

146 FERC ¶ 61,198
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation	Docket Nos. ER13-103-001 ER13-103-003
Pacific Gas and Electric Company	ER12-2709-001
San Diego Gas & Electric Company	ER13-87-001

ORDER ON CLARIFICATION AND COMPLIANCE

(Issued March 20, 2014)

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1. On April 18, 2013, the Commission issued an order accepting, subject to modifications,¹ a compliance filing that the California Independent System Operator Corporation (CAISO) made to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.²

2. On May 20, 2013, LS Power Transmission, LLC and LSP Transmission Holdings, LLC (together, LS Power) filed a request for clarification in Docket No. ER13-103-001 of the First Compliance Order. On August 20, 2013, CAISO submitted in Docket No. ER13-103-002, pursuant to section 206 of the Federal Power Act (FPA),³ further revisions to its tariff to comply with the First Compliance Order (CAISO Second Compliance Filing).⁴ For the reasons discussed below, we deny the request for clarification and accept CAISO's proposed tariff revisions, subject to conditions, and direct CAISO to submit further revisions to its tariff in a further compliance filing due within 60 days of the date of issuance of this order.

I. Background

3. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, taken together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the transmission planning requirements of Order No. 890⁵ to require that each public utility

¹ *Cal. Indep. Operator Corp.*, 143 FERC ¶ 61,057 (2013) (First Compliance Order).

² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

³ 16 U.S.C. § 824e (2012).

⁴ On August 21, 2013, CAISO withdrew its compliance filing submitted on August 16, 2013 in Docket No. ER13-103-002 due to a clerical error, and resubmitted the corrected filing in Docket No. ER13-103-003. *See* CAISO Withdrawal of Pleading, Docket No. ER13-103-002 (Aug. 21, 2013).

⁵ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299

(continued...)

transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its Open Access Transmission Tariff (OATT) to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

4. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.

5. On October 11, 2012, CAISO filed initial revisions to its tariff to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000 (First Compliance Filing). On April 18, 2013, the Commission accepted CAISO's compliance filing, subject to further modifications to be filed within 120 days of the date of issuance of the order.

II. Notice of Filing and Responsive Pleadings

6. Notice of CAISO's compliance filing was published in the *Federal Register*, 78 Fed. Reg. 52,912 (2013), with interventions and protests due on or before September 19, 2013.

7. The following entities filed motions to intervene: Sacramento Municipal Utility District (SMUD); Salt River Project Agricultural Improvement and Power District (Salt River Project); City of Los Angeles Department of Water and Power (LADWP); Southern California Edison Company (SoCal Edison); and Citizens Energy Corporation (Citizens Energy). Citizens Energy also filed separate comments in support of CAISO's compliance filing. Protests were filed by SoCal Edison, LS Power, and Neighboring Systems, comprised of SMUD, Salt River Project, LADWP, Transmission Agency of Northern California, and Imperial Irrigation District. CAISO and California Department of Water Resources State Water Project (State Water Project) filed answers to the protests. SoCal Edison and LS Power filed answers to CAISO's answer.

(2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

8. On December 10, 2013, LS Power filed a motion to lodge in the record a November 6, 2010 report issued by CAISO regarding the results of a competitive solicitation it conducted for a transmission project pursuant to its existing transmission planning process.⁶ Pattern Transmission, LP (Pattern) and Trans Bay Cable LLC (Trans Bay Cable) filed answers in support of LS Power's motion. CAISO and Imperial Irrigation District filed answers opposing LS Power's motion. CAISO filed an answer to Pattern's and Trans Bay Cable's answers. On January 10, 2014, LS Power filed an answer to the answers filed by CAISO and Imperial Irrigation District to LS Power's motion. In addition, on March 4, 2014, LS Power submitted supplemental comments asking the Commission to consider additional information as it evaluates CAISO's compliance filing.

III. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.⁷

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by CAISO and State Water Project, as well as the answers filed by SoCal Edison and LS Power in response to CAISO's answer, because they have provided information that has assisted us in our decision-making process.

