.
- 25.8 Multiple Counterparts.** This Agreement may be executed in two or more counterparts, each of which is deemed an original but all of which constitute one and the same instrument.
- 25.9 Amendment.** The Parties may by mutual agreement amend this Agreement by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 25.10 Modification by the Parties.** Except as described in Appendices B and E, the Parties may by mutual agreement amend the Appendices to this Agreement by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this Agreement upon satisfaction of all Applicable Laws and Regulations.
- 25.11 Reservation of Rights.** The CAISO has the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to any rates, terms and conditions, charges, classifications of service, rule, or regulation. The Approved Project Sponsor shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations. Each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered.
- 25.12 No Partnership.** This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.
- 25.13 Joint and Several Obligations.** Except as otherwise provided in this Agreement, the obligations of the CAISO and the Approved Project Sponsor are several, and are neither joint nor joint and several.

IN WITNESS WHEREOF, the Parties have executed this Agreement in multiple originals, each of which shall constitute and be an original effective agreement between the Parties.

[Approved Project Sponsor]

By: _____
 Name: _____
 Title: _____
 Date: _____

California Independent System Operator Corporation

By: _____

Name: _____

Title: _____

Date: _____

Appendices to Agreement

Appendix A Project Details

Appendix B Milestones

Appendix C Security Arrangements Details

Appendix D Addresses for Delivery of Notices and Billings

Appendix E Approved Project Sponsor's Costs of Project

Appendix A

Project Details

1. Description
2. Transmission Interconnection Facilities
3. Network Upgrades
4. Distribution Upgrades
5. Diagram of Project:
6. Project Team~~Affected Systems~~:

Appendix B

Milestones

1. Milestone Dates

[Example: The Milestones will be determined on a case-by-case basis.]

Item	Milestone	Responsible Party	Due Date ^{1/}
	Submit Construction Plan in accordance with Section 5.3.1 of this Agreement	Approved Project Sponsor	*
	Submit request for Transmission Interconnection Service to the applicable Interconnecting PTO	Approved Project Sponsor	
	Commence development activities including commencement of regulatory approvals; acquisition of land; and permits	Approved Project Sponsor	
	Commence engineering design	Approved Project Sponsor	
	Submit Construction Plan Status Report in accordance with Section 5.3.2 of this Agreement	Approved Project Sponsor	
	Complete engineering design	Approved Project Sponsor	
	Submit Project specifications in accordance with Section 5.4.1 of this Agreement	Approved Project Sponsor	
	Provide comments on Project specifications in accordance with Section 5.4.1 of this Agreement	CAISO	
	Commence procurement including material and resources	Approved Project Sponsor	
	Complete permitting activities in accordance with Section 5.5.1.1 of this Agreement	Approved Project Sponsor	
	Complete procurement including material and resources	Approved Project Sponsor	
	Execute agreement with applicable Interconnecting PTO prior to commencement of construction	Approved Project Sponsor	
	Commence Construction	Approved Project Sponsor	
	Submit a Participating TO application for the Project to the CAISO in accordance with Section 4.3.1.1 of the CAISO Tariff	Approved Project Sponsor	

Milestone Responsible Party Due Date ^{1/}			
	Submit final Project specifications in accordance with Section 5.4.2 of this Agreement	Approved Project Sponsor	
	Provide comments on final Project specifications in accordance with Section 5.4.2 of this Agreement	CAISO	
	Commence Testing	Approved Project Sponsor	
	Energization Date	Approved Project Sponsor	*
	Complete Construction	Approved Project Sponsor	
	In accordance with Section 5.6.2 provide final “as-built” drawings, information and other documents	Approved Project Sponsor	
	In accordance with Section 5.6.1 provide final costs of the Project	Approved Project Sponsor	

- ^{1/} Dates in this Appendix B are good faith estimates and can be modified as follows:
- * Change in milestone date requires an amendment to this Agreement pursuant to Section 25.10.
 - ** Change in milestone date can be agreed to in writing by the representatives listed in Appendix D to this Agreement without further regulatory approval.

Appendix C

Security Arrangements Details

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, and Approved Project Sponsor interconnected to the CAISO Controlled Grid to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Approved Project Sponsor shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's standards for information security posted on the CAISO's internet web site at the following internet address: <http://www.caiso.com/pubinfo/info-security/index.html>.

Appendix D

Addresses for Delivery of Notices and Billings

Notices:

Approved Project Sponsor:

[Name]
[Address]

With a copy to:

[Name]
[Address]

Email:

CAISO:

California ISO
Attn: Infrastructure Contracts & Management
250 Outcropping Way
Folsom, CA 95630

[QueueManagement@CAISO.com <mailto:QueueManagement@CAISO.com>](mailto:QueueManagement@CAISO.com)

Attachment C

Draft Final Proposal - Competitive Solicitation Process Enhancements

Competitive Solicitation Enhancements

California Independent System Operator Corporation

Competitive Solicitation Process Enhancements

Draft Final Proposal

October 12, 2015

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Competitive Solicitation Process Enhancements

Straw Proposal

1 Introduction

Since 2010 the ISO has employed a competitive solicitation process for the selection of approved project sponsors to finance, construct, own, operate and maintain transmission solutions included in the transmission plan approved by the ISO's Board of Governors each year. Since that time the ISO has conducted a series of stakeholder initiatives in an effort to periodically review and improve this process. This present initiative—Competitive Solicitation Process Enhancements—was launched in March 2014 and is ISO's most recent effort to review the competitive solicitation process and identify potential enhancements. In this paper the ISO addresses a number of issues identified by stakeholders and provides its draft final proposal on each issue.

2 Summary of issues and draft final proposals

The following table summarizes the ISO's draft final proposal for each of the nine issues identified by stakeholders through this initiative. An in-depth discussion of each issue, including stakeholder comments and ISO responses, can be found in section 5 of this paper (with specific section numbers noted).

Issue	ISO's draft final proposal	Section No.
Independent evaluator	<p>The ISO did not change the revised straw proposal which is as follows: The ISO believes that the current process provides for thorough, independent and expert input into the selection of project sponsors and does not propose to use an independent evaluator.</p> <p>This proposal did not change from the initial straw proposal, and the ISO did not solicit additional comments on this issue in the revised straw proposal. The ISO addresses TransCanyon's additional input in Section 5.1.7 below.</p>	5.1
Financial comparison process	<p>The ISO did not change the revised straw proposal which is as follows: The ISO believes that the current financial comparison process is aligned with the ISO's commitment to run a fair and non-discriminatory</p>	5.2

Issue	ISO's draft final proposal	Section No.
	<p>competitive solicitation process and does not propose further enhancements. While no changes are being proposed to the financial comparison process at this time, the ISO will amend the application in the future to eliminate any perceived disadvantage of a project financed proposal by clarifying that questions F-11 through F-16 apply to all applicants.</p>	
<p>Collaboration period</p>	<p>After reviewing the six sets of comments received on this topic, the ISO proposes to move forward with option 1 of the revised straw proposal with minor changes. The draft final proposal is as follows: Modify the collaboration period to coincide with the open application bid window and extend this bid window an additional two weeks. The ISO believes that this proposal best addresses the key stakeholder concerns of potential gaming, avoiding schedule delays, and simplifying the collaboration process. Three stakeholders supported the above proposal, two did not support it, and one had no comment on this option.</p>	<p>5.3</p>
<p>Collateral/credit requirements for approved project sponsors</p>	<p>The ISO did not change the revised straw proposal which is as follows: The ISO does not believe that posting of financial security should be a requirement placed on project sponsor applicants. The ISO will continue to allow a project sponsor to state in its application that it will voluntarily post financial security if selected as the approved project sponsor to support its application.</p> <p>This proposal did not change from the initial straw proposal, and the ISO did not solicit additional comments on this issue in the revised straw proposal. The ISO addresses TransCanyon's additional input in Section 5.4.7 below.</p>	<p>5.4</p>
<p>Evaluation of</p>	<p>The ISO did not change its revised straw proposal</p>	<p>5.5</p>

Issue	ISO's draft final proposal	Section No.
selection criteria	<p>which is as follows: In future competitive solicitation reports the ISO will strive to provide clearer explanations of the differences between project sponsors with respect to meeting the applicable criteria and their relevance in the decision making process, while balancing confidentiality concerns. Further, the ISO will revise the project sponsor application to solicit additional information from project sponsors intending to seek FERC rate incentives. As described in Section 5.1, the CAISO has retained two expert consulting firms to ensure that all selection factors, both cost and non-cost, are examined in an independent, fair, and comprehensive manner.</p> <p>While this proposal did not change from the initial straw proposal, and the ISO did not solicit additional comments on this issue in the revised straw proposal. The ISO addresses TransCanyon's additional input in Section 5.5.7 below.</p>	
Project-specific weighting and scoring methodology	<p>The ISO did not changed the revised straw proposal which is as follows: the ISO explained in the October 7, 2014 issue paper, this initiative does not consider issues such as weighting, scoring, and mathematical formulas for selecting project sponsors. As explained in response to the previous issue, the ISO will strive to improve the clarity and detail provided in decisional reports and will revise the project sponsor application to solicit additional information from project sponsors intending to seek FERC rate incentives.</p>	5.6
Obligation regarding the transfer of assets	<p>Comments received on this issue continue supporting the ISO's revised straw proposal that the approved project sponsor should have a requirement or obligation to transfer the assets to the alternative project sponsor, if desired. To further the discussion, the ISO proposes that, consistent with FERC transmission rate-making policy, the "fair compensation" shall not exceed net book value of the project. In addition, the ISO adopted the Six Cities proposal to require approved project sponsors to</p>	5.7

Issue	ISO's draft final proposal	Section No.
	serve Participating TOs in any related FERC filings.	
Cost estimate standard	The ISO did not change the revised straw proposal which is as follows: The ISO agrees that a minimum level of detail is required when a project sponsor submits cost estimates, and proposes to update the project sponsor application to clarify the amount of cost estimate detail a project sponsor is required to provide.	5.8
Pre-qualification outside of bidding scheme	The ISO did not change the revised straw proposal which is as follows: The ISO believes that this issue was addressed during the FERC Order No. 1000 stakeholder process and continues to favor an approach that allows for flexibility.	5.9

3 Background

The ISO employs an annual transmission planning process, approved by FERC, which consists of three transmission planning phases. In phase one, the ISO identifies study assumptions and develops a study plan. During phase two, the ISO identifies the need for reliability-driven, policy-driven, and economic transmission solutions and develops the transmission solutions that meet those needs in the most cost-effective and efficient manner. These transmission solutions are set out in a transmission plan that is approved by the ISO's Board of Governors at the end of phase two. In phase three, the CAISO solicits proposals to finance, construct, own, operate and maintain regional transmission facilities subject to competitive solicitation, evaluate whether the project sponsor and proposals meet the qualifications for consideration, and take the steps necessary for selecting approved project sponsor(s) according to the CAISO tariff and business practice manual for the transmission planning process.

Since the competitive solicitation process was first introduced in 2010, the ISO has conducted a series of stakeholder processes to review and improve the phase three competitive solicitation procedures of its transmission planning process. These stakeholder processes are described in the following sub-sections. This previous work serves as the foundation for this initiative which is the latest in this series of efforts to improve the competitive solicitation process.

3.1 Revised Transmission Planning Process (2010)

In 2010, the ISO reformed its transmission planning process to explicitly consider public policy requirements as a potential driver for transmission facilities and to afford both participating transmission owners and independent transmission developers nondiscriminatory opportunities to compete to finance, own, construct, operate and maintain transmission facilities that the ISO found necessary for public policy or economic efficiency reasons. Specifically, as part of the transmission planning process revisions, the ISO proposed, and the FERC approved, a third phase of the transmission planning process during which the ISO would open a bid window for all proposed project sponsors to submit applications for each transmission facility eligible for competitive solicitation. The FERC also approved ISO proposals for project sponsor qualification criteria and, should there multiple qualified project sponsors for the same transmission facilities, criteria that the ISO would use to conduct a comparative selection evaluation of all qualified applicants to determine the approved project sponsor for each transmission facility.

3.2 FERC Order No. 1000 (2011-2013)

The opportunities for competition expanded when the ISO submitted to FERC, consistent with FERC Order No. 1000 directives, proposed tariff revisions to eliminate certain remaining ISO tariff provisions granting a federal “right of first refusal” for incumbent participating transmission owners to build and own certain transmission facilities whose costs will be allocated regionally. On April 18, 2013, the FERC approved the ISO’s proposed tariff modifications.

3.3 Competitive Transmission Improvements (2013-2014)

The first time that the ISO conducted the competitive solicitation process was for transmission solutions identified in the 2012-2013 planning cycle.¹ Based on experience with the process and discussions with stakeholders, the ISO identified additional improvements to clarify the process approved by FERC and to help further level the playing field between participating transmission owners and other transmission developers. In particular, a non-participating transmission owner selected as an approved project sponsor would have no tariff mechanism by which to recover FERC-approved operational costs (such as construction work in progress [“CWIP”] and abandoned plant cost recovery) before the project is energized and turned over to ISO operational control. However, a

¹ The ISO identified three transmission solutions in the 2012-2013 planning cycle eligible for competition:

- Imperial Valley Policy Element, for which the selection report was issued on July 11, 2013;
- The Gates-Gregg Project, for which the selection report was issued on November 6, 2013;
- Sycamore-Penasquitos 230 kV Line Element, for which the selection report was issued on March 4, 2014.

(See <http://www.caiso.com/planning/Pages/TransmissionPlanning/2012-2013TransmissionPlanningProcess.aspx>)

participating transmission owner selected as an approved project sponsor would be able to recover these costs through its existing transmission revenue requirement and approved transmission owner tariff. The ISO concluded that this inability to recover FERC-approved pre-operational costs could be a barrier to participation in the competitive solicitation process.

Similarly, stakeholders expressed concern that the general tariff and transmission control agreement obligations requiring participating transmission owners to turn over all transmission facilities to ISO operational control might also apply to non-participating transmission owners with existing transmission facilities who are selected in the process. Although the ISO believed that the tariff provisions in place at the time did not create such obligation for approved project sponsors, uncertainty as to how the tariff would be interpreted could prevent non-incumbent participating transmission owners from submitting proposals in the competitive solicitation process.

Thus, the ISO initiated the Competitive Transmission Improvements stakeholder initiative on September 10, 2013 to consider tariff modifications that would address these competitive solicitation topics. In addition, based on information about the time and resources needed to conduct a robust solicitation process, the ISO decided to propose an application fee and true-up mechanism with stakeholders.

Resulting from this effort, on January 30, 2014, the ISO submitted tariff revisions to the Phase 3 competitive solicitation process to clarify the process, implement improvements and respond to issues raised by stakeholders.² The process and policy enhancements proposed by the ISO addressed the following topics:

1. The need for a mechanism by which an approved project sponsor that is not a participating transmission owner can recover the FERC-authorized transmission revenue requirements associated with regional transmission facilities under construction prior to the time that they turn the facilities over to ISO operational control;
2. Tariff clarification that an approved project sponsor that has existing transmission assets, but is not a participating transmission owner, will be required to turn over to ISO operational control only the regional transmission facilities it was selected to build pursuant to the ISO's transmission planning process;
3. An application fee, capped at \$150,000, to enable the ISO to recover the costs of evaluating project sponsor applications, determine qualified project sponsors, and select an approved project sponsor for each of the regional transmission facilities subject to competitive solicitation;

² http://www.caiso.com/Documents/Jan30_2014_TariffAmendment_CompetitiveTransmissionImprovements_ER14-1206-000.pdf

4. New tariff provisions in response to stakeholder requests that the ISO eliminate or clarify the tariff requirement that an approved project sponsor initiate siting approval within 120 days after selection; and
5. New tariff provisions in response to stakeholder requests that the ISO clarify the standards set forth in section 24.5.2.1 that must be met by an approved project sponsor transferee in order for the ISO to approve the assignment from an approved project sponsor.

On March 31, 2014, the FERC accepted the ISO's filing, effective April 1, 2014, subject to a subsequent compliance filing.³ This revised tariff language was first applied to the 2013-2014 transmission planning process competitive solicitation, which is currently underway.⁴

4 Stakeholder process

The ISO began this present initiative—Competitive Solicitation Process Enhancements—with a stakeholder meeting on March 6, 2014 to discuss “lessons learned” from the 2012-2013 transmission planning process competitive solicitations. The ISO's intention was to use the March 6 stakeholder meeting to mark the start of an effort with stakeholders to identify potential enhancements that could improve the efficiency and effectiveness of the competitive solicitation process. The ISO differentiated between (1) potential enhancements that it could apply to Phase 3 of the 2013-2014 transmission planning process without the need for tariff modifications and (2) issues that have potential policy implications and require more comprehensive stakeholder consultation and potential tariff modification. The ISO also discussed its intention to work with stakeholders to develop a pro forma approved project sponsor agreement (APSA) for the 2013-2014 TPP competitive solicitation. The ISO invited stakeholders to submit written comments following the March 6 meeting.⁵

3

http://www.caiso.com/Documents/Mar31_2014OrderConditionallyAcceptingCompetitiveTransmissionImprovementsAmendmentER14-1206.pdf

⁴ The ISO identified six transmission solutions in the 2013-2014 planning cycle eligible for competition:

- Delaney to Colorado River 500 kV transmission line project;
- Estrella substation;
- Miguel 500 kV 375 MVAR reactive power support;
- Spring substation in the Morgan Hill area;
- Suncrest 230 kV 300 MVAR dynamic reactive power support;
- Wheeler Ridge Junction substation project.

(See <http://www.caiso.com/planning/Pages/TransmissionPlanning/2013-2014TransmissionPlanningProcess.aspx>)

⁵ The ISO received seven sets of written stakeholder comments. These can be found at:

<http://www.caiso.com/Pages/documentsbygroup.aspx?GroupID=DDAAB9D2-9D5F-44BD-9FEB-71F41F9DCEE3>

Immediately following the March 6 “lessons learned” stakeholder meeting, the ISO took several actions. First, after reviewing and evaluating the written stakeholder comments, the ISO made several process improvements prior to the 2013-2014 competitive solicitation. These improvements are discussed in more detail in an October 7, 2014, status update and issue paper posted in this initiative.⁶ Second, the ISO posted a draft *pro forma* APSA and sought stakeholder comment on March 21, 2014.⁷ The ISO received eight sets of comments⁸ and held a web conference to discuss the proposal on May 5, 2014. The ISO posted a revised *pro forma* APSA on May 7, 2014⁹ and held an additional teleconference to discuss the draft on May 19, 2014. On September 10, the ISO submitted the proposed *pro forma* APSA, to be added as Appendix X to the ISO tariff, to FERC for approval.¹⁰

With these two activities complete, this stakeholder initiative turned to other issues raised in the March 13, 2014 stakeholder comments that may have potential policy implications and require further consultation with stakeholders. On October 7, 2014, the ISO posted a status update and issue paper in this initiative intended to (1) provide stakeholders with a status update on the issues that have been addressed in this initiative and (2) solicit comments on the other issues raised by stakeholders in their March 13 comments. In addition to describing these issues in the October 7 paper, the ISO also discussed these with stakeholders during a web conference on October 14, 2014. The ISO invited stakeholders to provide their input on these issues by submitting written comments by October 28, 2014. The ISO indicated that it would evaluate and consider this additional feedback before determining subsequent steps in this initiative, and following review and evaluation of the comments received the ISO would develop its recommendations on those issues that will be further examined through this initiative and its recommendations on next steps. The ISO further clarified that although it was asking stakeholders to comment on the remaining issues, this should not be viewed as a commitment by the ISO to make any specific changes to address these issues.

⁶ <http://www.caiso.com/Documents/IssuePaper-CompetitiveSolicitationProcessEnhancements-100714.pdf>

⁷ <http://www.caiso.com/Documents/ProFormaApprovedProjectSponsorAgreement.doc>

⁸ <http://www.caiso.com/Pages/documentsbygroup.aspx?GroupID=0F4E6DFA-A141-47B9-9E77-908C036ABB30>

⁹ <http://www.caiso.com/Pages/documentsbygroup.aspx?GroupID=F475622B-FD2D-4AEA-9AED-12ED333B6E74>

¹⁰ http://www.caiso.com/Documents/Sep10_2014_ProForma_APSA_ER14-2824.pdf. On November 7, 2014, FERC issued an order conditionally accepting the *pro forma* APSA effective November 10, 2014, subject to a compliance filing.