11. We deny LS Power's motion to lodge and reject LS Power's supplemental comments. The motion to lodge addresses a competitive solicitation conducted pursuant to CAISO's pre-Order No. 1000 transmission planning process. LS Power's supplemental comments relate to actions taken by Alberta Independent System Operator in its solicitation for transmission sponsors. As such, we conclude that both the motion to lodge and the supplemental comments are beyond the scope of this proceeding, which addresses CAISO's compliance with the First Compliance Order. Moreover, we note that several of the issues raised by LS Power in the motion to lodge and in its supplemental

⁶ Gates-Gregg Project, Project Sponsor Selection Report (Nov. 6, 2013).

⁷ SoCal Edison also filed a motion to intervene although it had already been granted an intervenor status in the First Compliance Order. *See* First Compliance Order, 143 FERC ¶ 61,057 at PP 8 & 11.

comments have already been raised in its protest of CAISO's compliance filing. Thus, these arguments are merely repetitive and will not aid the Commission in its decision making process. For these reasons, LS Power's motion to lodge and supplemental comments are rejected. Because we are denying LS Power's motion to lodge, we also reject the answers to the motion to lodge filed by Pattern, Trans Bay Cable, CAISO and Imperial Irrigation District, CAISO's answer to Pattern's and Trans Bay Cable's answers, and LS Power's answer to CAISO's and Imperial Irrigation District's answers.

12. We note that the tariff record CAISO submitted here in response to the First Compliance Order also include tariff provisions pending in tariff records that CAISO separately filed on May 10, 2013 to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000. The tariff records CAISO submitted in their interregional compliance filing are pending before the Commission and will be addressed in a separate order. Therefore, any acceptance of the tariff record in the instant filing that include tariff provisions submitted to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000 is made subject to the outcome of the Commission order addressing CAISO's interregional compliance filing in Docket No. ER13-1470-000.

B. Substantive Matters

13. We deny LS Power's request for clarification. As discussed below in the Qualification Criteria section, CAISO has provided a sufficient level of detail concerning how it will evaluate among competing transmission developers to determine their respective capabilities to operate and maintain a transmission facility "for the life of the project." We find that CAISO's revised qualification criteria provide added clarity as to the specific information that potential transmission developers must submit to demonstrate that they satisfy CAISO's qualification criteria with respect to operating and maintaining a transmission facility "for the life of the project."

14. We find that CAISO's Second Compliance Filing partially complies with the directives in the First Compliance Order. Accordingly, we accept CAISO's compliance filing, effective October 1, 2013, as requested, subject to a further compliance filing, as discussed below. We direct CAISO to submit the compliance filing within 60 days of the date of issuance of this order.

1. Overview of CAISO Transmission Planning Process

15. CAISO's transmission planning process is conducted in three phases. In phase 1, CAISO develops its unified planning assumptions and study plan with stakeholder input and determines what technical studies it will conduct during the current transmission planning cycle. The unified planning assumptions and study plan set forth, among other things, the data and assumptions CAISO will use in the transmission planning process (for example, load forecast, resource additions and retirements, etc.), a list of the

technical studies CAISO will perform, and the schedule for stakeholder activities.⁸ The unified planning assumptions and study plan also describe the policy requirements and directives that will be considered in the transmission planning process including, as appropriate, programs initiated by state and federal regulatory authorities. The unified planning assumptions and study plan are developed in an open stakeholder process that provides stakeholders multiple opportunities to provide input regarding the consideration of policy directives and requirements.⁹

16. In phase 2, CAISO conducts technical studies and other assessments necessary to develop its comprehensive transmission plan. During phase 2, CAISO initially performs the studies specified in its study plan and then determines the appropriate transmission (or non-transmission) solution(s) to meet reliability needs, economic needs, public policy requirements and directives, location-constrained resource interconnection facilities, and the solutions for maintaining the feasibility of long-term congestion revenue rights.¹⁰ Following the publication of technical studies, CAISO opens a request window wherein interested parties can submit proposed transmission solutions to the identified needs.¹¹ In this phase, CAISO will determine which transmission solutions will be included in the comprehensive transmission plan by considering the degree to which a regional transmission facility may be substituted for one or more local transmission facilities as a more efficient or cost effective solution to identified needs.¹² In making such determinations, CAISO will not give undue weight or preference to the conceptual statewide plan or any other input into its planning process.¹³ The transmission solutions

⁸ CAISO, eTariff, § 24.3.2 (Contents of the Unified Planning Assumptions and Study Plan) (2.0.0).