The ISO received nine sets of written comments from stakeholders on or around the October 28 due date.¹¹ Stakeholders suggested two new issues in these comments, bringing the number of issues to nine. Based on a review of the written comments and on further consideration by the ISO, the ISO developed and issued a straw proposal paper on each of the nine issues on June 9, 2015. The ISO discussed the straw proposal paper with stakeholders during a web conference on June 16 and invited stakeholders to submit written comments by close of business June 30. Based on a review of the written comments and on further consideration by the ISO, the ISO developed a revised straw proposal on some of the nine issues and presented those revisions in the revised straw proposal paper issued on September 1. The ISO discussed the revised straw proposal paper with stakeholders during a web conference on September 8 and invited stakeholders to submit written comments by close of business September 15. Based on a review of the written comments and further consideration by the ISO, the ISO developed this draft final proposal. The ISO plans to discuss this draft final proposal with stakeholders during a web conference scheduled for October 19, 2015. Stakeholders are invited to submit written comments on the draft final proposal by close of business on October 26, 2015. No further rounds of stakeholder engagement are planned for this initiative. The ISO is targeting the December meeting of the ISO Board of Governors to seek approval for proposals that need tariff amendments.

Stakeholder process schedule		
Step	Date	Activity
Issue identification / collection	March 6, 2014	Stakeholder meeting
	March 13, 2014	Stakeholder comments due
Status Update / Issue Paper	October 7, 2014	Post Status Update/Issue Paper
	October 14, 2014	Stakeholder web conference
	October 28, 2014	Stakeholder comments due
Straw Proposal	June 9, 2015	Post Straw Proposal
	June 16, 2015	Stakeholder web conference
	June 30, 2015	Stakeholder comments due
Revised Straw Proposal (as needed)	September 1, 2015	Post Revised Straw Proposal
	September 8, 2015	Stakeholder web conference
	September 15, 2015	Stakeholder comments due

¹¹ <http://www.caiso.com/Pages/documentsbygroup.aspx?GroupID=675D2081-D619-4257-B9CC-E455B87CDB99>

Stakeholder process schedule		
Step	Date	Activity
Draft Final Proposal	October 12, 2015	Post Draft Final Proposal
	October 19, 2015	Stakeholder web conference
	October 26, 2015	Stakeholder comments due
Board approval (as needed)	December	ISO Board of Governors meeting

5 Topics raised by stakeholders

Following the March 6 “lessons learned” stakeholder meeting that launched the present initiative, the ISO invited stakeholders to submit written comments by March 13, 2014. Written comments were submitted by California Public Utilities Commission (CPUC) staff, LS Power, Pacific Gas and Electric (PG&E), Southern California Edison (SCE), ITC Grid Development, and Trans Bay Cable (TBC). The ISO responded to these issues in the October 7 paper. In reviewing and evaluating these comments the ISO sorted them into two categories: (1) potential enhancements that it could apply to phase three of the 2013-2014 transmission planning process and (2) issues that have potential policy implications and require more comprehensive stakeholder consultation. In response to those issues in category (1), the ISO made specific process improvements that it applied to the 2013-2014 competitive solicitation process and discussed these in section 5.1 of the October 7 paper. The ISO considers its responses to these issues complete and are not be repeated here. For those issues determined to be in category (2), the ISO provided an initial ISO response to these in section 5.2 of the October 7 paper and discussed them further with stakeholders during a stakeholder web conference on October 14. Following the October 14 stakeholder call, the ISO invited stakeholders to submit comments on these issues, explain why each issue should (or should not) be examined further, and submit specific proposals for its resolution through this initiative. The ISO clarified that although it is asking stakeholders to comment on these issues, stakeholders should not view this as a commitment by the ISO to make any specific changes to address these issues. The ISO further clarified that following review and evaluation of the comments received, the ISO will develop its recommendations on those issues that will be further examined through this stakeholder initiative and its recommendations on next steps. The ISO received nine sets of written comments from stakeholders on the issue paper on or around the October 28 due date, and the ISO received eight sets of written comments from stakeholders on the straw proposal on or around the June 30 due date. The ISO subsequently received six sets of stakeholder comments on the revised straw proposal on or around the September 15 due

date. The ISO's draft final proposal or recommended next steps on each of these issues are presented in the following sub-sections.

5.1 Independent evaluator

5.1.1 March 13 stakeholder comments

Trans Bay – Trans Bay recommended that the ISO use an independent evaluator with knowledge of transmission development and construction. Trans Bay believes that an independent evaluator could ensure that all applications receive the same treatment and further increase the open and transparent nature of the selection process.

5.1.2 October 7 ISO response

In its response in the October 7 paper, the ISO expressed that it was unclear from Trans Bay's comments how extensive a role it envisions for an independent evaluator in the selection process. In particular, it was unclear whether Trans Bay Cable was suggesting (1) that the ISO turn over administration of the competitive solicitation process to an independent evaluator (including the tasks of (a) determining whether a project sponsor meets certain qualification criteria; (b) determining whether a project sponsor's proposal meets certain qualification criteria; and (c) selecting an approved project sponsor) or (2) that the ISO retain the role of administering the competitive solicitation process (including tasks (a), (b) and (c)) but utilize an independent evaluator to develop an independent opinion on all three tasks which the ISO could compare against its own determinations on the same three tasks. The ISO was clear that the ISO is not open to consideration of option (1) and would consider that an abdication of its responsibilities and authority granted by FERC. Even if the ISO were to employ an independent evaluator, the ISO would remain the decision maker regarding the selection of an approved project sponsor. That said, the ISO was willing to hear from stakeholders about option (2). Specifically, the ISO asked stakeholders to comment on whether there is a need for an independent evaluator and why option (2) should (or should not) be examined further in this initiative. The ISO identified a number of issues for consideration. What would be the difference between an independent evaluator and the consultant the ISO retains today to assist it in the selection process? If the ISO were to employ an independent evaluator, that would materially increase the costs of the competitive solicitation and could impact the competitive solicitation schedule. The ISO requested stakeholder comment regarding the cost (including who should bear the costs of any independent evaluator and how the ISO might need to modify its fee structure to recover such costs) and schedule impacts that option (2) may introduce.

5.1.3 October 28 stakeholder comments

CPUC staff – CPUC staff believe that use of an independent evaluator should be considered for projects having an estimated cost of \$50 million or greater.

ITC Grid Development, LLC (“ITC”) – ITC agrees with the ISO that an independent evaluator should not usurp the role of the ISO in administering the competitive solicitation process. ITC believes, however, that using an *independent* expert consultant as an evaluator will strengthen the ISO’s competitive evaluation process. ITC does not believe this independent expert consultant needs to be in addition to existing ISO consultants, but rather independence can simply be an additional requirement of the expert consultant already employed by the ISO in evaluating proposals. Such a modification to the requirements for the expert consultant would provide additional assurance that the process is open, transparent, and fair, which is necessary for there to be a robust competitive solicitation process. An independent evaluator would develop an independent opinion for the ISO to consider in its evaluation regarding, among other things, the tasks which the ISO has identified above, *i.e.* (a) determining whether a project sponsor meets certain qualification criteria; (b) determining whether a project sponsor’s proposal meets certain qualification criteria; and (c) selecting an approved project sponsor. ITC is aware of three possible independent evaluator models that should be considered in this proceeding for use by the ISO. There may be other models that should be considered. ITC hopes that the ISO staff will make information available to participants in this stakeholder proceeding regarding potential models so that parties can have an informed discussion concerning potential models. ITC is aware of what two other transmission system operators have done with respect to independent evaluation. The Midcontinent Independent System Operator (“MISO”) tariff provides for use of *independent* consultants (along with MISO staff) to review the bids, which is similar to what the ISO currently does.¹² In MISO, however, this review is overseen by an Executive Oversight Committee which has exclusive and final authority to select a developer. The Executive Oversight Committee consists of three representatives of the transmission provider, including an officer.¹³ While the Executive Oversight Committee is not independent of MISO, having such an Executive Oversight Committee promotes

¹² MISO Tariff at Attachment FF.VII.G(8).

¹³ See MISO FERC filing in ER15-35 on October 3, 2014, for the proposed definition of the term “Executive Oversight Committee” (Proposed definition is “A committee consisting of three or more executive staff of the Transmission Provider, including at least one officer, that is charged with overseeing all Transmission Provider staff and consultants involved in evaluating Transmission Developer Applications submitted by Qualified Transmission Developer Applicants and New Transmission Proposals submitted by New Transmission Proposal Applicants in response to a Transmission Proposal Request. The committee will have exclusive and final decision making authority over certification of Qualified Transmission Developers and selection of Selected Transmission Developers. The committee shall possess the specific technical, financial, and regulatory expertise necessary for evaluation of Transmission Developer Applications and New Transmission Proposals.”)

some of the same objectives that would be served by having an independent evaluator as part of the ISO's process. The Executive Oversight Board at MISO, like having an independent evaluator at the ISO, provides greater assurance to market participants that applications will be reviewed by experts that consistently apply the qualification and selection criteria. Additionally, the Southwest Power Pool ("SPP") tariff requires the use of an industry expert panel to review bids.¹⁴ This panel consists of outside experts that serve in an advisory capacity. ITC is aware that the California Public Utilities Commission ("CPUC") also uses independent evaluators when making procurement decisions. These evaluators participate as bystanders behind the scenes in the procurement process and are charged with writing reports in accordance with templates specified by the CPUC.¹⁵ These templates could serve as a useful resource for the ISO and stakeholders to develop a template for independent evaluator reports for the competitive solicitation process. It also would be helpful for the ISO staff to contact the CPUC staff to get information regarding the costs involved. Whether the ISO continues to utilize an expert consultant to assist with the selection of approved project sponsors, or the ISO requires said expert consultant to be an independent consultant, ITC believes the cost of the expert consultancy can be borne by the Competitive Solicitation Project Proposal Fee currently collected for each project submittal (ISO Tariff Section 24.5.6), with no additional increase required. With regard to the possible impact of having an independent evaluator on the schedule for review of applications, ITC believes that using an independent evaluator will not extend the time for review since the work of the independent evaluator can be done at the same time as the ISO conducts its own evaluation as long as the ISO provides the information needed for simultaneous rather than sequential review.

Pacific Gas and Electric Company ("PG&E") – PG&E believes that the current structure of the ISO administering the competitive solicitation process and retaining a consultant to augment the comparative analysis effort is in the best interest of customers. The inclusion of an additional independent evaluator would be duplicative and have the potential to incur additional costs and / or delays with few benefits to the overall selection process. PG&E recommends this issue as presented be removed from further process improvement discussion.

Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, the "Six Cities") – The Six Cities are skeptical of the benefits to the selection process that would be achieved by layering on an additional level of review to be conducted by an independent evaluator. It appears that this new step would add complexity

¹⁴ SPP Tariff Attachment Y at III.2.b. See also SPP's webpage regarding its Industry Expert Panels at <http://www.spp.org/section.asp?pageID=197>

¹⁵ The CPUC's rationale for requiring use of independent evaluator templates is explained in CPUC D. 07-12-052, the decision which first required use of templates.

to the process and could be administratively cumbersome. Reconciling conflicting determinations as between the ISO and the independent evaluator may be costly and time-consuming. Additionally, suggesting that a separate, independent review be conducted either in lieu of or in addition to the existing evaluation process implies that the process as conducted currently somehow lacks objectivity. The Six Cities are unaware that there is a need for a greater degree of independence in performing the bid evaluation. While the competitive solicitation process may benefit from additional transparency, there may be ways to achieve more transparency without an added level of review. However, to the extent that proponents of this approach provide additional justification and if the independent review process can be accommodated from an administrative standpoint, the Six Cities are not inherently opposed to including such a review as part of the evaluation process. The cost of this review should be paid for entirely by participants in the competitive solicitation process.

Southern California Edison (“SCE”) – Trans Bay Cable suggested that the ISO utilize an independent evaluator in the competitive solicitation process. SCE does not support this proposal. The ISO is itself an independent entity. The ISO already retains a consultant to assist in the competitive selection process. As such, a requirement that the ISO retain an additional contractor is not necessary and will only lead to increased costs and delayed decision making. SCE therefore opposes this requirement and does not see the need for including it within the stakeholder process.

Trans Bay Cable LLC (“Trans Bay”) – In its March 13 Comments, Trans Bay recommended that the ISO use an independent evaluator with knowledge of transmission development and construction, as well as with expertise in running a request for proposals (RFP) process and applying the key criteria set forth in the process in a consistent and fair manner. Trans Bay believes that using an independent evaluator would improve the process for a number of reasons, and notes that the use of an independent evaluator is now common in the utility procurement process, as well as in other large-scale project selections.

First, Trans Bay does not believe that the use of an independent evaluator would be an abdication of the ISO’s role, in the same way that the use of a qualified consultant is not an abdication of its responsibility. Rather, an independent evaluator could be used by the ISO to fulfill its responsibility to conduct a fair and truly competitive evaluation process. Trans Bay is not suggesting that ISO Staff and management have no role in the process and the decision making, but that the independent evaluator work with Staff to ensure that the process is fair and transparent.

Trans Bay further recommends that the independent evaluator be accountable to the ISO Board and ISO ratepayers. Trans Bay believes that the use of an independent evaluator will assist the ISO in running a fair and independent solicitation process, and will assist in assuring stakeholders that the process is fair, open, and transparent. The use of an

independent evaluator would add greater accountability to the process to confirm that the same analytical rigor was employed across the board, consistent with the ISO tariff, and to ensure that all applications received the same, fair treatment.

The ISO requested a discussion of how the role of an independent evaluator may be different from that of a consultant. Under the current regime, the ISO's consultant does not perform many of the tasks that an independent evaluator typically performs, or at least it is not readily apparent precisely what tasks are being performed. In fact, stakeholders have little idea how the process is run, other than what it gleans from access to the final Selection Report. It may be, however, that an independent evaluator can perform some of the tasks currently performed by the consultants, which could potentially reduce overlap and costs. At this time, Trans Bay is not aware of the functions performed by the consultant versus ISO Staff, so the precise roles would have to be determined at a later time.

An independent evaluator would perform some or all of the following functions, used in the utility procurement review group (PRG) process, as adapted from PG&E's website (for example purposes only):

- a. Advise on the consistency of solicitation activities within the ISO's transmission planning process, including, but not limited to, relevant FERC-approved tariff provisions;
- b. Assist in the further development, design and review of Request for Proposals;
- c. Promptly submitting any recommendations consistent with the objective of ensuring a competitive, open, and transparent process, and to ensure the overall scope of the solicitation process is not unnecessarily broad or too narrow;
- d. Provide recommendations concerning the precise definitions of the project scope and price and non-price evaluation criteria, so that all aspects of the solicitation and product to be provided (i.e., the project) are clearly understood and all bidders may effectively respond to solicitations;
- e. Review the comprehensive quantitative and qualitative bid evaluation criteria and methodologies and assess whether these are applied to all bids in a fair and non-discriminatory manner;
- f. Report on the outcome of the solicitation;
- g. Monitor the solicitation and subsequent contracting process and promptly submit recommendations to the ISO Board to ensure that no bidder has an information advantage and that all bidders receive access to relevant communication in a non-discriminatory manner;
- h. Provide final written assessment whether the process was fair, open and transparent and whether any bidder received material information that gave them a competitive advantage; and
- i. Perform other duties as may be further needed, as determined by the ISO.

Trans Bay also encourages the ISO to hire an independent evaluator with technical knowledge of transmission, so that it can focus on evaluating, for example, (1) the feasibility and cost of siting the project sponsor's proposed routes, (2) project design, and (3) the reasonableness of cost estimates. Based on the prior solicitations, Trans Bay is concerned that the ISO has simply accepted the project sponsor's proposed routes, without evaluating whether a proposed route is likely to cause ratepayers to incur substantial additional mitigation and litigation costs. Although the decision to permit the project route is ultimately the responsibility of the CPUC, the ISO – either alone or in concert with the CPUC – must perform some evaluation of route feasibility, or the results of its solicitation will be suspect. For example, in the Gates-Gregg solicitation, Trans Bay proposed a route that was longer, but would avoid attempting to site a line in heavily populated areas. Trans Bay's experts advised that the route proposed by the incumbent – even taking into account the incumbent's rights-of-way – would likely be more costly¹⁶ and time-consuming than the alternate route; yet, the ISO did not address this issue.

Finally, Trans Bay does not believe that the use of an independent evaluator would add appreciably to the overall cost of conducting a competitive solicitation; nor would it necessarily affect the solicitation schedule, particularly if the independent evaluator were to perform some or all of the tasks of the consultants. The costs should be borne the same way other solicitation costs are borne. More importantly, however, the additional cost to hire an independent evaluator for a several hundred million dollar transmission project is minimal, relative to the size of the project, and more than worth it if (a) the independent evaluator provides assurance that stakeholders have confidence in the process, thus ensuring true competition; and (b) the independent evaluator ensures that the lowest-cost, best fit project sponsor is chosen through a fair and transparent process. Trans Bay recommends that the ISO seek information from the CPUC regarding the cost of the independent evaluator in the utility procurement review (PRG) process.

TransCanyon LLC (“TransCanyon”) and MidAmerican Transmission – As stated in the Issue Paper, the ISO already incorporates the advice of an independent consultant as part of its selection process. There has been no evidence shown to date that there are significant benefits to be derived from the use of an independent evaluator, such that those benefits would outweigh the associated costs. TransCanyon therefore believes that as a general matter, it is not necessary to address this issue at this time. Any additional process and costs should only be undertaken if there is a clear showing that there is a specific claim or need that is not addressed with the existing process. To date, no such claim or substantive reason has been provided.

¹⁶ See *infra.*, Evaluation of Selection Criteria Section (citing to evidence that PG&E/MATs cost proposal is more than Trans Bay's proposed costs).

5.1.4 Straw proposal

The ISO is committed to run a fair and non-discriminatory competitive solicitation process and to select the project sponsor best able to finance, construct, own, operate, and maintain the regional transmission facilities subject to competitive solicitation. Comments received on this topic were mixed with more opposing than in favor of adding any additional layer of review. To respond to comments in favor of adding an additional layer of independent review or to change the existing construct of the current expert consultants, the ISO provides in this straw proposal more details on the expert consultants currently engaged in this process (without releasing their actual identities which is kept confidential to maintain the integrity of the process) and how the ISO coordinates and works with these consultants.

The ISO utilizes internal staff with industry expertise as well as engaging two well respected industry consulting firms to support the solicitation effort.

One firm primarily supports the ISO in the qualification and comparative analysis associated with the financial strength, design, construction, operations, environmental, permitting, and maintenance capabilities of the project sponsor as well as the proposed project meeting the requirements outlined in the functional specifications. This firm is an international firm with over 600 employees and has expertise in all phases of transmission facility development with extensive experience in California and the western United States. Currently this firm utilizes sixteen individuals to support the ISO's process with specific industry expertise in each of the areas of finance, design, construction, operations, environmental, permitting, and maintenance of transmission facilities. This firm has committed to remain unbiased and not participate with any project sponsor in the ISO's competitive solicitation process.

The other firm that the ISO utilizes in the comparative analysis is an international consulting firm that provides economic and financial expertise. This firm provides financial analysis, particularly cost of service analysis, to support the ISO's comparative analysis of proposed projects. This firm utilizes up to twelve individuals to support the ISO's process with expertise in FERC and state level filings, transmission cost benchmarking, economic evaluation of complex competitive transmission proposals in multi stakeholder environments, and transmission investment strategy. This firm has also committed to remain unbiased and not participate with any project sponsor in the ISO's competitive solicitation process.

The ISO coordinates and works closely with both consultants, making sure they have all the information they need and is provided by the project sponsors through the application, validation and qualification processes. The ISO requires both consulting firms to provide a report or matrix detailing their independent comparative analysis and the ISO compares these analyses with the ISO internal analyses. The ISO staff and the consultants meet to discuss and resolve any discrepancies between the consultants and the ISO staff analysis.

If there is ever the situation where the discrepancies are not resolved at the staff level, the ISO executive team will be so informed so that it can be taken into account during the executive approval of the approved project sponsor.

The ISO believes that the current process provides for thorough independent and expert input into the selection of approved project sponsors. Again, the ISO is committed to run a fair and non-discriminatory competitive solicitation process and the ISO does not support adding an additional layer of oversight and the added expense and schedule impacts this oversight would entail.