⁹ CAISO, eTariff, § 24.3.3 (Stakeholder Input – Unified Planning Assumptions/Study Plan) (2.0.0).

¹⁰ CAISO, eTariff, § 24.1 (Overview) (3.0.0).

¹¹ CAISO, eTariff, § 24.4.3 (Phase 2 Request Window) (1.0.0). Proposing a solution does not confer ownership rights to the solution.

¹² CAISO will consider various categories of transmission solutions including merchant transmission facility proposals, reliability driven solutions, solutions to maintain the feasibility of long term congestion revenue rights and network upgrades associated with large generator interconnection projects and policy driven transmission solutions. *See* CAISO, eTariff, § 24.4.6.2 (Reliability Driven Solutions) (6.0.0)

¹³ CAISO, eTariff, § 24.4.5 (Determination of Needed Transmission Solutions) (2.0.0).

identified in the draft and final comprehensive transmission plan that are subject to the competitive solicitation process will provide sufficient engineering detail to permit potential project sponsors to submit complete proposals to build the identified transmission solution.¹⁴

17. Also in phase 2, CAISO posts the draft comprehensive transmission plan and conducts a stakeholder conference and solicits comments. After consideration of comments, CAISO posts the revised draft comprehensive transmission plan to the CAISO website. The revised draft comprehensive transmission plan, along with stakeholder comments, is presented to the CAISO Board for consideration and approval. Following Board approval, CAISO posts the final comprehensive transmission plan to the CAISO website.¹⁵

18. In phase 3, CAISO conducts an open solicitation in which all interested parties, including independent transmission developers and existing participating transmission owners, may submit proposals to finance, own, and construct the regional transmission solutions selected in phase 2 of the transmission planning process for inclusion in the comprehensive transmission plan for purposes of cost allocation. Proposed project sponsors¹⁶ submit information as part of the project sponsor application to demonstrate that they are physically, technically, and financially capable of completing the regional transmission project in a timely and competent manner and to demonstrate their ability to operate and maintain the facilities, consistent with good utility practice and applicable reliability criteria. Where there is only one qualified project sponsor for a transmission solution, that sponsor may proceed to the appropriate siting authority to have the proposed transmission project sited. Where two or more project sponsors meet the qualification requirements, CAISO will, upon request, allow an opportunity for the project sponsors to collaborate with each other to propose a single joint proposal to meet

¹⁴ CAISO, eTariff, § 24.4.7 (Description of Transmission Solutions) (1.0.0).

¹⁵ CAISO, eTariff, § 24.4 (Transmission Planning Process Phase 2) (1.0.0).

¹⁶ A project sponsor is defined as a market participant, group of market participants, a participating transmission owner, or a project developer who is not a market participant or participating transmission owner that proposes to construct a transmission addition or upgrade in accordance with CAISO's transmission planning process. CAISO Tariff, Appendix A. CAISO's transmission planning process is a competitive bid model, rather than a sponsorship model; therefore, the term "project sponsor" as used in this order refers to transmission developers who submit proposals to finance, own, and construct the regional transmission facilities subject to competitive solicitation.

such need. If the project sponsors are unable to collaborate, CAISO will determine which project sponsor should build and own the transmission project and recover the associated costs through CAISO's transmission access charge. CAISO makes its determination based on a comparative analysis of the degree to which each project sponsor meets the evaluation criteria specified in the tariff.¹⁷

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

19. Through the regional transmission planning process, public utility transmission providers must evaluate, in consultation with stakeholders, alternative transmission solutions that might meet the needs of the transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.¹⁸ Public utility transmission providers have the flexibility to develop, in consultation with stakeholders, procedures by which the public utility transmission providers in the transmission planning region identify and evaluate the set of potential solutions that may meet the region's needs more efficiently or cost-effectively.¹⁹ In addition, whether or not public utility transmission providers within a transmission planning region select a transmission facility in the regional transmission plan for purposes of cost allocation will depend in part on their combined view of whether the transmission facility is a more efficient or cost-effective solution to their needs.²⁰

20. Public utility transmission providers in each transmission planning region, in consultation with stakeholders, must propose what information and data a merchant transmission developer²¹ must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to

¹⁷ CAISO, eTariff, § 24.5 (Transmission Planning Process Phase 3) (1.0.0).

¹⁸ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 148.

¹⁹ *Id.* P 149.

²⁰ *Id.* P 331.

²¹ Order No. 1000 defines merchant transmission projects as projects "for which the costs of constructing the proposed transmission facilities will be recovered through negotiated rates instead of cost-based rates." Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 119.

assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.²²

21. Finally, the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region's transmission needs.²³ Order No. 1000 does not require that the resulting regional transmission plan be filed with the Commission.

a. First Compliance Order

22. In the First Compliance Order, the Commission found that many of the aspects of CAISO's regional transmission planning process complied with the requirements of Order No. 1000. First, the Commission found that CAISO conducts, in consultation with stakeholders, a regional transmission planning process that produces a comprehensive transmission plan that meets the needs of CAISO's region more efficiently or cost-effectively.²⁴ Second, the Commission found that CAISO complied with Order No. 1000's requirement to propose what information and data a merchant transmission developer must provide to the regional transmission planning process to allow the public utility transmission providers in the transmission planning region to assess the potential reliability and operational impacts of the merchant transmission developer's proposed transmission facilities on other systems in the region.²⁵ In addition, the Commission found that CAISO's ten-year transmission planning horizon is reasonable and is consistent with the North American Electric Reliability Corporation's (NERC) transmission planning standards.²⁶ The Commission also found that CAISO considers different categories of transmission needs (i.e., reliability, economic, and public policy driven needs) in an integrated, sequential manner, and not in isolation,²⁷ and that CAISO's regional transmission planning process reasonably captures the reliability

²² *Id.* P 164; Order No. 1000-A, 139 FERC ¶ 61,132 at PP 297-298.

²³ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 147.

²⁴ First Compliance Order, 143 FERC ¶ 61,057 at PP 54-55.

²⁵ *Id.* PP 56, 60-61.

²⁶ *Id.* P 57.

²⁷ *Id.* P 58.

benefits of transmission projects.²⁸ Finally, the Commission found that CAISO's tariff includes sufficient detail addressing the methods and metrics by which CAISO evaluates economic projects.²⁹

23. However, the Commission noted that CAISO's proposal incorporated the phrase "in the most prudent and cost-effective manner" to describe the standard it uses to determine solutions to meet identified reliability needs and identified needs to maintain the feasibility of long-term congestion revenue rights in its regional transmission planning process. Accordingly, the Commission directed CAISO to revise the proposed standard for consistency with the Order No. 1000 standard of "more efficient or cost-effective."³⁰

b. Summary of Compliance Filing

24. On compliance, CAISO proposes to revise its tariff to state that when it is developing its comprehensive transmission plan, it will determine the solution that meets an identified reliability need or an identified need to maintain the feasibility of long-term congestion revenue rights in the more efficient or cost-effective manner.³¹

c. Commission Determination

25. We find that CAISO's proposed revisions to the regional transmission planning process comply with the directives in the First Compliance Order. CAISO has revised its tariff to state that CAISO will determine the solution that meets regional needs in the "more efficient or cost-effective" manner.

3. Consideration of Transmission Needs Driven by Public Policy Requirements

26. Order No. 1000 required public utility transmission providers to amend their OATTs to include procedures for the consideration of transmission needs driven by Public Policy Requirements in both the local and regional transmission planning

²⁸ *Id.* P 59.

²⁹ *Id.* P 62.

³⁰ *Id.* P 54.

³¹ CAISOTariffSection 24.4.6.2 and CAISO, eTariff, § 24.4.6.4 (Solutions to Maintain the Feasibility of Long Term CRRs) (6.0.0).

processes.³² Public Policy Requirements are requirements established by local, state or federal laws or regulations (i.e., enacted statutes passed by the legislature and signed by the executive and regulations promulgated by a relevant jurisdiction, whether within a state or at the federal level).³³