5.1.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Supports straw Proposal	Provided CAISO has engaged suitably qualified and experienced independent consultants with adequate resources, an additional layer of independent review would not necessarily bring any value at this time.
Citizens Energy	No comment	
LS Power	Supports straw Proposal	Suggests more information regarding the firms [consultants] and their roles would be helpful for stakeholders.
PG&E	Supports straw Proposal	PG&E continues to believe the current structure employed by the ISO does not require an additional layer of review.
SCE	Supports straw Proposal	SCE supports the CAISO's proposal
Six Cities	Supports straw Proposal	The Six Cities generally concur with the ISO's conclusion that no changes to existing procedures appear to be necessary.
Trans Bay Cable	Does not support straw proposal	Supports an independent evaluator and would like ISO to address: (1) the tasks that an independent evaluator performs and why those tasks are not necessary based on the concerns raised by stakeholders and (2) explain how the ISO could avoid overlap and minimize cost by ensuring that the independent evaluator not be used in addition to, but instead of, other outside consultants.
TransCanyon	Supports straw proposal	The current process allows the CAISO to engage third-party independent experts as needed and maintains decision authority

		with the CAISO.
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5.1.6 Revised Straw Proposal

Six of eight comments received support the straw proposal to not add another layer of oversight by adding an independent evaluator to the process. One stakeholder had no comment and only one stakeholder did not support the straw proposal. The CAISO will not make any changes to the straw proposal.

In section 5.1.4 of the straw proposal, the ISO provided a general description of the tasks performed by the expert consultants as well as the autonomy that the ISO affords its consultants in their evaluation and comparison of project sponsors. The expert consultants assist the CAISO in the selection process and provide valuable and important advice, expertise, analysis, and studies to inform the ISO in the decision making process. Losing the expertise of two noted consulting firms so the ISO could instead retain an independent evaluator would not benefit the selection process or the ISO’s assessment of the project sponsor’s applications.

5.1.7 Draft final Proposal

The ISO has not made any changes since the initial straw proposal. The ISO believes that the current competitive solicitation process provides for thorough independent and expert input into the selection of approved project sponsors. The ISO is committed to run a fair and non-discriminatory competitive solicitation process and does not support adding an additional layer of oversight and the added expense and schedule impacts such oversight would entail.

TransCanyon provided additional comments on the revised straw proposal. First, although not advocating for an additional layer of independent review, TransCanyon recommends that the ISO disclose the firms it uses in the selection process so stakeholders have more information and transparency into the experience, qualifications, and capabilities of the ISO’s consultants. TransCanyon states that the recent selection report on the Delaney to Colorado River transmission line raises questions as to the validity of some of the conclusions reached, such as in the areas of permitting and engineering. TransCanyon further states that applicants will be able to better tailor their proposals with an advance, transparent understanding of the firms being used. Second, TransCanyon recommends the ISO provide more information on how it will use the independent consultant(s) in the selection process at the time the ISO issues the functional specification for a particular project, as well as how the ISO incorporates the input of consultants into its internal decision-making process.

The ISO does not agree with TransCanyon on these points. In previous iterations of its straw proposal, the ISO has explained its use of expert consultants and the role they play in the process. The ISO ultimately makes the final decision in selecting an approved project sponsor, and if any applicant has concerns, the ISO is willing to meet and discuss these with the applicant. The ISO would be very concerned with a project sponsor tailoring their application based on the firms being used in the evaluation; the application should be tailored to the specific project being solicited, not who is reviewing the application. The ISO also believes that maintaining the anonymity of its consulting firms is important for purposes of ensuring the integrity of the process. Finally, the ISO has been transparent in the number and qualifications of the firms being used in this process as detailed in Section 5.1.4 above. That being said, the ISO would be willing in future competitive solicitation improvement initiatives to discuss with stakeholders ways to increase transparency into the ISO's competitive solicitation process short of adding another layer of independent oversight or releasing the identity of its consulting firms.

5.2 Financial comparison process

5.2.1 March 13 stakeholder comments

LS Power – LS Power believes that the current financial comparison process discriminates between entities wishing to balance sheet finance over entities wishing to project finance and that there is no reason to do this. LS Power also believes that the current financial comparison process does not explain what the relative financial strength of various entities means to ratepayers. LS Power believes that once financially qualified, the only difference between sponsors should be their ability to benefit ratepayers.

5.2.2 October 7 ISO response

The ISO believes that the current process does not discriminate between entities wishing to balance sheet finance and entities wishing to project finance. To the extent stakeholders feel it does, the ISO requested they explain how. The ISO asked stakeholders to express their views on the issues raised, explain why they should (or should not) be examined in this initiative and submit specific proposals to resolve this issue through this initiative. Stakeholders should also comment on how the ISO should consider a situation where multiple parties may be financially able to construct, own, operate, and maintain a transmission facility, but certain sponsors present a greater risk in doing so compared to other sponsors.

5.2.3 October 28 stakeholder comments

CPUC staff – CPUC staff is interested in reviewing comments on potential discrimination in the selection process regarding balance sheet versus project financing, and may wish to

comment on this issue in a subsequent comment round. CPUC staff reemphasizes its previous March 13, 2014 comment that regarding financial resources and other selection criteria, once a bidder has demonstrated sufficient strength such that risk of failure or other substandard performance is extremely low, then additional strength (e.g., “slightly better than”) should count for very little in the selection process. Avoiding selection or even appearance of selection based on such non-meaningful “beauty contest” differences is an important rationale for using an independent evaluator for large projects.

ITC – ITC believes it is important to ensure that there is no discrimination between entities wishing to balance sheet finance and entities wishing to project finance. Unfortunately, it is not clear that the current financial comparison process is even-handed. While the tariff does not discriminate on its face, the project sponsor application form suggests that the ISO is imposing requirements which put projects which wish to project finance at a disadvantage. For example, the current version of the Transmission Project Sponsor Proposal - Application form.¹⁷

- Requires special purpose entities to provide guarantees from their parent company, which is inconsistent with allowing applicants to project finance.
- Requires that applicants who wish to use project finance answer additional questions F11 to F16, including Question F12 which requires applicants to provide information regarding what parties will provide financing for the Project well before the applicant has been selected to be the Project Sponsor.

In order to avoid the appearance of discriminating between entities wishing to balance sheet finance and entities wishing to project finance, ITC believes that the ISO should consider making changes to its process which will result in a greater focus on the overall financial qualifications of the applicant rather than the plans for financing a particular project. This could be accomplished in two ways. First, the ISO could pre-screen potential applicants to determine that they meet the necessary financial qualifications, so that how individual projects will be financed is not a significant factor when deciding among applicants for individual projects. MISO has such a pre-screening qualification process.¹⁸

A second way the ISO could avoid the appearance of discrimination is to adopt financial qualification criteria which are suitable for entities which wish to use project finance. For example, applicants that wish to use project finance could be required to demonstrate sufficient financial strength through one of three options: 1) submit a guaranty from its parent or affiliated organization that possesses an investment grade rating or an issuer rating of BBB- or equivalent, along with a demonstration that the transmission project does

¹⁷ Available at <http://www.caiso.com/planning/Pages/TransmissionPlanning/Default.aspx>

¹⁸ See MISO Business Practice Manual 27 on *Transmission Developer Qualification & Selection*. Available at <https://www.misoenergy.org/Library/BusinessPracticesManuals/Pages/BusinessPracticesManuals.aspx>.

not exceed 30% of the total capitalization of the bidder or its parent guarantor; 2) submit conclusive evidence of the ability to obtain a performance bond in an amount equal to the total cost of the transmission project, including financing costs, and a 30% contingency; or 3) submit conclusive evidence of the ability to obtain a letter of credit in the same amount as #2.

PG&E – PG&E believes that the revisions implemented by the ISO in the 2013-2014 Project Sponsor Proposal Application have improved the clarity of the financial review process. Based on the ISO's published Project Sponsor Selection Reports for the Gates-Gregg 230 kV Transmission Project and the Sycamore-Penasquitos 230 kV Transmission Project, PG&E believes the current financial comparison process does not discriminate between project financing and balance sheet financing. PG&E does not believe that further process improvement discussion is necessary for this topic.

Six Cities – Based on the information included in the Status Update/Issue Paper, the Six Cities do not have any basis at this time upon which to support or oppose changes to the competitive solicitation process resulting from a need to address purported discrimination among project sponsors that use different modes of financing. In the Status Update/Issue Paper, the ISO seeks comment on “how the ISO should handle a situation where multiple parties may be financially able to construct, own, operate, and maintain a transmission facility, but certain project sponsors present a greater risk in doing so compared to other sponsors.” (See Status Update/Issue Paper at 11.) All other financial qualifications being equal, the ISO should select the sponsor that is capable of fulfilling its role as a project sponsor while presenting minimal risks to ratepayers. A high-risk sponsor, even if financially qualified, may have a greater likelihood of abandoning a transmission project and seeking recovery of all or a portion of its abandoned plant costs, thus shifting risk onto ratepayers. In addition, financing that involves higher risk is more likely to be costly. The ISO should seek to minimize both risks of abandonment and capital costs by factoring any identifiable risks into its project sponsor assessment. Conducting accurate risk assessments to protect ratepayers does not constitute discriminatory activity.

SCE – Special purpose entities that rely on project financing may be heavily leveraged and have limitations on capital available to face various unexpected expenses and costs that can develop during the project construction. As a result, such developers face a higher risk of failing to timely complete their projects or complete them at all. For example, as projects costs mount or unforeseen expenditures occur, projects with limited ability to access capital may not be able to finish the project or may delay the project, as they strive to obtain funds, to the point of potential reliability impacts. As such, ratepayers could have substantial exposure to additional costs. In contrast, with a balance-sheet-financed entity, the ISO and its ratepayers face less risk. Such projects are less likely to be foreclosed upon by the lender because they are underfinanced and are less likely to be delayed because financing may be unavailable to meet immediate project needs. Simply put, a special purpose entity with little or no equity is a riskier entity than an entity with an investment-grade credit rating

and a robust balance sheet. The ISO must consider these different risk profiles – this is not undue discrimination – it is sound business judgment. The ISO process should consider the relative financial strength of entities who are bidding for project development rights. As such, for example, the ISO could always consider, when appropriate, having the flexibility to require additional security for higher risk entities with lower credit worthiness.

Trans Bay – Trans Bay has serious concerns about the ISO’s financial comparison methodology. These concerns were set forth in Trans Bay’s March 13 Comments. One important example of the methodological flaws has become more apparent since the filing of the Gates to Gregg FERC incentives filing made by the transmission company formed by PG&E and MidAmerican. In the Gates to Gregg Selection Report, the ISO focused on the financial capability of PG&E and MidAmerican (MAT), the parent companies of the transmission company they formed to construct the project. Because the parent companies had larger balance sheets, considerable experience in “utility” financing, and a higher net worth they were judged to be better than other applicants in this regard.

In the Gates to Gregg application, PG&E/MAT provided all of the financial information for their parent companies, including credit ratings and tangible net worth, as well as claiming that PG&E has “substantial financial resources with which to finance unexpected maintenance or repairs.” Report at p. 40. However, that entity had proposed to *project* finance Gates to Gregg, and thus the ISO’s analysis on these points had no relevance to the project.

This contention, which was pointed out earlier by Trans Bay, was confirmed in the FERC filing for incentives made by MidAmerican Transco, the entity formed to construct Gates to Gregg. The discrepancy between the Application, the ISO’s analysis, and subsequent reality demonstrates that the ISO missed some key points in its analysis, and further demonstrates the need for an independent evaluator and a reexamination of the ISO’s evaluation and selection criteria.

Trans Bay has excerpted the following statements from the FERC Order granting MidAmerican Transco risk-based incentives,¹⁹ which clearly demonstrate that the transmission company is not relying on its parent companies’ assets, and thus that the ISO’s analysis was not correct:

For example, MidAmerican Transco states that it faces financial risks in developing the Project because it is a start-up transmission company with no business history, no established credit rating, no debt repayment history, no earning history, and no significant financial guarantees from its corporate parent. Order, at P 26.

¹⁹ See *MidAmerican Transco Cent. California Transco, LLC*, 147 FERC ¶ 61,179 (June 3, 2014) (“Order”).

M-S-R and CPUC argue that MidAmerican Transco's claims of financial uncertainty—i.e., that it is a start-up company with no financial history or source of regular cash flow—are disingenuous. M-S-R and CPUC contend that MidAmerican Transco's parent company, MidAmerican Energy Holdings Company, has reported \$70 billion in assets and that the Commission should consider MidAmerican Transco's corporate structure in evaluating its request for incentive rate treatment. Order, at P 9.

MidAmerican Transco argues that Commission precedent dictates that the Commission analyze its request for transmission rate incentives as a start-up company, rather than considering the financial resources of its corporate parent. MidAmerican Transco contends that it is appropriate to consider its status as a start-up company because potential creditors will evaluate MidAmerican Transco on the basis of its own creditworthiness without regard to the creditworthiness of its corporate parent. Order, at P 15 (citation omitted).

We agree that the Commission may evaluate MidAmerican Transco's request for transmission rate incentives as a request made by a new transmission developer rather than considering the financial resources of MidAmerican Transco's corporate parent. Order, at P 46

Below are several relevant excerpts from MidAmerican Transco filing²⁰ itself, which demonstrate that the applicant never intended to rely on the assets of its parent companies:

“Being a new transmission-focused entity, MCCT will expend significant sums during the pre-construction and construction phases without another available source of income for the company”. . . . Not obtaining the incentives, would challenge “MCCT’s ability to maintain adequate cash flows which could ultimately lead to lower credit rating and higher cost of financing.” Filing, at p. 10.

Currently, MCCT has no transmission plant in-service. MCCT faces considerable risks in its efforts to seek financing for what will be its first transmission facility . . . Because this will be MCCT’s initial transmission project, MCCT has no other source of revenue for the company. Filing, at p. 10.

MCCT, as a start-up company, has no direct business history, no credit rating, no debt repayment history, and will face significant risks and challenges in financing the project. Filing, at p. 11.

Because this is the first project that MCCT is developing, it has no other sources of regular cash flow. The absence of established financial strength indicators will cause lenders to closely examine the expected future cash flows under the formula rate approved by the Commission. According to the testimony of Mr. Weber, the incentive rate treatments requested herein will

²⁰ MidAmerican Central California Transco Filing, Docket No. ER14-1661, filed on April 4, 2014.

significantly enhance the project company's overall financial strength such that MCCT can obtain a viable credit rating. Filing, at p. 11.

This filing provides clear evidence of the faulty analysis set forth in the Gates-Gregg Selection Report. A qualified independent evaluator presumably would understand that the assets of a parent company for a transco that is being project financed are not relevant to the decision of whether the project will be constructed, particularly at a low rate for ratepayers. In fact, Trans Bay has significant experience *project* financing a major California project, as it is one of the few independent transmission companies to have actually financed and constructed a large transmission project in the state of California. But Trans Bay was not ranked highly in this regard in the ISO's evaluation, further demonstrating the flawed methodology.

The ISO also asked parties to comment on how it "should handle a situation where multiple parties may be financially able...but present a greater risk...compared to other sponsors..." Trans Bay believes that, once a project sponsor is qualified, the burden should be on the ISO to demonstrate that one party presents a greater risk for project non-completion than other parties and/or that such party is more likely to impose additional cost on ratepayers. Once project sponsors are approved as financially qualified to construct a particular project, they have already proven they are not "fly by night" entities. So unless there is a particular concern about a sponsor's financial capability to finance the project, that factor should not be weighted very heavily, if at all. If there is a particular concern, then the ISO should clearly explain what the concern is and why such concern is relevant to the particular project being examined.

TransCanyon – TransCanyon is generally supportive of the ISO's current financial evaluation process, and does not believe it is discriminatory. TransCanyon has seen no evidence that the current process discriminates between entities wishing to balance sheet finance and entities wishing to project finance. The ISO appropriately looks at the financial strength of bidders as an important consideration in the evaluation process. To the extent that parties with concerns about discriminatory practices are willing to present specific evidence supporting such concerns, then TransCanyon would be willing to review the specific concerns as part of a broader stakeholder process. Failing that, TransCanyon is satisfied with the ISO's current evaluation process, and does not believe that there is a need to address this issue through the enhanced competitive solicitation process.

5.2.4 Straw proposal

A review of written comments indicates that stakeholders were split as to whether further enhancements were needed to the ISO's financial comparison analysis. While some stakeholders (LS Power, ITC) indicated that the current process favors, or may give the appearance of favoring, balance sheet financing over project financing, other stakeholders (PG&E, TransCanyon) indicated otherwise and said no enhancements to the current process were needed. As previously noted, the ISO is committed to run a fair and non-

discriminatory competitive solicitation process while it strives to continue to improve its financial analysis portion of the process. The ISO believes its financial analysis aligns with this commitment and that any wholesale changes to the existing financial analysis process are unnecessary.

The ISO tariff requires that Project Sponsors shall include the following in their applications: (1) Section 24.5.2.1 (a) “A proposed financial plan demonstrating that adequate capital resources are available to the Project Sponsor to finance the transmission solution”; and, (2) Section 24.5.2.1 (b) “Credit rating from Moody’s Investor Services and Standard & Poor’s of the Project Sponsor, or its parent company, controlling shareholder, or any other entity providing a bond guaranty or corporate commitment to the Project Sponsor.” Further, Section 24.5.3.1 (b) of the ISO tariff instructs the ISO to consider “whether the Project Sponsor and its team have demonstrated that they have sufficient resources, by providing information including, but not limited to, satisfactory credit ratings, audited financial statements, or other financial indicators” when analyzing project sponsor applications to determine whether the sponsor is qualified. Finally, when selecting the approved project sponsor, Section 24.5.3.5 of the tariff states that the “ISO will select one qualified Approved Project Sponsor based on a comparative analysis of the degree to which each Project Sponsor’s proposal meets the qualifications set forth in Section 24.5.3.1.”

Based on the tariff excerpts highlighted above, the ISO, during the qualification process, has an obligation to determine that the applicant project sponsor has sufficient financial assets and credit ratings to finance the permitting, design, engineering and construction of the project, and later the operation and maintenance of the project. What the ISO has found in every solicitation to date is that a number of applicant project sponsors must rely on a parent’s financials, credit ratings and other financial indicators to qualify for the project. Limited Liability Corporation (LLC) or Special Purpose Entity (SPE) project sponsors oftentimes lack the financial assets to meet the ISO’s tariff-driven qualification requirements. The ISO understands that setting up a separate LLC or SPE is a common industry practice for the types of projects being proposed and that it is common practice for these LLCs and SPEs to rely on a parent or another affiliate for financial support, including access to the capital markets as well as engineering and overall project experience. To allow such companies to compete in the competitive solicitation process and to reduce the risk of qualifying a potentially thinly capitalized project sponsor, the ISO began requiring a parental guaranty. Since the applicant project sponsor’s application responses were largely based on its parent’s qualifications anyway, the ISO felt that requiring a guaranty made the parent vested in the process and was prudent, just and reasonable. While required, having such a guaranty is not sufficient to be selected as the approved project sponsor. The ISO must still assess the relative strength of the financial aspects of the project sponsors’ applications including the terms and conditions and enforceability of any financial assurances such as a guaranty.

In their comments, ITC pointed out that they felt the ISO's tariff did not discriminate on its face but suggested that the application may put project financed proposals at a disadvantage. Specifically, ITC noted that project financed proposals were required to provide a parental guaranty as well as to respond to six additional questions in the application (F-11 through F-16). In their recommended corrective actions, ITC suggested that applicants be prescreened. The ISO does not support the prescreening as described in the "Pre-qualification outside of bidding schedule" section of this straw proposal. Further, Section 24.5.2 of the ISO tariff states, "There is no requirement that a Project Sponsor first be qualified before it may submit a Project Sponsor application."

As a means to eliminate any other perceived disadvantages of a project financed proposal, ITC also recommended project financing entities could demonstrate their financial strength by providing a guaranty (currently a requirement as discussed above) or, alternatively, by providing evidence of their ability to obtain a performance bond or a letter of credit in an amount equal to the total cost of the transmission project, including financing costs and a 30% contingency. While the ISO isn't closed to the idea of allowing alternative forms of financial support to the guaranty for the project, we feel an LLC or SPE setup for the express purpose of managing a proposed project, may have a difficult time securing sufficient evidence of their ability to secure a performance bond or letter of credit prior to selection and that making such a requirement may prove to be a barrier to proposing a project solution.

Another perceived disadvantage of a project financed proposal pointed out by ITC was the requirement that project financed entities respond to six additional questions on the application. Specifically, instructions in the Project Financing section of the application preceding question F-11 state "For the entity that will secure project financing and is required to provide financial assurances for the project, provide the information requested in F-11 through F-16." In fact, the ISO requires questions F-11 through F-16 to be completed by all applicant project sponsors and to date all application submittals have included responses to these questions regardless if the project was being proposed as project or balance sheet financed. However, the ISO will amend the application in the future to clarify that all applicants will be required to answer these questions.

A recurring theme among commenters is that the ISO may be placing too much emphasis on the relative financial strength of project sponsors while the focus should more appropriately be placed on potential project risks once each project sponsor is deemed financially qualified and creditworthy. In early solicitations that may have been the case and CPUC staff's and TransBay's comments have been noted. However, by now having the experience of several prior solicitations, the ISO has largely adopted an approach suggested by CPUC staff, *i.e.*, "once an applicant has demonstrated sufficient financial strength that the risk of failure or substandard performance is low, and then additional financial strength should count very little in the selection process." For example, if a project is estimated to cost \$25 million and Sponsor A has \$10 billion in tangible net worth and

Sponsor B has \$500 million in tangible net worth (and assuming all else being equal), the ISO would consider both sponsors financially qualified and indicate there wasn't sufficient difference in them to choose one over the other for purposes of this criterion. In other words, the ISO would not rank Sponsor A higher simply because it has 20 times the tangible net worth of Sponsor B. Their abilities to finance the particular project and the risks they present would be comparable. Similarly, two sponsors that have investment grade credit ratings even though one may be three ratings higher than the other (again assuming all other things being equal) would be considered as not being materially different for purposes of meeting this criterion.

CPUC staff, SCE, Six Cities and TransBay largely echoed another theme among commenters; *i.e.*, once a sponsor has been financially qualified, the focus should be on mitigating the risk of project abandonment and/or high project costs due to high financing costs. In addition to five years of financial statements, credit ratings and financial ratios, the ISO relies on Moody's Analytics Estimated Default Probability (EDF), a company's tangible net worth and financial liquidity ratios as other tools to assess a project sponsors overall financial health and the risk they may bring to the project. While imperfect, particularly for projects that may not be scheduled to begin for two to three years and have a forty year useful life, they are the best tools available to make such an assessment. While CPUC staff and TransBay suggested that the ISO use an independent evaluator for this evaluation, the ISO feels as though they would be equally challenged by the limited availability of tools to assess a company's long-term viability (a further exploration of the ISO using an independent evaluator is covered in another section of this straw proposal). In addition to the tools described above, the ISO relies on an independent assessment of each sponsor using the ratings report provided by each rating agency. This report describes the rationale for a company being given a particular credit rating and thus can provide valuable insight into risks that potentially could undermine the future success of the project and is valuable input into the comparative analysis process.

LS Power was concerned that project proposals must translate into ratepayer benefits. The ISO believes it's incumbent upon applicant project sponsors to highlight all the strengths of its proposal – whether it be cost caps, financial assurances including the voluntarily offering of collateral as a means of providing financial support (see separate section on Collateral/Credit Requirements in this straw proposal) or ratepayer benefits. Many of these benefits may be derived from the aforementioned but also may result from financing sources and approach (application question F-14), project costs and related assumptions in the detailed financial plan (application question F-15) and in the annual revenue forecasts (application question F-16). The ISO believes there are many opportunities for applicants to “sell” the direct and indirect benefits of their proposal and encourages them to avail themselves of all such opportunities.

5.2.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Supports straw proposal	Existing process provides sufficient flexibility to evaluate each applicant's capacity fairly and on a non-discriminatory basis.
Citizens Energy	Supports straw proposal	Believes the application provides many opportunities to explain both direct and indirect benefits of the prospective sponsor's proposal.
LS Power	Section 5.5.4 of the straw proposal is a step in the right direction.	Detailed identification of all financing parameters, and the extent such factors are estimates, supported by evidence of binding commitments would be beneficial in the evaluation of proposals.
PG&E	Supports straw proposal	Current approach does not unfairly discriminate.
SCE	Supports straw proposal	No additional comments were provided.
Six Cities	Supports straw proposal	Approved project sponsor should be reasonably expected to present minimal risk to ratepayers. Acknowledges TBC's concern that a project sponsor should not be able to rely on the financial strength of its parent in the selection process and then claim before FERC that its parent company's financial position is irrelevant for purposes of the Commission's incentive policies.
Trans Bay Cable	Does not support straw proposal	Does not believe that the CAISO's analysis is sufficient and still recommends that the CAISO amend its tariff provisions to add ratepayer benefit specifically to the evaluation and selection process. Ratepayer benefit should be primary goal of the competitive solicitation process. A project sponsor should not be able to rely on the financial strength of its parent in the selection process and then claim before FERC that its parent company's financial position is irrelevant for purposes of the Commission's incentive policies.
TransCanyon	Supports straw proposal	Agrees that the clarification that questions F-11 through F-16 on the application applies to

		all applicants will be helpful.
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5.2.6 Revised Straw Proposal

All but one commenter is supportive of the straw proposal in regards to the financial comparison process. LS Power indicated that Section 5.5.4 of the straw proposal is a step in the right direction but indicated it believes that detailed identification of all financing parameters, and the extent such factors are estimates, supported by evidence of binding commitments would be beneficial in the evaluation of proposals. The ISO agrees and, as a matter of course, considers evidence of binding commitments as characteristics of a stronger proposal.

As the ISO discussed in the straw proposal, the ISO believes that both direct and indirect ratepayer benefits are important determinants in the evaluation and selection process. To that extent, the ISO agrees with Trans Bay Cable that ratepayer benefits should be one of the goals of the competitive solicitation process. However, the ISO disagrees that the ISO needs to amend its tariff provisions to specifically identify ratepayer benefits in the evaluation and selection process. The tariff already identifies financial and non-financial factors and factors that directly and indirectly affect ratepayers. No one benefit should be singled out. They are all relevant to the selection process. The ISO stresses that it is important that project sponsors clearly specify and support tangible ratepayer benefits in their application responses.

The ISO agrees with Trans Bay Cable’s concern that a project sponsor that relies on the financial strength of its parent during the selection process should not be able to claim before FERC that its parent company's financial position is irrelevant for purposes of the Commission's incentive policies. Financial assurances provided by the Project Sponsor are among the key terms and conditions included in the ISO’s Approved Project Sponsor Agreement. The ISO reserves the right to intervene at FERC or to take other necessary action to ensure the integrity of the selection process, including the resulting approved project sponsor agreement. However, the CAISO cannot control what approved project sponsors file at FERC pursuant to their section 205 rights, and those FERC filings typically occur after the CAISO has already selected the approved project sponsor. In other words, the CAISO typically will not have the benefit of FERC filings when it is making its selection decision. Also, the CAISO cannot unilaterally enforce non-binding commitments.

5.2.7 Draft final Proposal

The ISO has not made any changes to the initial straw proposal with respect to the financial comparison process. Other than TransCanyon reiterating their support for the ISO’s position, no other comments were received. Therefore, the ISO considers this issue closed.

5.3 Collaboration period

5.3.1 March 13 stakeholder comments

PG&E – PG&E believes that the collaboration period provided for in the tariff does not provide substantive benefits. Instead, PG&E believes that the collaboration period extends the solicitation review period and needlessly delays project sponsor selection. PG&E stated that such delays can increase permitting risk by truncating the timetable for stakeholder outreach and potentially result in seasonal environmental surveys to be missed which can delay a project schedule by up to a year. PG&E recommended its elimination and that the ISO instead encourage potential sponsors to explore collaboration opportunities early on in the transmission planning process. PG&E further noted that such collaboration need not await the start of Phase 3 of the transmission planning process but can begin during Phase 2.

5.3.2 October 7 ISO response

The ISO noted that PG&E also raised this issue in the ISO's Competitive Transmission Improvements stakeholder initiative in 2013. In that initiative the ISO responded that it did not recommend eliminating the collaboration step from the competitive solicitation process as the collaboration step is a key component of the RTPP tariff amendment and the Order No. 1000 compliance filing, and that FERC had approved the provision twice and has been very supportive of it. The ISO still holds this view, but was open to hear other perspectives on this. The ISO asked stakeholders to express their views on this issue, explain why this issue should (or should not) be examined in this initiative, and submit specific proposals for its resolution through this initiative.

5.3.3 October 28 stakeholder comments

Foothill Services Nevada, Inc. – What protections have been made available to protect market participants from anti-trust violations by two or more transmission incumbents that may collude and thereby undercut all other bidders in negotiations during the ISO collaboration process? Further, what cautions or warnings have the ISO provided incumbents that two or more monopoly service providers that are prospective bidders shall not discuss or exchange information regarding their respective bids (specifically terms and conditions) prior to the bid due date?

ITC – ITC agrees with the ISO that the collaboration step should remain a part of the competitive solicitation process.

PG&E – PG&E strongly supports sponsor collaboration as a means of promoting competition for transmission development and reducing the cost of new transmission. However, PG&E believes that the current implementation of the collaboration period can be enhanced to avoid project delays and potential harm to customers from delayed project completion or increased costs.

A delay in project kickoff can substantially increase permitting risk. Seasonal surveys for certain sensitive/endangered species and habitats are required to develop a Proponents Environmental Assessment (PEA) as part of the project licensing process. The timing of these surveys is linked to the spring nest/mating and/or blooming season and is variable by species, geographic location, and annual climate (dry year vs wet year), among other factors. Because specific dates of the mating season are difficult to predict accurately from year to year, there is a need to mobilize resources and field personnel in advance of the actual start of the season. Based on previous project experience, environmental monitoring that is not finalized by March runs the risk of missing a survey should conditions bring an early spring. This could unnecessarily delay the completion of a PEA and ultimately delay the survey until the spring of the following year.

PG&E recommends that the ISO modify Section 24.5.2.3 to allow for a collaboration period facilitated by the ISO to be run prior to or in parallel with the Phase 3 bidding window. PG&E has included an attachment with a timeline depicting the current process based off of the sequence 1 milestones from the 2013-2014 TPP compared to a suggested timeline that incorporates an earlier collaboration period. This modification would ensure that sequence 1 and 2 projects can be awarded in advance of March and mitigate the risk that PEA surveys and other permitting issues can pose for project schedules.

PG&E believes that this change could be successfully implemented based on prior experience that collaboration can and already does begin during Phase 2 prior to ISO's final approval of reliability projects. Additionally, such a collaboration process could also be incorporated with a bidder pre-qualification process to further streamline project sponsor bidding and selection (see PG&E-suggested new topic below entitled "Adopt practice of pre-qualification of bidders outside of bidding schedule").

SCE – Pacific Gas & Electric argues that the collaboration period provided for in tariff section 24.5.3 should be eliminated because it does not provide substantive benefits and unnecessarily extends the solicitation review and selection process. The ISO does not recommend its elimination and views the collaboration step as a key component of the competitive solicitation process.

SCE agrees with the ISO that the collaboration period may promote effective partnerships and should be retained.

Notably, the collaboration period is not automatic, but must be invoked by pre-qualified Project Sponsors. As such, delay will not always arise – rather, the collaboration period would only be invoked if potential qualified Project Sponsors believed that they could, to the benefit of the project and ratepayers, collaborate on a project bid. There is no reason to eliminate this potential benefit.

Also, the collaboration period is still untested. If the collaboration period proves to be a source of unnecessary delay or gaming, ISO could revisit the issue. At this point, however, SCE does not support a stakeholder process on this issue.

Trans Bay – Trans Bay supports the retention of a collaboration period, in order to give project sponsors a modest amount of time to determine whether they can work together to provide more value to ratepayers. There is only a collaboration period if two or more qualified project sponsors request the ISO’s assistance in facilitating an opportunity for collaboration,²¹ and Trans Bay believes that this feature of the process should be retained.

TransCanyon – TransCanyon would not advocate for the elimination of the collaboration window, but believes it should be modified to improve the transparency, fairness and efficiency of the process. TransCanyon proposes that the collaboration process be modified to either: (a) allow collaborators to pick one of the collaborating bids or the other, but not resubmit bids in their entirety; or (b) allow all bidders to resubmit their bids at the time the collaborating bids are resubmitted.

Allowing only collaborating parties to refresh their bids creates an unfair advantage to those parties. Collaborating parties could incorporate new information, which was not available to other bidders at the time of their bid submissions. For those concerned with the efficiency of the process, the first option would result in a shortened collaboration period, in light of the reduced resubmission requirement, and allow for more expeditious project delivery.

5.3.4 Straw proposal

The ISO continues to support the collaboration period as provided for in the Tariff and does not propose to make any changes at this time. As noted above, a majority of stakeholders agree with this position.

PG&E proposes to move the stakeholder effort to be in coordination with the open bid window, however this would defeat the current design of only allowing actual validated bidders in the solicitation process to collaborate. Until the posting of the validated bidders for each solicitation is made, it would not be apparent to all bidders who the validated and interested parties would be to contact to discuss collaboration.

TransCanyon proposes that any collaborating parties be required to pick one of the original bid submissions. The ISO does not support this as the purpose of the collaboration is to provide the ratepayers with the best possible bid. This is done by requiring collaborating parties to withdraw their original bids and to submit a new bid combining the strengths of the collaborating parties.

²¹ See CAISO Tariff, Section 24.5.2.3.

TransCanyon alternatively proposes that all bidders be allowed to refresh their bids should two parties decide to collaborate. The ISO does not support providing non-collaborating parties the ability to refresh their bids as this could encourage project sponsors to not initially submit their best proposal and thus have a negative impact on the selection process and ultimately transmission customers. If new information were to arise that would affect the functional specifications, and therefore impact all bidders, the ISO has the option to close and re-open the bidding process if necessary.

As to Foothill Services Nevada, Inc.’s questions on anti-trust violations and monopoly service, the ISO has looked into both of these issues and does not believe that either poses a valid concern. FERC has approved these tariff provisions as fair and non-discriminatory.

5.3.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Collaboration should be retained, and refocused so as to deliver greater value for ratepayers.	Concerned that the collaboration period has not been clearly tailored to serve the CAISO or its customer’s best interest. Clarifying the CAISO’s interpretation of its selection criteria and evaluation processes, and its means of eliminating bias, would help bidders to identify collaborators that could more usefully improve a joint bid. Potential for abuse needs greater attention. For example, if there were only two qualified applicants, we would be concerned that allowing collaboration could provide an opportunity for abuse.
Citizens Energy	No Comment	
LS Power	Does not support straw proposal	Concerned that the collaboration period invites gaming, suggests three possible remedies: 1) Move collaboration forward to prior to submission of bids. ISO could post a list of all potential interested bidders. 2) Only allow collaboration if all bidders are willing to collaborate and not just a subset of bidders. 3) Require bidders who elect to collaborate to adopt the cost proposal from one of the already submitted bids.
PG&E	Does not support straw proposal	PG&E continues to support modification of the collaboration period to further improve the efficiency and transparency of the

		<p>sponsor selection process.</p> <p>PG&E recognizes that there is presently little motivation among other stakeholders to modify the current process. PG&E requests that the ISO continue to observe the competitive solicitation timelines and effectiveness of the collaborative process, and, if needed revisit the issue again in the future.</p>
SCE	Supports the straw proposal	SCE supports continuing the collaboration period per the current CAISO Tariff.
Six Cities	No comment	
Trans Bay Cable	No comment	
TransCanyon	No comment	

5.3.6 Revised Straw Proposal

It is clear from the comments received on the straw proposal that there is not widespread consensus for retaining the collaboration process, as currently configured in the Tariff and that further discussion is needed to determine if modifications are needed. Brookfield, PG&E and LS Power all voiced concerns in their comments on the straw proposal. Brookfield stated that it feels there is potential for abuse, especially if there are only two validated bidders; PG&E continues to support modifications to the collaboration period to improve efficiencies; and LS Power mentions the possibility for gaming and provides a number of suggested remedies.

SCE supports continuing the collaboration period per the current ISO Tariff, and four stakeholders (Six Cities, TransCanyon, Trans Bay Cable, and Citizens Energy) did not provide comments on the straw proposal on this issue.

TransCanyon voiced concerns in its comments on the original issue paper and proposed that the collaboration process be modified to either: (a) allow collaborators to pick one of the collaborating bids or the other, but not resubmit bids in their entirety; or (b) allow all bidders to resubmit their bids at the time the collaborating bids are resubmitted.

Based on the level of concern and disparate views expressed, the ISO proposes to separate this topic from the other issues addressed in the straw proposal and take additional time to hear from stakeholders on proposed improvements to the collaboration process.

The ISO would like to encourage the following general principles for any proposed modification to the collaboration process:

- Proposals would not add additional time to the overall process
- Proposals would not add significant work effort to the process (for example adding a new pre-qualification process would be considered a significant work effort and not supported by the ISO)
- Proposals would not add significant costs to the application process that would discourage potential project sponsors

Based on these principles and combining the themes of the comments received, the ISO has developed the following three proposals on which additional stakeholder input is being sought:

- 1) Modify the application window to allow potential bidders interested in collaborating to announce themselves shortly after the bid window opens (for example within two weeks?), and require all collaboration to be done prior to submitting an application at the close of the bid window. The ISO would post the list of potential bidders interested in collaborating and their contact information on the ISO website. The CAISO would retain the current bid window, which is a minimum of two months, however there would be no further collaboration window provided after the application window is closed. There also would be no qualification requirement to announce interest in collaborating. Any entity (collaborating or not) would still be able to submit an application at the end of the application window, even if it did not participate and announce interest in collaborating.
- 2) Retain the existing collaboration process, however allow non-collaborating parties to refresh their application if there is successful collaboration among bidders. The refresh of the bid would have to be limited in scope, for example, only allow updates to cost estimates or cost containment measures. The amount of time allocated to revalidate the updated proposal would have to be kept to a minimum so as to not delay the process or add significant costs. In addition, project sponsors would have to submit their refreshed bid by the end of the existing collaboration period and the ISO would accept such refreshed bids only if there was successful collaboration among other parties.
- 3) To address concerns regarding potential gaming issues where there are only two validated project sponsors for a project, the ISO suggests that any collaboration among the two parties must result in an equal or lower cost (including cost containment) for ISO ratepayers; otherwise the collaboration would be rejected by the ISO and revert back to the original bids, or the ISO may choose to re-open the bidding process.

Please provide comments on these and any other proposal or variation of these proposals that meet the principles above.

5.3.7 Revised straw Proposal Stakeholder Comments Sept 15, 2015

	Alternative 1	Alternative 2	Alternative 3
Trans Canyon	Supports	Supports if alternative 1 is not chosen	Supports if alternative 1 is not chosen
PG&E	Strongly Supports	Less effective than Alternative 1	Less effective than Alternative 1
NEET West	Does not support	Does not support	Supports
SCE	Does not support However, If adopted, increase bid window by an additional 2 weeks	Supports w/modifications Allow bid refresh even if collaboration is not successful & require additional deposit	Does not believe alternative 3 is necessary
Six Cities	No Comment	No Comment	Supports Suggests it should apply to all collaborative bids.
LS Power	Supports as best alternative Helpful to add more time to bid window	Adds complexity and still allows for potential gaming as bids can be modified	Only addresses one narrow concern Not exclusive from Alternative 1 – could be reasonable to implement if only 2 bidders even if bidders do not collaborate in the bid window.

5.3.8 Draft final Proposal

After reviewing the six sets of comments received on this topic, the ISO proposes to move forward with option 1 of the revised straw proposal with minor modifications. The ISO believes that this proposal best addresses the key stakeholder concerns of potential gaming, avoiding schedule delays, and simplifying the collaboration process.

The draft final proposal is as follows: Modify the application bid window to allow potential bidders interested in collaborating to announce themselves within two weeks after the bid window opens and require all collaboration to be done prior to submitting an application at the close of the bid window. The ISO would post the list of potential bidders interested in collaborating and their contact information on the ISO website. The CAISO would extend the current bid window, which is currently a minimum of two months, to be a minimum of ten weeks. There would be no further collaboration window provided after the application window is closed. There also would be no qualification requirement to announce interest in collaborating. Any entity (collaborating or not) would be able to submit an application at the end of the application window, even if it did not participate and announce interest in collaborating.

TransCanyon, PG&E, and LS Power support the above proposal, stating that it best addressed stakeholder concerns. TransCanyon stated this approach creates a more level playing field by allowing parties to indicate upfront their willingness to collaborate and has the potential to shorten the current process by 2-3 months. PG&E stated that it would simplify and make the process more predictable, improve efficiency, and eliminate gaming risk. LS Power commented that the current process is unfair and that this proposal addresses stakeholder concerns and avoids any kind of gaming by completing collaboration prior to the close of the bid window.