27. The Commission in Order No. 1000 explained that, to consider transmission needs driven by Public Policy Requirements, public utility transmission providers must adopt procedures to (1) identify transmission needs driven by Public Policy Requirements and (2) evaluate potential solutions to meet those identified needs.³⁴ More specifically, public utility transmission providers must adopt procedures in their local and regional transmission planning processes for identifying transmission needs driven by Public Policy Requirements that give all stakeholders a meaningful opportunity to provide input and to offer proposals regarding what they believe are transmission needs driven by Public Policy Requirements.³⁵ Each public utility transmission provider must explain how it will determine at both the local and regional level, the transmission needs driven by Public Policy Requirements for which solutions will be evaluated³⁶ and must post on its website an explanation of: (1) those transmission needs driven by Public Policy Requirements that were identified for evaluation for potential solutions in the local and regional transmission planning processes and (2) why other proposed transmission needs driven by Public Policy Requirements were not selected for further evaluation.³⁷

28. Order No. 1000 also required public utility transmission providers, in consultation with stakeholders, to evaluate at the local and regional level potential solutions to identified transmission needs driven by Public Policy Requirements, including transmission facilities proposed by stakeholders.³⁸ The evaluation procedures must give

³² Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 203.

³³ *Id.* P 2. Order No. 1000-A clarified that Public Policy Requirements included local laws and regulations passed by a local governmental entity, such as a municipal or county government. Order No. 1000-A, 139 FERC ¶ 61,132 at P 319.

³⁴ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 205.

³⁵ *Id.* PP 206-209; Order No. 1000-A, 139 FERC ¶ 61,132 at P 335.

³⁶ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 208-209.

³⁷ *Id.* P 209; *see also* Order No. 1000-A, 139 FERC ¶ 61,132 at P 325.

³⁸ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 211 & n.191.

stakeholders the opportunity to provide input and enable the Commission and stakeholders to review the record created by the process.³⁹

a. **Incorporating Consideration of Transmission Needs Driven by Public Policy Requirements in the Regional Transmission Planning process**

i. **First Compliance Order**

29. In the First Compliance Order, the Commission found that CAISO partially complied with the provisions of Order No. 1000 addressing transmission needs driven by public policy requirements. The Commission found that, in large part, CAISO's existing tariff provisions addressed such transmission needs,⁴⁰ specifically finding that stakeholders have an opportunity under CAISO's planning process to propose transmission needs they believe are driven by public policy requirements in phase 1 of the process.⁴¹ The Commission further found that CAISO had established a just and reasonable and not unduly discriminatory process through which it will identify those transmission needs driven by public policy requirements for which transmission solutions will be evaluated.⁴² In addition, the Commission found that CAISO complied with the requirement that each public utility transmission provider must post on its website an explanation of: (1) those transmission needs driven by public policy requirements that have been identified for evaluation for potential solutions in the regional transmission planning process; and (2) why other suggested transmission needs driven by public policy requirements introduced by stakeholders were not selected for further evaluation.⁴³

30. However, the Commission directed CAISO to modify two aspects of its tariff to ensure that the range of transmission needs driven by public policy requirements that CAISO will consider in its regional transmission planning process are consistent with the definition of public policy requirements in Order Nos. 1000 and 1000-A.⁴⁴ First, the

³⁹ Order No. 1000-A, 139 FERC ¶ 61,132 at PP 320-321.

⁴⁰ First Compliance Order, 143 FERC ¶ 61,057 at P 84.

⁴¹ *Id.* P 90.

⁴² *Id.* P 92.

⁴³ *Id.* P 93.

⁴⁴ *Id.* P 85.

Commission directed CAISO to revise its tariff to state that municipal and county directives must be taken into account in considering public policy requirements in the transmission planning process, in accordance with the Commission's clarification in Order No. 1000-A.⁴⁵ Second, the Commission found that CAISO's proposal to account for only public policy requirements or directives "that are not inconsistent with the Federal Power Act" is not consistent with the definition of public policy requirements in Order No. 1000. The Commission therefore directed CAISO to remove the reference to consistency with the FPA in two tariff sections, expressing concern that it may unreasonably limit Order No. 1000's definition of the term "public policy requirements."⁴⁶

31. Moreover, the Commission found that CAISO partially complied with the requirement that it establish procedures in its tariff to evaluate, at the regional level, potential solutions to identified transmission needs driven by public policy requirements, including those proposed by stakeholders, noting that the procedures must provide stakeholders an opportunity to provide input during the evaluation of potential solutions to identified needs. Specifically, the Commission directed CAISO to revise its tariff to change "may" to "shall" in describing its obligation to evaluate transmission upgrades and addition elements needed to meet state or federal policy requirements that were identified and included in its study plan. The Commission noted that once public utility transmission providers have identified a subset of transmission needs driven by public policy requirements for which they will evaluate transmission solutions, pursuant to Order No. 1000, they are obligated to evaluate potential solutions for this subset of identified needs.⁴⁷