NEET West was the only commenter to completely oppose option 1. NEET West argued that the current collaboration period has proven successful on previous projects and therefore should be kept. NEET West also argued that the current collaboration period does not unduly delay project sponsor selection or add unnecessary time to the overall process. However, NEET West's arguments did not address the gaming concerns or added work effort (for both project sponsors to prepare and the ISO to evaluate additional bids) that have been brought up by other stakeholders.

Although SCE opposed option 1, stating that it believes there are still commercial benefits in having an opportunity for validated project sponsors to collaborate after the initial bid window, they stated that if option 1 was selected, additional time should be allowed for the bid window. The ISO has provided for an additional two weeks in the draft final proposal.

LS Power suggested that there may be value in adding a variation of option 3 by allowing all validated/qualified bidders to jointly adopt one of the existing bids. In essence, this would be an opportunity for all validated/qualified bidders to have another chance at a form of collaboration resulting in a single bid that would eliminate the need for a comparative analysis. The ISO believes that this proposal is more complex than it appears at face

value, as the bids include sponsor and team information, not exclusively project information. As well as introducing gaming and timing concerns, process and policy would have to be developed to determine what elements could be changed with this type of joint agreement such as proposed teams, financing entities, material suppliers, or other specific elements of the application. Therefore, the ISO does not support this proposal.

5.4 Collateral/credit requirements for approved project sponsors

5.4.1 March 13 stakeholder comments

SCE believes that the ISO tariff should be revised to require a project sponsor to demonstrate its ability to meet the financial security requirements. SCE pointed out that in the event that the ISO selects a project sponsor that is not creditworthy (i.e., not investment grade rated) and is unable to complete construction of the project, a new project sponsor or a participating transmission owner may be required to complete the project using its own capital resources. SCE suggested that the risk of loss of collateral may be the financial incentive a project sponsor needs to complete construction. SCE further suggested that electric customers may be forced to incur higher costs required to expedite completion of construction of a transmission project delayed by a failed approved project sponsor and that collateral could mitigate these increased costs.

5.4.2 October 7 ISO response

The ISO asked stakeholders to express their views on this issue, explain why this issue should (or should not) be examined in this initiative, and submit specific proposals for its resolution through this initiative.

5.4.3 October 28 stakeholder comments

CPUC staff – CPUC Staff are sympathetic to the ISO’s view that extensive financial evaluation for qualification and selection should make financial security posting unnecessary. Nonetheless, bidders should have the option to offer financial security. The rationale for this might be to offset an otherwise anticipated unfavorable comparison between bidders showing sufficient financial strength to mitigate performance risks versus bidders showing the “very highest” financial strength. However, as noted above, the selection process should not be unduly influenced by better-than-necessary (“beauty contest”) qualifications, the benefits of which are slight or nonexistent. As also noted above, one role of an independent evaluator for large projects would be to minimize the reality or perception of selection based on such differences.

ITC – ITC agrees with the ISO that there is no need to impose collateral or credit requirements. As indicated in response to the question above, it is important for the ISO to

focus on the financial qualifications of applicants. If the ISO does so, there will be no need to impose collateral or credit requirements.

LS Power – LS Power agrees with the ISO position in its October 14, 2014 APSA filing at FERC that there is no need to require an Approved Project Sponsor to post financial security (see pages 14-15 of the ISO FERC filing on this topic). LS Power urges that ISO not impose a financial security requirement for all of the same reasons outlined in the ISO FERC filing. LS Power would also note that the ISO is not alone in this stance. The New York Independent System Operator (NYISO) also has no such credit requirement in its tariff for their approved project sponsor. LS Power does not believe that any additional tariff language or language in the Approved Project Sponsor Agreement is needed on this topic.

PG&E – PG&E is neutral on the issue of collateral but is interested to review and comment on any concrete proposal presented in the future. PG&E would like to see how such a measure in addition to the current financial vetting process could be implemented to ensure customers are protected from collateral/credit risk.

Six Cities – The Six Cities support SCE’s view as expressed in the Status Update/Issue Paper that project sponsors should be required to demonstrate that they are capable of meeting appropriate financial security requirements. The concerns regarding ratepayers potentially bearing higher costs in the event a sponsor is incapable of completing a project (and responsibility for the project thus being transferred to a Participating Transmission Owner) appear valid, and financial security requirements may provide the correct incentive for project completion in circumstances when a high-risk project sponsor may otherwise contemplate abandonment of a project. The ISO should continue to require prospective project sponsors to clearly demonstrate their financial worthiness (through financial statements, credit ratings, and similar materials) as part of the solicitation process. This, coupled with appropriate security requirements, will protect ratepayers from bearing the costs if the sponsor is financially unable to complete a project.

SCE – In comments on the Approve Project Sponsor Agreement (APSA) (both to the ISO and FERC), SCE has asked for a stakeholder process to determine whether an approved Project Sponsor should be required to post collateral. For the reasons described below, SCE believes now is the appropriate time to conduct such a stakeholder process. In addition, SCE below provides a discussion for a possible framework of the collateral requirement:

Why Collateral Makes Sense

Development security requirement helps to offset costs to California’s electricity customers against increased expenses of having to replace the Project Sponsor and complete the transmission project. For example, there could be added costs and delays associated with holding a new solicitation and finding a Replacement Project Sponsor. Similarly, once a replacement Project Sponsor takes over, it may need to perform construction on an

expedited basis to minimize the delay for a reliability-driven project. A Replacement Project Sponsor may incur additional costs related to such matters as needed reengineering, maintaining efficacy of permits, rights of way, environmental studies, and curing any outstanding defaults. Any increased costs resulting from the replacement of the Project Sponsor should be borne by the original Project Sponsor, rather than ratepayers. Development security will absorb or mitigate these costs.

It is noteworthy that in its Designated Entity Agreement (“DEA”) filed in compliance with Order 1000,²² PJM Interconnection, L.L.C. (“PJM”) requires the Designated Entity (the equivalent in PJM of ISO’s Project Sponsor) to post development security of three percent of project costs “to cover the incremental costs of construction resulting from having to reassign the project if the Designated Entity defaults or abandons the project.”²³ No one appears to have protested this requirement and the Commission approved the DEA that included the collateral requirement provision.²⁴

In its Issue Paper on the Compleitive Solicitation Process Enhancements submitted to FERC, ISO explains that a development security requirement is unnecessary. ISO explains that, under its Tariff, the ISO will examine a Project Sponsor’s “ability to assume liability for major losses” and “the current and expected capabilities of the Project Sponsor and its team to finance, license, and construct the facility and operate and maintain it for the life of the solution” as part of the bid evaluation and project selection process. ISO concludes there is no reason to require a Project Sponsor who has “met these criteria” to undertake the additional burden of posting financial security. SCE respectfully disagrees. Even if a Project Sponsor has “met these criteria,” the ISO has little recourse against the Project Sponsor (especially a special purpose entity) if the Project Sponsor goes under and/or the project fails.

Who Must Post

Development security should be required of a Project Sponsor regardless of the entity’s credit rating. Development security allows ISO to cover losses associated with a failed project. This is important regardless of what credit rating, if any, the Project Sponsor has.

²² On July 14, 2014, PJM submitted, in Docket ER14-2426-000, a pro forma Interconnection Coordination Agreement as Attachment LL of PJM’s Open Access Transmission Tariff (OATT) and, in Docket No. ER13-198-004, a pro forma Designated Entity Agreement as Attachment KK of PJM’s OATT to comply with the Commission’s directive in its May 15, 2014 order on PJM’s compliance with Order No. 1000. FERC approved PJM’s agreements on the condition that PJM make minor modifications. *See Order Conditionally Accepting Proposed Agreements Subject To A Further Compliance Filing*, in Docket Nos. ER14-2426-000 and ER13-198-004 (September 12, 2013).

²³ Filing Letter re PJM Interconnection, L.L.C., Docket No. ER13-198-00 (3rd Compliance Filing) (“PJM Filing Letter”) at 15.

²⁴ *See also, Order on Rehearing and Compliance*, Docket No. ER13-83-003, et al. at P 417 (June 19, 2014) (“[i]t may be appropriate to require additional collateral once a project has been selected in a regional transmission plan for purposes of cost allocation to ensure that the transmission developer has adequate resources to construct the transmission project.”).

Financial security should be required for all projects – reliability, public policy and economic projects – because without it, failure of any of these projects could result in higher costs for ratepayers. Importantly, development security should be collected from all Project Sponsors.

Timing & Amount of Development Security Posting

The development security should be posted as of the effective date of the APSA and held by the ISO until final project approval and commercial operation.

SCE proposes that the minimum development security for the APSA be three percent of the total estimated cost of the project. However, the ISO may have discretion to require additional development security for what they believe are higher risk entities with lower creditworthiness.

Types of Financial Security

SCE is open to addressing this issue, among others, through a stakeholder process. As an initial matter, acceptable forms of collateral could include the items listed below:

- Letters of Credit
- Surety Bonds
- Cash deposit in an escrow account

Letters of Credit authorize the beneficiary to draw a specific amount from the issuing bank under a qualifying event. Letters of Credit would be issued by a qualified financial institution such as a U.S. commercial bank, U.S. financial institution, or U.S. branch of a foreign bank, with an investment grade credit rating of at least A- by S&P, A3 by Moody's, or A- by Fitch. The creditworthiness of the issuer is the key requirement.

A surety bond meeting the criteria listed below, is also an acceptable form of development security for meeting collateral requirements:

- a) Surety is listed on the United States Department of Treasury's most recent and effective listing of approved sureties;
- b) Surety is an admitted surety insurer authorized to transact the business of surety in the State of California;
- c) Surety has an A.M. Best's Insurance Rating of not less than A:VII;
- d) Either the maximum bond amount is not greater than the surety's underwriting limitation, or if any portion of the maximum bond amount is over such underwriting limitation, such excess amount is protected with reinsurance.

Cash deposited in an escrow account as collateral will also satisfy the development security requirements.

Trans Bay – Trans Bay does not support the proposal to impose collateral or credit requirements on project sponsors because it would potentially add an undue financial

burden on project sponsors, impose additional cost on ratepayers, and introduce yet another barrier to the competitive process. The ISO has never required financial security from project sponsors, including the investor-owned utilities. If the ISO does seek to impose collateral requirements, it should initiate a new stakeholder process to address the issue of including financial security requirements for **all** transmission projects, not just those built under the competitive solicitation process. Any other result would be unduly discriminatory, as no party has demonstrated why independent transmission companies that are financially capable of constructing a transmission project should be subject to collateral security requirements, while the investor-owned utilities, in their roles as Participating Transmission Owners, should not be subject to those same requirements for any transmission project they construct.

TransCanyon – TransCanyon is supportive of the ISO’s current process for evaluating the financial capabilities of project sponsors. As stated above, the ISO already conducts a complete examination of a project sponsors financial resources. This evaluation includes the ability of the project sponsor to assume responsibility for major losses. In light of this evaluation, there is no demonstrated need to require a financial security from project sponsors. TransCanyon does not believe there is a need to initiate a stakeholder process on this issue at this time.

5.4.4 Straw proposal

The ISO’s position remains that requiring an applicant project sponsor to post financial security should not be a requirement and this position is supported by a majority of the comments received. As part of its tariff obligation, the ISO does conduct a financial analysis on all applicant project sponsors to determine credit worthiness, and also assess a probability that the applicant may default in its financial obligations.

The ISO, however, is open to allowing an applicant sponsor to voluntarily post some form of financial security. The ISO assumes that the applicant would choose to do this to strengthen its application in the financial area. This will be clarified in the project sponsor application.

5.4.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Does not support straw proposal	Financial security should not be required, and Brookfield does not support a voluntary option.
Citizens Energy	No Comment	
LS Power	Does not support straw proposal	LSP opposes the addition of voluntary credit support mechanisms.
PG&E	Supports the straw	Suggests security amount should be a

	proposal	percentage of the overall project cost.
SCE	Supports the straw proposal	SCE recommends that the requirement to post financial security should apply to all sponsors.
Six Cities	Supports the straw proposal	Agrees with SCE's position, and cites PJM requires development security.
Trans Bay Cable	No Comment	
TransCanyon	Does not support straw proposal	TransCanyon also opposes the allowance of posting security on a voluntary basis.

5.4.6 Revised Straw Proposal

The ISO notes that those stakeholders providing an opinion on this matter are split evenly. As such, the ISO has reconsidered this proposal and made the determination not to change the straw proposal and not to require the posting of financial security at this time. The ISO has now completed eight competitive solicitations. As part of the qualification process, the ISO reviews the credit history and balance sheets of the applicants (or the applicants' corporate parents) to determine whether the applicant project sponsor has the financial wherewithal to finance, engineer, permit, construct, operate and maintain the transmission facility. Further, the ISO revised its project sponsor application to require corporate guarantees from the sponsor's corporate parent(s) in the event that the sponsor was relying on its parent(s) credit history and financial capability. The ISO also notes that a posting of financial security would not have resulted in a change in the selection of any of the approved project sponsors in any of the prior competitive solicitations. For these reasons, the ISO will not change its requirements to require the posting of financial security from the approved project sponsor.

Cost containment is and has always been a significant factor when the ISO conducts its comparative analysis. The ISO has been encouraged by the robust cost containment measures proposed by several applicant project sponsors. The ISO believes it is important to continue to encourage this development. As such, the ISO will not prevent an applicant from committing to include a voluntary posting of additional financial security in the event that the applicant is identified as the approved project sponsor.

5.4.7 Draft final Proposal

The ISO has not made any changes since the initial straw proposal in which the ISO stated that posting of financial security should not be a requirement at this time. The ISO notes that posting of financial security would not have made any impact in the completed competitive solicitations to date.

TransCanyon provided additional comments on the revised straw proposal. First, TransCanyon believes that without specific requirements for collateral, the ISO is likely to receive different proposals that may not meet the intent of the ISO. Second, TransCanyon recommends the ISO adopt specific collateral requirements, and further that the ISO determine which collateral requirements are in its customer's best interests. Third, after the ISO determines the framework and process to establish collateral for each project, the ISO should require collateral from each applicant project sponsor on a consistent basis.

The ISO does not agree with TransCanyon on these points. The ISO has encouraged, and continues to encourage applicant project sponsors to provide robust proposals demonstrating cost containment and financial capability. For this reason, the ISO will accept proposals including collateral or other financial consideration if the applicant project sponsor believes that this addition will strengthen its proposal. The ISO is not prescriptive in how applicants choose to tailor their proposals. Further, the ISO believes that imposing prescriptive features in this particular area may discourage innovation or unduly discourage competition. For these reasons other reasons mentioned previously, the ISO does not agree that requiring the posting of collateral by the approved project sponsor is required at this time.

5.5 Evaluation of selection criteria

5.5.1 March 13 stakeholder comments

LS Power – LS Power believes that the current selection process has no connection between the ISO's evaluation of selection criteria and a tangible benefit to ratepayers from either an efficiency or cost perspective. LS Power questioned the meaning of terms such as "slightly better" and "slight difference" (used by the ISO in project sponsor selection reports) in terms of ratepayer benefit. LS Power suggested that cost or efficiency impacts of one sponsor's advantages over another should be the focus in evaluating selection criteria.

5.5.2 October 7 ISO response

ISO Tariff section 24.5.4 sets forth the standard that the ISO applies in its comparative process to select an approved project sponsor. The ISO must consider all of the components of that standard. Differences between project sponsors in terms of meeting the various selection criteria are not uniform: they may be great; they may be small. By using terms such as slightly better or substantially better, the ISO is attempting to capture the relative difference between the sponsors for purposes of meeting the comparative process standard. The ISO does not believe that it is practical or appropriate to quantify all differences between project sponsors. However, the ISO asked stakeholders to express their views on this issue, explain why this issue should (or should not) be examined in this

initiative, and submit specific proposals for its resolution through this initiative. In particular, the ISO asked whether stakeholders have any recommended approaches for addressing these issues that would be effective, workable, and meaningful in the context of the FERC-approved flexible approach that the ISO employs.

5.5.3 October 28 stakeholder comments

CPUC Staff – Differences among bidders that are not truly quantifiable should not be tortuously quantified. Furthermore, differences that are not truly meaningful (e.g., “beauty contest” differences) should not determine the selection outcome, regardless of whether those differences are quantified. Thus, “slightly better than...” (with respect to a given criterion) should not determine a selection outcome unless it can actually be demonstrated that “slightly better than” clearly translates into a meaningful advantage regarding key outcomes such as cost or ability to complete on time. As stated above, one role for an independent evaluator would be to provide additional assurance and transparency that qualitative differences such as “slightly better than” are not driving the selection unless this can be clearly justified.

ITC – ITC believes that there is a link between the ISO’s evaluation of selection criteria and tangible ratepayer benefit. For example, the process takes into account “cost containment capabilities and cost cap, if any.” ISO Tariff Section 24.5.2.1(o). With respect to the application of the competitive solicitation process to select an approved project sponsor set out in ISO Tariff Section 24.5.4, ITC understands the ISO’s desire for flexibility. ITC notes, however, that since flexibility can be abused, the ISO should provide for an independent evaluator to enable stakeholders to have confidence that the ISO is exercising its flexibility appropriately. This is adequately provided by the use of an independent expert consultant as described in our response to the first question, above.

LS Power – LS Power believes strongly that the primary purpose of the ISO evaluation of project sponsor proposals is to pick the best project for rate-payers. While LS Power continues to believe that overall cost should be the primary selection factor for determining the approved project sponsor, at a minimum the ISO should be identifying all rate-payer costs so that rate-payers can determine whether the selection of a higher-cost project is in fact selection of the more efficient or cost effective proposal. In making its recommendation LS Power recognizes that not every qualification or evaluation criterion will have a quantifiable ratepayer benefit, those that do provide quantifiable benefits should be recognized and likewise if one evaluation criterion does not have quantifiable ratepayer benefits, it should specifically identified that there are not quantifiable benefits. As the ISO itself has previously noted, the extent of FERC jurisdiction is rates and those matter likely to impact rates. Obviously there are many ways to impact rates some of which are more easily quantified than others. LS Power’s proposal is that Section 24.5.4 should include a provision that for each selection criteria, and to the extent included in the evaluation the qualification criteria, the ISO will identify the quantifiable ratepayer benefits of one proposal

over another. To the extent that the ISO determines that with respect to a particular evaluation criterion, or qualification criterion to the extent used for evaluation, that no sponsor proposal provides quantifiable benefits in excess of any other proposal, the ISO must affirmatively state such. Likewise, if the ISO's position is that benefits cannot be quantified for a particular evaluation or qualification criterion, ISO should be required to affirmatively state that also. The ISO would be required to include the above referenced declarations in the report to stakeholders required by Section 24.5.5. Because it will be addressing quantifiable benefits, or the lack thereof, the ISO would cease referencing "slight" or similar imprecise differences. To the extent that ISO determines that a "slight" difference warrants selection of one proposal over another, it must inform rate-payers as to the quantifiable basis for its determination.

The ISO's evaluation of financial criteria in prior proposal windows provides a good example of the reform of the evaluation process and this also addresses the ISO stakeholder question #2 regarding "Should the financial comparison between bidders be revised?" LS Power believes that it should and that if the quantifiable benefits of one financial structure over another, or the lack of quantifiable benefits, was affirmatively identified, the ISO would have made different conclusions in its recent proposal windows. For example, in the Gates-Gregg Project Sponsor Selection Report, at 20 the ISO stated that it had

Identified significant differences in several financial factors, including but not limited to the tangible net worth of the project sponsors and their parent companies, their ratios of assets to the cost of the project, and their recent operating results, including whether they have incurred recent operating losses. The ISO's measure of tangible net worth compares assets to liabilities and eliminates goodwill, restricted assets, and other intangible assets not immediately available to a company. All of the ISO's analysis supported the following conclusions.

The ISO then concluded;

The ISO has determined that PG&E/MAT's proposal is better than the proposals of the other project sponsors with regard to most financial factors of the analysis and compares relatively favorably on the remaining factors. PG&E/MAT's tangible net worth and asset ratio relative to the cost of this project exceed those of the other project sponsors. Both PG&E and MAT have significant experience with financing transmission projects with utility financing. Their recent operating results and credit ratings are satisfactory. Based on these factors, in conjunction with all of the other financial factors included in the ISO's analysis for this criterion, the ISO has determined that PG&E/MAT's proposal is overall better than those of the other project sponsors with regard to this criterion.

Missing from the ISO analysis is why things like "tangible net worth" make one project "better than the proposals of the other project sponsors" from a rate-payer perspective.

This is particularly true where all project sponsors, including the one selected, indicated an intent to use a special purpose entity to actually develop the project rather than “utility financing.” As LS Power has told FERC in multiple Order No. 1000 compliance processes, development as a special purpose entity is often better for rate-payers than traditional utility financing. Limited recourse financing in fact is the most disciplined way to finance transmission construction because when the lenders have only the assets of the project to look to the lenders place the project under heavy scrutiny to confirm the strength and stability of the business plan, the creditworthiness of its major counterparties, the technology risk associated with its operations, and the level of financial commitment from the owners. By evaluating criteria like tangible net worth, credit ratings and asset ratios without specifically tying why those criteria matter to rate-payers on a quantifiable basis, ISO diminishes their importance as an evaluation criteria and skews the outcome of its evaluation.

LS Power proposes this identification of ratepayer benefits as discussed above as tariff language. The tariff language to implement this is as follows:

24.5.4. The ISO will conduct a comparative analysis to select an Approved Project Sponsor from among multiple project sponsor proposals, as described in Section 24.5.3.5. The purpose of this comparative analysis is to take into account all transmission solutions being proposed by competing Project Sponsors seeking approval of their transmission solution and to select a qualified Project Sponsor which is best able to design, finance, license, construct, maintain, and operate the particular transmission facility in a cost-effective, efficient, prudent, reliable, and capable manner over the lifetime of the facility, while maximizing overall rate-payer benefits and minimizing the risk of untimely project completion, project abandonment, and future reliability, operational and other relevant problems, consistent with Good Utility Practice, applicable reliability criteria, and ISO Documents. To conduct this comparative analysis, the ISO will use the qualification criteria described in Section 24.5.3.1 as well as the following selection factors set forth in this Section 24.5.4. For each qualification or selection factor reviewed by the ISO in determination of the Approved Project Sponsor, the ISO will identify the quantifiable ratepayer benefits of the project proposal the ISO deems to be the best proposal with respect to each factor. To the extent that the ISO determines that no proposal provides more quantifiable rate-payer benefits over any other proposal, or that benefits cannot be quantified for a particular factor, the ISO should so state. The selection factors are:

* * *

24.5.5. The ISO will notify Project Sponsors as to results of the project evaluation process in accordance with the schedule and procedures set forth in the Business Practice Manual. Within 10 Business Days after selecting an Approved Project Sponsor(s) for a needed transmission solution, the ISO will post on the ISO website a report regarding the selection of the Approved Project Sponsor(s). The report will set forth in a detailed manner the results of

the comparative analysis undertaken by the ISO, including any identified quantifiable ratepayer benefits, or ISO's determination that no benefits were identified or quantifiable, the reasons for the ISO's decision(s), and how the ISO's decision is consistent with the objectives identified in Section 24.5.4. For the Approved Project Sponsor the ISO will identify the quantifiable ratepayer benefits of its project proposal over any other proposal. The report will specifically identify the role of the selection factors set forth in 24.5.4 in determining, or not determining, the ultimate selection of project sponsors.

PG&E - PG&E reiterates its previous comments from the March 2014 stakeholder meeting and agrees with the ISO that the process must retain the flexibility for qualitative engineering judgment. If the project sponsor selection analysis were to become overly quantitative (such as forcing all bid scoring into a numeric rating system), many of the subtle differences among sponsor proposals could be lost. The ISO must retain the flexibility to make sound qualitative decisions based on engineering judgment while focusing on the best interest of customers. PG&E recommends this issue as presented be removed from further process improvement discussion.

Six Cities – As a general proposition, the Six Cities agree that the focus of project sponsor selection should be on ratepayer benefits relative to cost. It is not clear, however, whether there is a specific proposal for improving the focus on ratepayer benefits that underlies the concerns expressed by LS Power as described in the Status Update/Issue Paper. The Six Cities are open to consideration of changes to the evaluation process to enhance factors that will benefit ratepayers.

One tangible ratepayer benefit that project sponsors may provide is the ability to construct projects at reasonable costs. While there are already factors reflected in the solicitation process that consider cost (including cost containment measures), these could be made more robust. The Six Cities suggest, at a minimum, that the following incremental changes to the solicitation process be considered: (i) the ISO should establish requirements for transmission developers to disclose in the competitive solicitation process any incentives that the developer intends to seek from FERC (if a petition for such incentives has not previously been filed) and (ii) developers that intend to seek incentives should be required to provide the ISO with documentation comparing the estimated cost of the transmission project with and without the incentives.

SCE – Some stakeholders believe that clarification is needed on key selection criteria and how they are weighed against each other and believe that without a scoring process, applicants cannot know which criteria will be given more or less weight.

SCE would be in favor of the ISO stakeholder process considering whether additional information should be provided after-the-fact regarding how the ISO used each factor in selecting a Project Sponsor. SCE, however, does not support an *ex ante* weighting. SCE agrees with the ISO that a more formulaic approach would impede a holistic review of all

elements of a project, taken together. SCE agrees that value should only be given to selection criteria if such criteria benefit ratepayers. Nevertheless, SCE does not believe that it is possible to quantify this value through a formulaic approach.

Trans Bay – Trans Bay agrees with the arguments put forth by LS Power and supports the recommendation that tangible ratepayer benefit be included explicitly as an evaluation and selection criterion.

Trans Bay would encourage and support the ISO in a filing with the FERC to amend its tariff provisions to add ratepayer benefit to the evaluation and selection process, as ratepayer benefit should be the primary goal of the competitive solicitation process. Without consideration of the lifetime cost of an asset, it is unclear whether or how the ISO evaluates ratepayer benefit, as each of the qualified bidders have, by definition, been deemed qualified to construct a transmission project in California.

Trans Bay's primary concern has to do with the lack of clarity about the significance given to each evaluation and selection criterion, as well as to the misapplication of several of the criteria. As described above, the use of an independent evaluator engaging in the tasks set forth above could help achieve more clarity and transparency.

For example, an examination of the various reports and filings demonstrate that the ISO's evaluation of project cost and cost containment have been flawed. In the Gates to Gregg Report, the ISO rated PG&E/MAT as better than others on cost and cost containment. Although the ISO was not able to disclose the actual cost proposals, it was noted in oral discussions at the Lessons Learned stakeholder meeting that PG&E/MAT's estimate was bid much lower than other project proposals. In the Selection Report, the ISO devoted considerable space to discussing cost containment issues, although it then stated that it did not give PG&E/MAT "credit" for most of their purported cost containment capabilities.

As noted throughout, there is little transparency regarding how much "credit" was given for the various criteria, and Trans Bay is unable to determine how the ISO credited cost and cost containment criteria. In its FERC incentives filing, however, PG&E/MAT estimated the cost of the Project to be \$157 million, not including contingencies or inflation, which means that its cost estimates likely increased significantly from the bid, assuming that its bid was lower than those of other applicants.²⁵ This amount was well above the ISO's estimated cost range of \$115 million to \$145 million. More importantly, the filed estimated costs was well above Trans Bay's bid amount, which included both physical and price contingencies of approximately \$15 million **and** proposed a more feasible route, approximately seven

²⁵ Order at P 5. The CAISO did not even intervene in the PG&E/MAT incentives filing to ensure that the statements made in the bid were affirmed in the filing. Based on a review of the Selection Report and the FERC incentives filings, it appears that the two contained material discrepancies. At the very least, the CAISO should ensure that bidders are held to their bid representations and/or are required to clearly explain any differences.

miles longer than that proposed by PG&E/MAT. While there may be an explanation for this discrepancy, none has been provided.

Although no project sponsor agreed to a cap, Trans Bay proposed to agree to a binding cost cap once the route was known, which is the earliest time that a rational business decision could be made to agree to a binding cost cap. The ISO has never explained clearly how a company could agree to a firm cost cap at a time when the project route and schedule are not fully developed. Trans Bay also proposed a financing mechanism that would save ratepayers money, but that proposal was never addressed in the Report.

Moreover, while PG&E and MidAmerican did not agree to a cost cap, the ISO discussed at length the incumbent utility's ability to contain costs through the use of its already-existing rights-of-ways, the work it had already done (likely at ratepayer, not

shareholder expense –another issue not discussed in the Report), in-house personnel, and other factors; however, based on the cost estimate in the filing, the ISO's "rating" of PG&E/MAT as "slightly better" than others in these areas seems even more suspect.

In sum, these examples demonstrate that vague criteria applied loosely and without rigorous examination by an independent evaluator experienced in evaluating RFPs and comparing bids will result in faulty analysis and undermine the perceived fairness of the process. Several companies, including Trans Bay, have already proposed numerous ideas, including specific weighting and scoring, which the ISO is not considering, as well as the use of an independent evaluator.

TransCanyon – TransCanyon agrees with the ISO's existing approach to the evaluation of selection criteria. The current process provides the ISO with reasonable and appropriate flexibility to consider both quantitative and qualitative aspects of the proposals received. This includes important factors such as experience, qualifications and the specific proposal or transmission solution. TransCanyon agrees with the ISO that since the selection criteria are not uniform from one proposal to another, it would be impractical to conduct a purely quantitative or formulaic evaluation of proposals. TransCanyon believes that the current process is appropriate.

5.5.4 Straw proposal

The ISO will not pursue any tariff changes in this area. The ISO will strive to provide clearer explanations of differences between project sponsors with respect to meeting the applicable criteria and their relevance in the decision making process. In addition, the ISO will seek additional information in the project sponsor application. Also, as discussed in Section 5.1, the CAISO utilizes two separate outside consulting firms. This will ensure that cost and non-cost related factors are independently, fairly, and comprehensively assessed.

Not all sponsor capabilities can be reduced to numbers, and FERC has ruled that it is appropriate for the ISO to consider factors other than cost. Capabilities other than cost are

important in the project selection process, and their importance cannot be discounted or ignored. In future competitive solicitation reports, the ISO will strive to provide clearer explanations of the differences between project sponsors with respect to meeting the applicable criteria and their relevance in the decisional process, while balancing confidentiality concerns.

Section 24.5.4 of the ISO tariff sets forth the standard the ISO applies in its comparative process to select an approved project sponsor. That standard states: “The purpose of this comparative analysis is to take into account all transmission solutions being proposed by competing Project Sponsors seeking approval of their transmission solution and to select a qualified Project Sponsor which is best able to design, finance, license, construct, maintain, and operate the particular transmission facility in a cost-effective, efficient, prudent, reliable, and capable manner over the lifetime of the facility, while maximizing overall benefits and minimizing the risk of untimely project completion, project abandonment, and future reliability, operational and other relevant problems, consistent with Good Utility Practice, applicable reliability criteria, and ISO Documents.” The ISO conducts a holistic assessment of all applicable criteria, including the key selection criteria, to determine which sponsor best meets this standard. Under this approach, the ISO must identify any relevant differences/distinctions between sponsors and proposals and capture the degree of those differences. Where the differences between sponsors are not materially the same with respect to a given criterion, the ISO uses terms such as better, slightly better, or significantly better to indicate the scope of the difference. To the extent the ISO states that one sponsor or proposal is slightly better with respect to a specific criterion, the ISO believes there is a relevant distinction between sponsors or proposals that separates them and will identify that distinction. To the extent the ISO finds that there are no material differences between sponsors or proposals for purposes of meeting a specific criterion, the ISO will treat them as basically being equal. Project sponsors have generally indicated whether they intend to seek rate incentives and which incentives they will seek.

However, the ISO will revise its application to require (1) sponsors to disclose any incentives they intend to seek from FERC, and (2) sponsors that intend to seek incentives compare the estimated cost of the project with and without incentives. The suggestion that companies might not agree to a firm cost cap when the project route and schedule are not fully developed has been disproven by numerous bid submissions. Project sponsors have submitted binding bids that include potential route changes or have committed to limit the cost impacts of any route changes.

Finally, the purpose of this initiative is not to debate specific findings in prior competitive solicitation decisional reports.

5.5.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
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Brookfield	Suggests revisions to straw proposal	It is important that criteria are interpreted and applied to preclude bias. ISO must be transparent and avoid any weighting that introduces bias that is not absolutely necessary to provide reasonable cost and performance. ISO must be publically seen as holding project sponsors to their proposal when they seek rate recovery. ISO should draw more prominent attention to its methodology and assumption for calculating relevant costs outside of the project sponsor's competitive scope of work. Where sponsors seek incentives, care needs to be taken to ensure that requiring them to provide a comparison of costs with and without the incentives does not result in an arbitrary or unfair evaluation of other sponsors' applications.
Citizens Energy	Supports straw proposal	Direct and indirect benefits should be considered.
LS Power	Provides suggestions	Appreciates efforts to provide clearer explanations of the evaluation criteria and comparative analysis and supports further transparency to assist bidders in developing proposals to best meet the stated need. Refers to comments in Financial Comparison process requiring additional details related to financial aspects of proposals such as whether the proposed capital structure is binding.
PG&E	Supports straw proposal	Suggests that in addition to issuing a project sponsor selection report, the ISO host a post-solicitation de-brief with each bidder to discuss its bid and its effectiveness in greater detail than can be included in the public document.
SCE	Supports straw proposal	
Six Cities	Supports straw proposal's adoption of Six Cities' recommendation	Requests that the ISO confirm that the selection report will document the ISO's analysis of project-specific transmission incentives so that ratepayers will be fully informed as to the CAISO's consideration of this factor

Trans Bay Cable	Opposes straw proposal	Continues to support position that tangible ratepayer benefits should be included specifically as a selection criterion. Lifetime project cost should be included in the ISO's selection criteria. Continues to raise issues regarding the Gates-Gregg solicitation report and points to the approved project sponsor's cost estimates filed with FERC.
TransCanyon	Provides suggestions	Supports ISO efforts to provide greater transparency, but these efforts should not result in public disclosure of commercially sensitive information that the sponsor has requested the ISO to treat as confidential. Recommends that the ISO implement a standard legend (e.g., highlighting, footnoting) that would clearly indicate competitively sensitive information embedded within the application responses.

5.5.6 Revised Straw Proposal

With respect to Six Cities' recommendation, in the selection report the ISO will discuss project sponsors' proposed treatment of transmission incentives and provide its comparative analysis taking them into account so that ratepayers will be fully informed as to the CAISO's consideration of this factor.

In response to PG&E's suggestion, the ISO notes that all project sponsors are welcome to meet with the ISO for a post-solicitation de-brief, and several project sponsors have availed themselves of this opportunity. The ISO stresses that during these de-briefs, it cannot disclose the confidential information of other project sponsors.

With respect to TransCanyon's comments, the ISO agrees that its efforts to increase transparency in the project sponsor selection reports should not result in the disclosure of commercially sensitive information. The ISO notes that prior to issuing its decisional report, it holds a teleconference with each sponsor to read the factual information regarding that sponsor that the ISO intends to include in the report, thus giving the sponsor the opportunity to identify any proposed disclosures as commercially sensitive. The CAISO is walking a fine line on this matter --- on one hand it is trying to provide sufficient information in the selection report so that the public can understand the reasons for its decision; on the other hand, the CAISO is trying to protect confidential and commercially sensitive information and not disclosing sponsors' specific bidding strategies. The ISO will consider what features it can incorporate into the application process to highlight specific confidential information that project sponsors do not want disclosed. Project sponsors should also

clearly state in their applications which responses or information is considered confidential or commercially sensitive.

For the reasons set forth in the straw proposal, the ISO will not carve out ratepayer benefits as separate selection criteria. With respect to TBC's comment, the ISO does consider the lifetime costs of the project. However, project sponsors need to show specific, tangible, reasonable, demonstrable, binding cost containment commitments that will last for the life of the project or identify specific, real, supported, tangible factors or measures that will contain costs (e.g., possession of existing rights-of-way, other project-relevant sunk costs that are already reflected in rates). Further, as discussed in the straw proposal, the purpose of this initiative is not to discuss specific issues in prior solicitations. Also, the fact that an approved project sponsor filed estimates at FERC that exceeded another project sponsors' costs needs to be considered in context. As discussed above, if project sponsors have not agreed to binding cost containment measures that have been reflected in an APSA, they are not bound to file at specified cost levels. The CAISO will monitor filings and intervene if necessary to ensure the integrity of the selection process, but the ISO cannot dictate a sponsor's actions under section 205 of the FPA unless the sponsor has a binding commitment to something specific. Also, the CAISO's evaluation of project sponsor applications typically occurs before a project sponsor will make a rate filing at FERC. Accordingly, the ISO does not have the benefit of seeing that filing before it makes a decision. Moreover, the ISO does not have the benefit of knowing the filing sponsor's reasons or strategy for filing at a specific cost level. For example, it is well known that parties may file for higher returns on equity or cost levels knowing that other parties will be arguing for significantly lower rates, essentially using the proposed higher rate to offset the proposed lower rates. The filed costs for a project that has not even been built yet do not reflect what the actual costs of the project will be. Ultimately, FERC will decide if the expenditures are prudent and will determine the rate that is just and reasonable.

With respect to LS Power's comments, the ISO notes that it considers all binding cost containment commitments in the selection process. The ISO is committed to being as transparent as possible in its analysis and in a way that will assist project sponsors in developing future proposals, while protecting commercially sensitive information. As discussed above, the ISO urges parties to participate in post-selection process de-briefings if they have any questions.

The ISO agrees with Brookfield that it is important that the criteria are interpreted and applied to preclude bias. The ISO also agrees that cost and performance are important criteria. The tariff requires cost to be a key selection criteria, and the ISO has typically included performance-related capabilities as a key selection criteria. With respect to costs associated with work outside of the specific scope of the project up for competitive solicitation, the ISO will try and provide more information in the functional specifications about how a project sponsor's proposal could impact those costs. For example, in the three substation projects, the various locations of the substations proposed by the project

sponsors impacted the costs that would be incurred in connection with the non-competitive solicitation piece, thus impacting the cost of the total project (both the competitive solicitation and non-competitive solicitation pieces). In that instance, the ISO uniformly applied its cost methodology to all sponsors to ensure consistent treatment of all project sponsors. With respect to any comparison of project costs with and without incentives, the CAISO notes that the example provided by Brookfield would not occur. Brookfield poses an example where one sponsor has a single project cost, and another project sponsor has a single project cost with incentives and a single project cost without incentives, which cost levels would “surround” the first sponsor’s cost level. If the second project sponsor does not make a binding commitment to forego rate incentives, the ISO will treat the project sponsor’s proposal as permitting all incentives. If such sponsor makes a binding commitment to forgo incentives, the ISO will recognize that binding commitment for purposes of its comparative evaluation. The ISO treats the second sponsor as having only one proposal in these circumstances, not two.

5.5.7 Draft final Proposal

TransCanyon requests that the ISO assign relative weightings to the key selection criteria. Specifically, TransCanyon requests that the ISO assign specific points or percentage values to the key selection factors and any other factors it considers relevant with respect to a particular project. TransCanyon states that this will allow project sponsors to better tailor their proposals to the specific priorities of the project and prioritize their resources to meet those needs.

As the ISO has indicated previously, weighting and formulaic scoring is beyond the scope of this initiative. The fact that the ISO has already identified certain factors as key factors should provide guidance to project sponsors regarding the importance of addressing these factors. Assigning points or weights is not necessary to convey that message. In response to stakeholder feedback, the ISO also has been indicating why the key selection factors are important for each project. The ISO has discussed herein and elsewhere why it does not support weighting and formulaic scoring approaches.

5.6 Project-specific weighting and scoring methodology

5.6.1 March 13 stakeholder comments

CPUC Staff – CPUC staff suggested that more specific ex ante disclosure of how bids will be evaluated is needed, including weighting of selection criteria.

LS Power – LS Power suggested that clarification is needed on key selection criteria and how they will be weighed against each other (i.e., at the beginning of the process the ISO should clarify how much weight it will give to each key selection criteria).

Trans Bay – Trans Bay believes that without a scoring process, applicants are unable to know which criteria will be given more or less weight, and that it should be discernible how much weight each criterion was given. Trans Bay argued that it is unclear whether one proposal being “slightly better” than another provided that project sponsor with a higher overall score than another sponsor in any particular category. Trans Bay further believes that the ISO should give minimal, if any, weight to the qualification criteria such as company size, California-specific experience, and that once a sponsor is determined to be qualified to develop, permit and construct the relevant project, the ISO should give very little, if any, weight to rights-of-way acquisition experience in California.

PG&E – PG&E believes that the project sponsor selection process should not be overly prescriptive, that the ISO should refrain from quantitative analysis and should instead retain the flexibility for qualitative engineering judgment, and that subtle differences between project sponsor proposals could be lost by forcing all bid scoring into a numeric rating system.