32. Finally, the Commission found reasonable CAISO's proposal to carry over a transmission need driven by public policy requirements selected for consideration in a transmission planning cycle to other transmission planning cycles unless CAISO determines that it has been eliminated, modified, or is otherwise inapplicable or irrelevant for transmission planning purposes in a current cycle. While the Commission also found reasonable CAISO's proposal to provide an explanation of any decision not to consider a previously identified transmission need driven by public policy requirements or directives in the current transmission planning cycle, the Commission directed CAISO to clarify

⁴⁵ *Id.* P 85.

⁴⁶ *Id.* P 86.

⁴⁷ *Id.* P 96.

how the required explanation would be provided (e.g., by posting such explanation on its website, or by some other means).⁴⁸

ii. Summary of Compliance Filing

33. On compliance, CAISO proposes to revise its tariff to: (1) state that its transmission plan will identify transmission solutions needed to meet municipal and county requirements and directives;⁴⁹ (2) remove the term “not inconsistent with the Federal Power Act” from those provisions that previously contained that reference;⁵⁰ and (3) change “may” to “shall” in reference to its evaluation of transmission solutions addressing an identified transmission need driven by a public policy requirement or directive.⁵¹

iii. Commission Determination

34. We find that CAISO’s proposed revisions to the regional transmission planning process partially comply with the directives in the First Compliance Order concerning the consideration of transmission needs driven by public policy requirements. Specifically, we find that CAISO’s proposed tariff revisions expressly state that its transmission plan will identify transmission solutions needed to meet municipal and county public policy requirements, remove the term “not inconsistent with the Federal Power Act” from those tariff provisions that previously contained that reference,⁵² and replace “may” with “shall” in reference to its evaluation of transmission solutions addressing an identified transmission need driven by a public policy requirement or directive in compliance with the directives specified in the First Compliance Order.

35. However, CAISO did not respond to the Commission’s directive in the First Compliance Order for it to clarify how a decision not to consider a previously identified transmission need driven by public policy requirements will be provided to stakeholders

⁴⁸ *Id.* 97.

⁴⁹ CAISO Tariff Section 24.1, and CAISO eTariff, §§ 24.3.2 (Contents of the Unified Planning Assumptions and Study Plan) (3.0.0) and 24.3.3 (Stakeholder Input – Unified Planning Assumptions/Study Plan) (3.0.0).

⁵⁰ CAISO Tariff Sections 24.1 and 24.3.3.

⁵¹ CAISO eTariff, § 24.4.6.6 (Policy-Driven Transmission Solutions) (6.0.0).

⁵² *See supra* n. 49.

(e.g., by posting such explanation on its website, or by some other means). Accordingly, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing to address this previous directive.

4. Nonincumbent Transmission Developer Reforms

36. In Order No. 1000, the Commission adopted a framework of reforms to ensure that nonincumbent transmission developers have the opportunity to participate in the transmission development process. In particular, public utility transmission providers must eliminate federal rights of first refusal from Commission-jurisdictional tariffs and agreements and develop not unduly discriminatory qualification criteria and processes governing the submission and evaluation of proposals for new transmission facilities.

a. Federal Rights of First Refusal

37. Order No. 1000 required each public utility transmission provider to remove provisions in Commission-jurisdictional tariffs and agreements that establish a federal right of first refusal for an incumbent transmission provider with respect to transmission facilities selected in a regional transmission plan for purposes of cost allocation.⁵³ The requirement to eliminate a federal right of first refusal does not apply to local transmission facilities,⁵⁴ or to the right of an incumbent transmission provider to build, own, and recover costs for upgrades to its own transmission facilities, regardless of whether an upgrade has been selected in the regional transmission plan for purposes of

⁵³ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 313. In Order No. 1000-A, the Commission clarified that the phrase “a federal right of first refusal” refers only to rights of first refusal that are created by provisions in Commission-jurisdictional tariffs or agreements. Order No. 1000-A, 139 FERC ¶ 61,132 at P 415.