5.6.2 October 7 ISO response

The issues related to applying weights to the selection criteria and selecting an approved project sponsor through the use of scoring methodologies or mathematical formulas was previously debated at and decided by the FERC in connection with the ISO’s Order No. 1000 compliance filing and revised transmission planning process tariff amendment proceedings. FERC found that the ISO’s approach provided a reasonable framework for selecting project sponsors, while giving the ISO the necessary flexibility in conducting its analysis, and applying the criteria, while not granting undue discretion. The ISO does not intend to revisit the existing framework and approach in this initiative. Accordingly, this initiative will not consider issues such as weighting, scoring, and mathematical formulas for selecting project sponsors. As the ISO discussed in the RTPP and Order No. 1000 proceedings, the ISO believes that weighting and formulaic methodologies could be problematic and result in inappropriate project sponsor selections. Also, it potentially could embed a level of arbitrariness into the process. The ISO’s process also allows all project sponsors to demonstrate any specific benefits, efficiencies, or advantages their proposal provides. Specific proposals may result in additional benefits, or hurdles or additional costs that the ISO must consider, but the ISO will not know the extent of those until the proposals are submitted. Pre-established weights cannot effectively predict this and hence might not adequately capture the benefit or detriment. Further, the ISO’s current framework allows for a comprehensive, holistic review of all factors and elements of project sponsors’ proposals that may not be effectively captured in a weighting or formulaic approach. However, the ISO indicated it will explore with stakeholders other recommendations to enhance the efficiency, transparency, and effectiveness of the competitive solicitation process and to provide more guidance to project sponsors. The ISO invited stakeholders to submit specific proposals for achieving these objectives through this initiative.

5.6.3 October 28 stakeholder comments

CPUC Staff – At a minimum, project-specific key selection criteria should be identified and selection should be clearly driven largely by those criteria. Those criteria should be applied objectively and transparently, and selection should not be determined by bidder differences that do not have (either obviously or as demonstrated) a meaningful impact on key outcomes such as costs and ability to complete on time. While overly rigid scoring of criteria could “embed a level of arbitrariness”, so cold qualitative rankings such as “slightly better than”, especially if there is ambiguity regarding how “better” is measured or regarding how “better” meaningfully impacts key outcomes such as costs and ability to complete on time. The burden should be on the ISO to demonstrate that such non-quantitative differences (and, where not obvious, quantitative difference) meaningfully impact key outcomes such as costs and risk of not completing on time. Use of an independent evaluator for large projects could support or partly substitute for such a demonstration.

ITC – ITC understands that the ISO does not want to re-litigate whether it should have a scoring methodology to apply to select projects in order to preserve the flexibility that the ISO believes it needs. ITC would prefer for the ISO to have a scoring methodology set out in its tariff, as SPP has done.²⁶ ITC believes that use of such a scoring methodology is desirable since it gives applicants guidance regarding what to focus on in developing applications and, once the applications are received, facilitates objective comparison of competing applicants. In light of the ISO’s position regarding scoring methodologies, however, ITC has considered whether there are other ways the ISO can improve its process in a way which preserves the ISO’s flexibility while better meeting the needs of stakeholders.

In general, ITC believes that the ISO process can be improved by providing more transparency regarding what the ISO is looking for in applications and why the ISO makes the decisions it makes. ITC offers two recommendations below which ITC believes will adequately preserve the ISO’s flexibility while providing greater transparency to stakeholders.

First, in order to provide more guidance to applicants as they prepare their applications, ITC suggests one small addition to the ISO’s existing process. The ISO already provides a list of the key selection criteria when a solicitation begins. ITC recommends that in addition to announcing the key selection criteria, the ISO should rank these key selection criteria in the order of importance for project selection.

²⁶ Under SPP’s methodology, applicants can earn up to 1000 base points and an additional 100 incentive points for innovative ideas. Applicants can earn base points in five categories: (1) engineering design (200) points; (2) construction project management; (200 points); (3) operations, maintenance, and safety (250 points); (4) cost to consumer (225 points); and (5) financial viability and creditworthiness (125 points). SPP’s methodology is set out in the SPP Tariff, Attachment Y at III.2.f.

Second, ITC recommends that for each project the ISO develop a project-specific numerical scoring methodology for internal use until the methodology is made public as part of the Project Sponsor Selection Report. This approach preserves the ISO's flexibility in making decisions among applicants while providing greater assurance to applicants that their applications will be reviewed objectively. It also ensures that future applicants will get better guidance regarding what the ISO expects of applicants.

PG&E – PG&E believes the improved clarity and detail provided by the ISO through the key selection criteria in recent project solicitations (like Delaney-Colorado River) greatly helps potential project sponsors to understand important project elements and drivers. PG&E recommends this issue as presented be removed from further process improvement discussion.

Six Cities – The Six Cities are open to consideration of measures that would improve transparency in the selection process. While not fundamentally opposed to a numerical scoring system, the Six Cities are unpersuaded that numerical scoring alone will provide more transparency in the evaluation process as compared with written analyses of different factors that were accorded more or less weight.

One area in which transparency may be improved is, as discussed above, with respect to the incentives that prospective project sponsors intend to request. The Six Cities believe that any incentives a developer may seek should be factored into the selection process, so that the ISO is working with complete and accurate cost information as it assesses sponsors' proposals.

SCE – Please see SCE's comments directly above.

Also, SCE does not agree with Trans Bay Cable's suggestion that the ISO should discount criteria such as company size, California-specific experience and ability to acquire rights-of-way in California. Factors such as these can demonstrate a potential project sponsor's unique qualifications to develop a transmission project in ways that benefit ratepayers.

Trans Bay – Although the ISO "will not consider issues such as weighting, scoring, and mathematical formulas for selecting project sponsors," Trans Bay reiterates its position and agrees with other parties in prior comments to the ISO on this issue. Trans Bay encourages the ISO to reconsider its position, either in this current initiative or alternatively in a separate initiative in the near term. The ISO repeatedly cites FERC's decision that found the ISO's approach to be a reasonable framework for selecting project sponsors. The ISO's TPP competitive solicitation process evaluation and selection framework was developed *prior to* the ISO actually conducting a solicitation. Now, after two years and with real-life experience with the solicitation process, it is appropriate and important to re-examine the framework and entertain proposals for a more objective weighting and scoring methodology for each project. A scoring methodology is standard for most commercial RFPs, and especially ones of the size and scope involved in the Competitive Solicitation Process.

Without a scoring process, participants and the public cannot know which criteria are given more or less weight, other than the ISO's representations of the "key selection criteria," and after-the-fact reporting in the Selection Reports.

The ISO has asked for other proposals in lieu of weighting and scoring. Trans Bay has proposed the use of an independent evaluator, and believes that improvement to the process would be a good start. But we are unaware of other creative processes for running an RFP that would be superior to providing objective weights and scores to proposals so that all stakeholders can be clear about how a selection decision was made. Trans Bay believes that it would be appropriate to give different weights to different factors depending on the project (e.g., for larger projects greater than \$1 billion financial capability might be more important than for a \$50 million project, or permitting experience of the project sponsor AND their consultants might be more important if there is a very difficult route involved in the project). Trans Bay believes that an independent evaluator could help to make these assessments.

TransCanyon – See TransCanyon's comments on the "Evaluation of Selection Criteria".

5.6.4 Straw proposal

As the ISO indicated in its October 7, 2014 Issue Paper, this initiative is not intended to consider issues pertaining to weighting, scoring, and formulas for selecting project sponsors. The ISO has not reconsidered that determination or the scope of this initiative and continues to believe that an approach that allows for flexibility enables a more holistic review based on the information provided by project sponsors without embedding a level of arbitrariness into the process. As indicated above, the ISO will strive to improve the clarity and detail provided in the decisional reports and seek to better explain the differences between applicants and their relevance in the decision, while respecting confidentiality concerns to the extent practicable.

The ISO notes that FERC has ruled in numerous orders that cost and schedule are not the sole drivers in selecting an approved project sponsor. FERC has recognized the importance of other project sponsor capabilities. The ISO encourages project sponsors to include as much detail and documentation as possible in their applications to support their satisfaction of the applicable criteria, responses to questions in the applications, and support for their identified costs. To the extent stakeholders believe that there are additional questions the ISO can ask in the project sponsor application or specific information/documentation the CAISO should require project sponsors to provide to identify specific cost or other benefits associated with their proposals, the ISO requests stakeholders to identify such information in their comments. The ISO will be including the additional information identified by Six Cities.

5.6.5 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Provided comments	Project selection report needs to be detailed, comprehensive, clearly understood and clearly reasonable.
Citizens Energy	No comments	
LS Power	Does not support straw proposal	Continues to support a weighting methodology
PG&E	Supports the straw proposal	
SCE	Supports the straw proposal	
Six Cities	No comments	
Trans Bay Cable	Does not support straw proposal	Supports a scoring methodology
TransCanyon	No comments	

5.6.6 Revised Straw Proposal

As indicated in the issue paper and the straw proposal, the issue of weighting and formulaic scoring is beyond the scope of this initiative.

5.6.7 Draft final Proposal

Issues pertaining to weighting and formulaic scoring are beyond the scope of this initiative.

5.7 Obligation regarding the transfer of assets

The ISO included a discussion of this topic in the October 14 stakeholder web conference and invited stakeholders to comment on the issue, which was raised outside of the March 13-October 7 stakeholder process.

On September 10, 2014 the ISO submitted the *pro forma* approved project sponsor agreement (APSA) to FERC for approval (Docket Number ER14-2824). In that proceeding one stakeholder contended that the *pro forma* APSA should require a project sponsor that abandons a needed project to transfer assets associated with the project to the alternative project sponsor at the sole discretion of the new approved project sponsor. This stakeholder believed that otherwise the failed project sponsor would have the ability to compromise the timely and cost-effective transfer of responsibility. On October 15, the ISO

submitted its answer to comments and protests in the FERC proceeding and proposed to add this issue to this stakeholder initiative.²⁷

Following the October 14 web conference, the ISO invited stakeholders to comment on this issue within this stakeholder initiative. In particular the ISO asked stakeholders to comment on the following two questions: (1) What should the obligation be to transfer assets? and, (2) If there is an obligation to transfer assets, what should the compensation be for the assets transfer?

5.7.1 October 28 stakeholder comments

CPUC Staff – CPUC Staff believe that as a general principle it is desirable to provide for transfer of assets following abandonment, at the discretion of the alternative (new) project sponsor. At this time we do not comment on how this should be arranged, such as regarding language in the approved project sponsor agreement, or regarding compensation or other protections for the original sponsor.

ITC – ITC responds as follows:

1. There should be no obligation to transfer assets, but there should be an obligation to negotiate regarding the transfer of assets needed to complete the project.
2. The compensation paid for assets that are transferred should be their net book value.

LS Power – LS Power does not believe that there should be a Tariff or contractual *obligation* for a selected project sponsor to transfer assets if the sponsor will no longer be building the project, for whatever reason. As an initial matter, the project sponsor that will no longer be developing the project already has strong incentive to transfer the assets as it is likely the assets have limited value outside their use for the project at issue. Further, to the extent that the initial project sponsor has any abandonment claims at FERC, it has incentive to transfer the assets to reduce any ratepayer impact regarding the loss of the project. In addition, such an obligation could interfere with the project sponsor's third-party agreements, including financing arrangements, joint venture arrangements or other project development agreements that deal with the allocation of assets upon termination of the project sponsorship.

Imposing an obligation to transfer assets also creates a number of issues for the ISO. If such an obligation were imposed, ISO would have to define in the Tariff or APSA, exactly what "assets" would be covered by the provision. In addition, because only the approved project sponsor and the ISO are signatories to the APSA, a requirement to transfer assets would create third party beneficiaries to the APSA (i.e., the prospective substitute project

²⁷ On November 7, 2014, FERC issued its order conditionally accepting the ISO's proposed *pro forma* APSA, effective November 10, 2014, subject to a compliance filing.

developer) in direct violation to the language of the APSA that says there are no third-party beneficiaries to the APSA. Finally, if there is to be an obligation to transfer assets there must be a corresponding obligation on the prospective transmission developer to purchase those assets. Without a corresponding obligation to purchase, the obligation to transfer would create a highly unequal bargaining position.

Finally, LS Power does not believe that an obligation to transfer will be approved by the Commission. The Commission has been, appropriately, reluctant to mandate actions on private parties regarding the management of their assets. FERC's manner of dealing with such issues is through the prudence process.

LS Power does not believe any additional tariff language or language in the Approved Project Sponsor Agreement is needed on this topic.

PG&E – PG&E agrees this is an issue requiring further discussion and would like to see a more detailed proposal to provide more substantive comments.

Six Cities – The Six Cities see no justification for a project sponsor that is incapable of completing a project to retain a continued interest in project assets if the new project sponsor is capable of utilizing some or all of the original sponsor's assets. Failure to transfer assets to a new project sponsor at just and reasonable, cost-based prices would harm ratepayers by potentially requiring the new project sponsor to start over with planning and construction activities or otherwise delay completion of the project, thus resulting in increased costs. A project sponsor that fails to finish a project should forego recovery of and should be required to refund to ratepayers or deduct from the transfer price any amounts associated with incentive ROE adders that were previously collected. Moreover, if a project sponsor has been authorized to collect any portion of its abandoned plant costs, then its recovery of abandonment costs should be deducted from any compensation it receives from the new project sponsor for the transferred assets.

SCE – In its comments to FERC on ISO's pro forma APSA, SCE commented that the APSA does not sufficiently address what happens to the project assets if and when the project is abandoned. The APSA only contemplates that the Project Sponsor will transfer responsibility to the alternate Project Sponsor and says nothing about rights. SCE is concerned that retention of rights by a failed Project Sponsor gives the failed Project Sponsor leverage that could compromise timely and cost-effective transfer of the project to the backstop or alternative Project Sponsor. SCE has proposed that a Project Sponsor that abandons the project should be under an obligation to transfer assets to the successor Project Sponsor, such that ratepayers and system reliability are not unduly disadvantaged as the result of the abandonment.

SCE acknowledges, however, the concerns raised by LS Power that projects must be ultimately financeable and that the needs of project backers and lenders must be acknowledged in modern financial transactions. As such, SCE recommends that ISO begin

a stakeholder process aimed at creating a process that assures the rights and interests of all impacted parties, in the event of Project Sponsor abandonment, are adequately protected.

Trans Bay - Trans Bay believes that prior to including a transfer provision in the APSA, the ISO should conduct a more in-depth stakeholder process. While Trans Bay understands the issue, it has some concerns about any broad requirement to transfer one entity's assets to another. Trans Bay does not believe this is a simple matter, and there are various issues to be worked through to ensure that there is a proper balance between allowing the chosen project sponsor to complete its project with the cooperation of the relevant IOUs and ensuring that the IOUs have the ability complete a project where it is truly abandoned. Additionally, as noted above, there are several options for setting a fair purchase price for any assets transferred; therefore, Trans Bay believes stakeholders should have an opportunity to comment on one or more specific proposals with regard to the purchase price of such assets. Since all of the current projects have been awarded to incumbent utilities or their subsidiaries, a short delay to conduct an open stakeholder process regarding this issue should not have an impact on the efficacy of such a provision at a later time, if the ISO ultimately determines such a provision is required.

TransCanyon – In the event the original project sponsor abandons a needed project, TransCanyon agrees that there should be a requirement to transfer assets to the new project sponsor, but only if the new project sponsor indicates a need for those assets. This should be done with the requirement that the original project sponsor be fairly compensated for the assets that are transferred.

The determination of what constitutes fair compensation under this circumstance should involve communication and coordination among the ISO, the original project sponsor and the new project sponsor. TransCanyon would support a stakeholder process to determine the details on how the original sponsor should be compensated. This should include a process for any dispute resolution among the parties.

5.7.2 Straw proposal

Section 24.6.4 of the ISO tariff and Article 5.8 of the APSA allows the ISO to terminate the APSA and the Approved Project Sponsor is required to work with the ISO and alternative Project Sponsor to transfer the project responsibilities. Comments received were split on whether the Approved Project Sponsor should have a requirement or obligation to transfer the assets to the alternative Project Sponsor. Moreover, a number of stakeholders suggested that a proposal needs to be developed to have a more informed discussion.

To that end, the ISO proposes that if the alternative Project Sponsor desires the Project assets, the Approved Project Sponsor shall negotiate in good faith with the alternative Project Sponsor to transfer such Project assets. The ISO does not believe that the Approved Project Sponsor should be obligated to transfer Project assets absent 1)

determination by the alternative Project Sponsor that the assets are desired to continue the Project; and 2) fair compensation for the assets. However, the ISO is not in a position to determine what the “fair compensation” should be.

5.7.3 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Oppose	ISO should not force the negotiation because it is a regulatory issue
Citizens Energy	No comment	
LS Power	Support	
PG&E	Support with qualifications	Wants a more in-depth stakeholder process to address a specific proposal for “fair compensation”
SCE	Support with qualifications	Fair compensation should not exceed net book value, and revised section 25.5 of the APSA to give third party beneficiary rights to the replacement project sponsor to enforce the transfer of assets.
Six Cities	Support with qualifications	The abandoning project sponsor should forego recovery of, or refund, any ROE adders collected, and deduct any abandoned plant costs.
Trans Bay Cable	No comment	
TransCanyon	Support	

5.7.4 Revised Straw Proposal

The ISO sees merit in further defining the “fair compensation” standard and agrees with SCE and Six Cities that the cost to acquire the abandoned facilities should not be greater than the FERC approved cost for the facilities. Under FERC’s cost-of-service rate making, a just and reasonable rate that is cost-justified can include transmission rate incentives or return on equity based on the risks and challenges of a project, construction work in progress, pre-commercial cost recovery, and abandoned plant cost recovery. Thus the Approved Project Sponsor that is transferring assets to an alternative project sponsor should do so at the cost of the asset, or the net book value is the Approved Project Sponsor is already depreciating the asset.

Based on concerns raised, the ISO concurs that absent this additional clarification there may be an incentive for the Approved Project Sponsor, as an example, to procure equipment and then abandon the project if it can make a profit on the equipment sale. Yet

the ISO is dependent on the various competitive transmission solicitation projects and their developers to meet the timelines identified in the APSA, which in turn met the policies of California and the reliability of the grid. Therefore, the ISO proposes to include in the APSA language establishing the obligation to transfer assets if the alternative Project Sponsor needs them at the cost of the asset.

SCE requested that the ISO add to section 25.5 of the APS a third party beneficiary right that would allow the alternative Project Sponsor to invoke the obligation that the transfer cost should not be greater than the net book value of the of the assets being transferred. The ISO disagrees. Given the competitive solicitation process and the APSA construct, it would be the ISO that would enforce the right to transfer the asset to the alternative Project Sponsor at the cost of service.

5.7.5 Revised Straw Proposal Stakeholder Comments September 15, 2015

Stakeholder	Position	Additional Comments
LS Power	No comment	
NEET West	Supports	
PG&E	Supports	
SCE	Supports	
Six Cities	Supports with addition	The cost of the abandoned facility should not include amounts associated with incentive adders to a developer’s return on equity.
TransCanyon	Opposes	The transfer of assets should be market based and while cost or net book value is a good starting point, ultimately CAISO should not impose a particular outcome on commercial transactions.

5.7.6 Draft final proposal

Although the ISO agrees with Six Cities that a developer that is abandoning the project should only be compensated for the cost of the abandoned facility without any incentive adders approved by FERC, this is a FERC rate issue that FERC will need to determine. In addition, Six Cities requested that the Approved Project Sponsor be required to notify the ISO and Participating TOs of all FERC filings submitted for the project. The ISO agrees with this change. The ISO notes that the Transmission Control Agreement, which is not yet executed by the approved project sponsor, has a similar requirement. Accordingly, ISO proposes to amend the Approved Project Sponsor Agreement to incorporate this notification requirement. However, the ISO disagrees that an approved project sponsor’s FERC filings should be posted under the ISO’s recent documents because they are not

ISO documents. The ISO also disagrees that the ISO should issue a market notice when filings are made by the approved project sponsor. The ISO does not issue market notices for any of its filings and is not in a position to track all filings by other entities.

TransCanyon believes that a cost or net book value approach could be a good starting point for negotiations, but ultimately the ISO should not seek to use this process to impose a particular outcome on commercial transactions that may be otherwise negotiated under perfectly acceptable circumstances. Two fundamental underpinnings of the competitive transmission solicitation process and the Approved Project Sponsor Agreement are as follows. : First, FERC typically approves transmission rates on a cost-of-service basis with specific adders to incent development, not on market-based rates. Second, the Approved Project Sponsor Agreement is a two-party agreement between the ISO and the approved project sponsor, and a project sponsor applicant will be aware of this requirement prior to submitting an application. It is a reasonable condition applicable to entities voluntarily electing to participate in the competitive solicitation process. The ISO is also the entity that determines if an alternative project sponsor is required. Thus, the ISO will be involved in any negotiations regarding the cost of transferred assets. Third, the project is needed by the ISO and will have been awarded based on the representations of the approved project sponsor. Particularly with respect to reliability projects, the ISO should not be held hostage by an approved project sponsor that holds out for a higher price knowing that the ISO needs the project to be in service by a certain date to avoid reliability standard violations. The proposal facilitates timely completion of the needed project.

5.8 Cost estimate standard

This is a new issue and was raised by PG&E in their October 28 written comments.

5.8.1 October 28 stakeholder comments

PG&E – PG&E believes that the cost estimate framework used in the current selection process is acceptable, but would like to provide the following suggestion as a means to facilitate the comparative analysis between project sponsor application proposals. The ISO could better define the detail and quality required in the project cost estimate by establishing criteria that the cost estimate conform to an industry best practice such as the Association for the Advancement of Cost Engineering, International (AACE I) Estimate Model. Adopting such a practice could improve the efficiency of the solicitation process because cost estimate accuracy would be clearly defined and ensure that uniform practices are followed in developing a cost estimate buildup.

The benefits of implementing such a measure may include:

1. Setting clear expectations to prospective bidders for level of accuracy and establishing the minimum level of detail required.

2. Improving communication between ISO and bidders involved with preparing, evaluating and using project cost estimates through the use of common methodologies and practices.
3. Enabling better tracking and monitoring of estimate accuracy as a project progresses beyond solicitation and into execution.

PG&E does not have a specific recommendation of how the ISO may implement such a measure, but would like to introduce topic for consideration and discussion at this time.

5.8.2 Straw proposal

The ISO concurs that it is important that a minimum level of detail is required when applicant project sponsors submit cost estimates for competitively solicited projects. For this reason, the ISO plans to update the project sponsor application such that sponsors have a better understanding of the amount of detail required by the ISO. Further, the ISO will provide more clarity on the identification and disclosure of the project sponsor assumptions used in the preparation of the various cost estimates. The ISO is targeting posting the revised project sponsor application prior to the next cycle of competitive solicitation.

5.8.3 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	None stated	Does not support mandating adoption of an industry best practice standard as proposed by PG&E.
Citizens Energy	No comment	
LS Power	Supports the straw proposal	Clarity on sponsor cost assumptions will be helpful.
PG&E	Supports the straw proposal	Recommends adoption of an industry best practice such as Association for the Advancement of Cost Engineering International estimate model (AACEI)
SCE	Supports the straw proposal	
Six Cities	Supports the straw proposal	
Trans Bay Cable	No comment	
TransCanyon	Supports the straw proposal	Having a minimum and standard level of detail will help the CAISO directly compare proposals.

5.8.4 Revised Straw Proposal

All of the stakeholders submitting definitive comments on this topic were either in agreement with the straw proposal or had no comment. The ISO will not make any changes to the straw proposal.

5.8.5 Draft final Proposal

There has been no change to the initial straw proposal for the financial comparison process. Further, there was no additional stakeholder input. Therefore, the ISO considers this issue closed.

5.9 Pre-qualification outside of bidding schedule

This is a new issue raised by PG&E in their October 28 written comments.

5.9.1 October 28 stakeholder comments

PG&E – As a means to improve the efficiency of the competitive solicitation process, PG&E proposes that the ISO adopt a practice of pre-qualifying bidders prior to opening the solicitation bidding window. The current process requires that bidders submit and the ISO evaluate repetitive information for multiple project applications within the same sequence and potentially multiple projects in sequential sequences. Such repetition is neither an efficient use of resources nor beneficial to rate paying customers. By pre-qualifying bidders, the overall timeline and cost from solicitation start to final sponsor selection could be reduced.

Drawing examples from other ISO's such as MISO and SPP, in advance of a project solicitation, prospective bidders could submit non-project specific engineering experience, environmental experience, operations/maintenance, and financial information. Following SPP's model, qualification status could extend for up to 5 years subject to an annual recertification to ensure that information is current.

5.9.2 Straw proposal

The prequalification issue was addressed during the FERC Order No. 1000 stakeholder process. Pre-qualification is only supported by a single commenter. The ISO does not believe there are changed circumstances that warrant the ISO modifying the existing FERC-approved qualification process. The ISO continues to favor an approach that allows for flexibility and does not believe that pre-qualifying project applicants will provide a benefit to the current competitive solicitation process. The ISO has identified a variety of differing projects to meet identified transmission system objectives and requirements. These projects include new transmission lines, bulk electric system substations and transmission system voltage support elements. The construction, maintenance and operation

requirements for each of these transmission solutions poses a unique set of challenges that requires different skill sets and varying levels of capital exposure. The ISO evaluates each proposed sponsor’s application based on the scope and capital requirements with respect to the specific transmission solution identified during the competitive solicitation process. The ISO believes that evaluating all project sponsors based on generic requirements adds significant levels of complexity and does not add value to the current competitive solicitation process. In addition, a pre-qualification process has the potential to limit the applicant pool because proposal acceptance would be contingent on the pre-approval process.

5.9.3 Straw Proposal Stakeholder Comments June 30, 2015

Stakeholder	Position	Additional Comments
Brookfield	Supports the straw proposal	The current methodology appears to be working and there is no benefit to adding layers of administration and cost to the process
Citizens Energy	No comment	
LS Power	Does not support the straw proposal	LS Power agrees with PG&E that a pre-qualification process could be more efficient for CAISO and bidders; however it recognizes that the current process has the benefit of requiring qualifications to be customized for each specific project
PG&E	Does not support the straw proposal	PG&E believes that such a measure would further improve efficiency and transparency of the process, especially when combined with other suggested process improvements
SCE	Supports the straw proposal	SCE concurs with the CAISO position
Six Cities	Supports the straw proposal	The Six Cities do not, at this time, support adoption of a pre-qualification process for the reasons stated in the Straw Proposal, including the administrative burden and cost of pre-qualifying a large number of prospective project sponsors that may not end up participating
Trans Bay Cable	No comment	
TransCanyon	Supports the straw proposal	

5.9.4 Revised Straw Proposal

Four of the six stakeholders submitting definitive comments on this topic were in agreement with the straw proposal. PG&E noted that it believes pre-qualification, when combined with other suggested process improvements, would further improve the efficiency and transparency of the process. LS Power agreed with PG&E, and it noted the benefits of not prequalifying project applicants.

The ISO continues to favor an approach that allows for flexibility and does not believe that pre-qualifying project applicants will provide a benefit to the current competitive solicitation process. Therefore, no changes will be made to the straw proposal.

5.9.5 Draft final Proposal

There has been no change since the initial straw proposal. Further, there was no additional stakeholder input. Therefore, the ISO considers the issue closed.

6 Next steps

As a next step, the ISO invites stakeholders to submit comments on the ISO's draft final proposal on the topic discussed in section 5 above or where the ISO has proposed specific revisions to the straw proposal. Comments are due October 26 and should be submitted to InitiativeComments@caiso.com.

Following review and evaluation of the comments received, the ISO will consider potential revisions to its proposal. No further rounds of stakeholder engagement are planned for this initiative. To the extent that any of its proposals require tariff amendments, the ISO is targeting the December meeting of the ISO Board of Governors to seek approval for such changes.

Attachment D

Board of Governors Decision on Approved Project Sponsor Enhancements

(November 2015)

Competitive Solicitation Enhancements

California Independent System Operator Corporation



Memorandum

To: ISO Board of Governors

From: Keith Casey, Vice President, Market and Infrastructure Development

Date: October 28, 2015

Re: Decision on approved project sponsor enhancements

This memorandum requires Board action.

EXECUTIVE SUMMARY

The ISO proposes to amend its tariff to exempt approved project sponsors selected by the ISO through the competitive solicitation process from the application procedures required for new participating transmission owners. The processes are duplicative and there is no reason an approved project sponsor should also go through the application procedures to become a participating transmission owner. The determination of the need for the transmission project is included in the transmission planning process, the public is notified of the successful bidder's selection through an ISO market notice, and the approved project sponsor is required to execute an agreement that provides the same information as required by the participating transmission owner application process. Importantly, the agreement includes an obligation to become a participating transmission owner and turn over operational control of the approved transmission project to the ISO upon completion.

Management recommends the following motion:

Moved, that the ISO Board of Governors approves the proposed approved project sponsor enhancements, as described in the memorandum dated October 28, 2015; and

Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed tariff change.

DISCUSSION AND ANALYSIS

In 2010 the ISO developed its competitive solicitation process for the selection of approved project sponsors to finance, construct, own, operate and maintain regional transmission facilities eligible for competitive solicitation included in the ISO's annual transmission plan. The competitive solicitation process requires bidders to submit an application to the ISO and, after a comprehensive evaluation of all applicants, including a description of qualifications to build the project, operation and maintenance practices, and project cost and cost containment, the bid is awarded to the approved project sponsor upon Management approval.

Absent an approved transmission project, if an entity desires to become a participating transmission owner and turn over operational control of their transmission facilities to the ISO, the tariff and Transmission Control Agreement provide an application process, stakeholder review of the application and Board decision. However, because the approved transmission project is not built yet, the Transmission Control Agreement would not be effective until the transmission project is energized and turned over to ISO operational control. Thus the ISO and the approved project sponsor enter into an Approved Project Sponsor Agreement that provides the roles and responsibilities during construction of the approved transmission project and requirements to become a participating transmission owner and turn the transmission project over to ISO operational control.

Since the transmission project has already been approved by the Board in the transmission planning process, and the selection of the successful bidder has already been determined by Management, requiring an entity to go through the participating transmission owner application process in addition to the competitive solicitation process is redundant. In addition, the duplicate process could introduce risk to the approved transmission project if the ISO has the right to require the approved project sponsor build the project, but then there is a "second bite at the apple" to determine if the ISO will accept the project in the participating transmission owner application process and include the cost in the ISO's transmission access charge.

This initiative proposes to exempt approved project sponsors from the ISO's normal application process for new participating transmission owners. The ISO believes the new participating transmission owner application process is duplicative of the competitive solicitation process and requiring approved project sponsors to submit an application would be inefficient and unnecessary. All of the notice and information requirements of the participating transmission owner application process are satisfied by the competitive solicitation process.

POSITIONS OF THE PARTIES

The proposed change is minimal and the ISO conducted one round of stakeholder interaction on this topic consisting of a proposal and draft tariff language. Comments were received from Six Cities who did not oppose the proposal and offered minor language changes to the proposed tariff language which we have accepted.¹

CONCLUSION

Management recommends that the Board approve the proposed change in this memorandum. This change is supported by stakeholders and was refined to address their comments. The proposed modification will improve the approved project sponsor experience.

¹ The Six Cities are the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside.



Board of Governors November 4, 2015

Decision on Approved Project Sponsor Enhancements

General Session

Motion

Moved, that the ISO Board of Governors approves the proposed approved project sponsor enhancements, as described in the memorandum dated October 28, 2015; and

Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed tariff change.

Moved: Ferron Second: Galiteva

Board Action:	Passed	Vote Count: 4-0
Bhagwat	Y	
Ferron	Y	
Galiteva	Y	
Mullin	Not present	
Olsen	Y	

Motion Number: 2015-11-G2

Attachment E

Board of Governors Decision on Competitive Solicitation Process Enhancements

(December 2015)

Competitive Solicitation Enhancements

California Independent System Operator Corporation



Memorandum

To: ISO Board of Governors

From: Keith Casey, Vice President, Market and Infrastructure Development

Date: December 10, 2015

Re: **Decision on competitive solicitation process enhancements**

This memorandum requires Board action.

EXECUTIVE SUMMARY

The ISO is pursuing three enhancements to the competitive solicitation process for eligible transmission upgrades:

1. Modify the collaboration period to coincide with opening of the application bid window, extend the bid window an additional two weeks, and eliminate the opportunity for collaboration after the close of the bid window.
2. Establish an obligation for an approved project sponsor to transfer assets to the alternative project sponsor, if desired, at cost or at net book value if the approved project sponsor has depreciated them.
3. Require project sponsors to provide copies of initial, project-related FERC filings to the ISO, existing participating transmission owners and other approved project sponsors.

Management recommends the following motion:

Moved, that the ISO Board of Governors approves the proposed competitive solicitation process enhancements, as described in the memorandum dated December 10, 2015; and

Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed tariff change.

DISCUSSION AND ANALYSIS

Over the last two years, the ISO and stakeholders have worked together to improve the competitive solicitation process for eligible transmission upgrades. The ISO and stakeholders have discussed a number of topics throughout this stakeholder process, many of which have resulted in improvements that do not require tariff modifications. For example, to provide greater guidance to project sponsors, the ISO has agreed to include additional details in future project functional specifications and revise the competitive solicitation project sponsor application to provide greater clarity. In response to stakeholder input, the ISO will be soliciting additional information from project sponsors to enhance the comparative analysis. Further, the ISO has committed to improve the clarity and detail provided in project sponsor selection reports. In particular, the ISO will seek to better explain the differences between applicants and the relevance of those differences to the ISO's decision.

Management is seeking Board approval of the following three topics, discussed in the stakeholder process, that require a tariff change:

Collaboration period

The tariff currently provides for a collaboration period following the validation phase of the competitive solicitation process. Specifically, the ISO opens a bid window for project sponsors to submit a proposal for transmission facilities eligible for competitive solicitation. After the bid window closes, the ISO validates whether the applications submitted by project sponsors are complete and contain sufficient information, and then posts the names of validated project sponsors. Next, the ISO provides validated project sponsors with the opportunity to collaborate with other validated project sponsors and submit a joint proposal. The collaboration phase of the process can take up to thirteen weeks to complete, which includes re-validation of any joint proposals. Following the collaboration phase, the ISO then completes the qualification and comparative analysis phases of the approved project sponsor selection process.

Certain stakeholders have stated that the current collaboration process unduly extends the competitive solicitation review period and needlessly delays project sponsor selection and, ultimately, completion of the project. Stakeholders also voiced concerns that the existing collaboration framework can afford an unfair advantage to collaborating parties by allowing them to revise their proposals to take advantage of market changes that have occurred or new information that has become available since the bid window closed, or simply to submit a stronger bid than they originally submitted. Whereas only collaborating parties are allowed to submit a joint proposal and revise their bids during the collaboration window, the remaining validated project sponsors are not allowed to refresh their bids. Management agrees with these concerns.

Accordingly, Management proposes to modify the application bid window to allow potential bidders interested in collaborating to notify the ISO of their interest within two weeks after the solicitation bid window opens. The ISO will post the list of potential

bidders interested in collaborating and their contact information on the ISO website. Collaborating parties would submit their joint application by the end of the solicitation bid window along with all other bidders. To accommodate additional time for collaboration, the ISO will extend the current bid window period by an additional two weeks.

This proposal provides schedule certainty because all collaboration will occur up front during the open solicitation bid window, and it removes the possibility of up to a thirteen week delay in the process. The proposal eliminates any concerns about providing an unfair advantage to collaborating parties because all proposals will be due at the same time, and there will be no opportunity for only certain sponsors to refresh their bids. The proposal also ensures that sponsors must submit their best bids up front. An additional benefit will be the reduced cost incurred to validate initial individual proposals, and again to validate subsequent collaborative proposals.

Obligation regarding transfer of assets

Under certain well-defined circumstances, the tariff and the approved project sponsor agreement allow the ISO to terminate the approved project sponsor agreement and require the approved project sponsor to work with the ISO and alternative project sponsor to transfer project responsibilities. An approved project sponsor may also terminate the approved project sponsor agreement. Stakeholders suggested that the approved project sponsor should also have a specific requirement or obligation to transfer project-related assets to an alternative project sponsor, if the alternative project sponsor so desires. The concern is that the approved project sponsor that cannot complete the project could have an asset, such as land or equipment, which the alternative project sponsor could use to successfully complete the project in a timely manner. Absent a specific requirement to transfer the assets at cost, the original approved project sponsor could require an excessive fee for the asset and essentially hold the ISO and the alternative project sponsor “hostage,” particularly if the ISO needs to complete the project by a certain date to meet an imminent reliability need. To address this issue, Management proposes that when an approved project sponsor agreement is terminated, if an alternative project sponsor desires a project-related asset, the approved project sponsor shall negotiate in good faith with the alternative project sponsor to transfer any such project asset. The approved project sponsor that is transferring the asset to an alternative project sponsor should do so at cost or, if the original approved project sponsor has depreciated the asset, at net book value. This is consistent with the general rate treatment of rate-based assets. The proposed requirement does not preclude any abandoned plant recovery as allowed by FERC.

Notice of FERC filings

Stakeholders suggested that project sponsors should have a requirement to notify the ISO, participating transmission owners, and approved project sponsors about any related FERC filings associated with the competitively bid project. Without this notice, it has been difficult to track all of the relevant FERC filings made by project sponsors. Management therefore proposes that project sponsors shall be required to provide, in a

timely manner, a copy of all initial filings it submits in a FERC docket related to the project to the ISO, participating transmission owners, and approved project sponsors.

POSITIONS OF THE PARTIES

The ISO conducted several rounds of stakeholder interaction on these topics, including an issue paper, a straw proposal, a revised straw proposal, and a draft final proposal. Stakeholders were able to provide comments at each phase of the process.

Collaboration period

After considering initial stakeholder comments, the ISO requested in the revised straw proposal input on three alternative options for collaboration: (1) move the collaboration to coincide with the solicitation bid window; (2) retain the existing collaboration process, but allow all project sponsors to refresh their bids if there is successful collaboration among bidders; and (3) if there are only two validated project sponsors and they are collaborating, require that any joint proposal result in an equal or lower cost for ISO ratepayers.

Based on comments received on the revised straw proposal, a majority of stakeholders supported option 1, and so the ISO adopted this option in its draft final proposal. SCE did not oppose option 1 and understands the reasoning behind it, but indicated a preference to retain a separate collaboration period from a commercial perspective. NEET West did not provide comments on the draft final proposal, however NEET West opposed option 1 in its comments on the revised straw proposal. NEET West argued for retaining the current collaboration period which has resulted in successful collaborations on previous projects. NEET West also argued that the current collaboration period does not unduly delay project sponsor selection or add unnecessary time to the overall process.

As discussed above, the existing collaboration approach can add up to 13 weeks to the selection process. Further, NEET West's arguments did not address the potential undue advantage that can result from the existing approach or the additional work effort and resources expended for project sponsors to prepare and the ISO to evaluate additional bids.

Obligation regarding transfer of assets

Initially, transmission developers objected to a requirement to transfer project-related assets to an alternative project sponsor. Other stakeholders supported this proposal from the beginning and suggested minor changes and clarifications throughout the stakeholder process. Stakeholders supporting the final proposal included Six Cities, PG&E, SCE, and NEET West. TransCanyon provided comments early in the process that a transfer of assets should be a negotiation between the two parties at market based rates and the ISO should not impose a particular outcome. TransCanyon did not provide comments on the draft final proposal. LS Power subsequently provided comments opposing the proposal and suggesting that, at a minimum, the alternative project sponsor should be required to purchase 100 percent of the project at full book value. The ISO's proposal ensures the reasonable transfer of assets needed to

complete the project in a timely, cost-effective manner and provides for cost recovery of assets consistent with FERC ratemaking principles. The ISO also clarified that this proposal does not preclude any abandoned plant recovery as allowed by FERC.

Notice of FERC filings

This proposal was suggested later in the stakeholder process; however, all stakeholders that provided comments on this issue supported the final proposal.

CONCLUSION

Management recommends that the Board approve the three changes proposed in this memorandum. These changes are supported by a majority of stakeholders and were refined through the stakeholder process to address specific comments and concerns. The proposed modifications will improve both the ISO's ability to administer the competitive solicitation process and the applicant project sponsors' experience.



Board of Governors December 17-18, 2015
General Session

Decision on Competitive Solicitation Process Enhancements

Motion

Moved, that the ISO Board of Governors approves the proposed competitive solicitation process enhancements, as described in the memorandum dated December 10, 2015; and

Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed tariff change.

Moved: Galiteva Second: Ferron

Board Action: Passed Vote Count: 4-0	
Bhagwat	Y
Ferron	Y
Galiteva	Y
Mauillin	Not present
Olsen	Y

Motion Number: 2015-12-G5