⁵⁴ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 226, 258, 318. Order No. 1000 defined local transmission facilities as transmission facilities located solely within a public utility transmission provider’s retail distribution service territory or footprint that are not selected in the regional transmission plan for purposes of cost allocation. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 63. The Commission clarified in Order No. 1000-A that a local transmission facility is one that is located within the geographical boundaries of a public utility transmission provider’s retail distribution service territory, if it has one; otherwise the area is defined by the public utility transmission provider’s footprint. In the case of an RTO or ISO whose footprint covers the entire region, local transmission facilities are defined by reference to the retail distribution service territories or footprints of its underlying transmission owning members. Order No. 1000-A, 139 FERC ¶ 61,132 at P 429.

cost allocation.⁵⁵ In addition, the requirement does not remove, alter, or limit an incumbent transmission provider's use and control of its existing rights-of-way under state law.⁵⁶

i. First Compliance Order

38. In the First Compliance Order, the Commission found that CAISO partially complied with the requirements of Order No. 1000 with respect to eliminating federal rights of first refusal. Specifically, the Commission found that CAISO's proposed tariff revisions eliminated any federal right of first refusal for transmission facilities selected in the regional transmission plan for purposes of cost allocation, with the exception of upgrades to existing transmission facilities, as required by Order No. 1000.⁵⁷ However, the Commission found that the various uses of the terms "project," "solution," "element," "upgrade," and "addition" throughout the tariff may create confusion about which transmission facilities are subject to CAISO's competitive solicitation process, and thus are not subject to a federal right of refusal. Accordingly, the Commission directed CAISO to review and clarify the use of these respective terms.⁵⁸

ii. Summary of Compliance Filing

39. On compliance, CAISO proposes to revise its tariff to eliminate the terms "project" and "element," noting that they no longer apply under the Order No. 1000 framework in which all transmission facilities identified in the comprehensive transmission plan are subject to competitive solicitation. In their place, CAISO proposes to use the terms: (1) "transmission solution" to refer to a new transmission facility or

⁵⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 226, 319; Order No. 1000-A, 139 FERC ¶ 61,132 at P 426. The Commission stated in Order No. 1000 that upgrades to transmission facilities included such things as tower change outs or reconductoring, regardless of whether or not an upgrade has been selected in the regional transmission plan for purposes of cost allocation. Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319. The Commission clarified in Order No. 1000-A that the term "upgrade" means an improvement to, addition to, or replacement of a part of, an existing transmission facility. The term does not refer to an entirely new transmission facility. Order No. 1000-A, 139 FERC ¶ 61,132 at P 426.

⁵⁶ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 319.

⁵⁷ First Compliance Order, 143 FERC ¶ 61,057 at P 118.

⁵⁸ *Id.* P 118.

upgrade that is suggested, proposed, and/or identified as needed in phase 2 of its transmission planning process;⁵⁹ (2) “upgrade” to only reference an improvement to, addition to, or replacement of an existing transmission facility; (3) “non-transmission solution” to refer to an alternative to a transmission solution;⁶⁰ (4) “solution” to refer to either a transmission or non-transmission solution; and (5) “facility” to refer, in limited situations, to the actual physical facility that constitutes all or part of the solution, or where the term “solution” is inappropriate.⁶¹

40. With respect to upgrades, CAISO also proposes to revise its tariff to state that a participating transmission owner will have the responsibility to construct, own, finance, and maintain any upgrade or addition to an existing transmission facility.⁶² Moreover, CAISO has moved a provision, accepted in the First Compliance Order, from section 24.5.2 to section 24.5.1.⁶³ The provision states that if the transmission solution adopted in phase 2 of its transmission planning process involves an upgrade or improvement to, addition on, or a replacement of a part of a participating transmission owner’s existing facilities, the participating transmission owner will construct and own such upgrade, improvement, addition, or replacement facilities unless the participating transmission owner and the project sponsor of the adopted transmission solution agree to a different arrangement.

iii. Commission Determination

41. We find that the revised provisions in CAISO’s filing comply with the directives in the First Compliance Order concerning federal rights of first refusal because CAISO has replaced the terms “project,” “solution,” “element,” “upgrade,” and “addition” with terms that do not have the same potential to create confusion regarding which transmission facilities are subject to CAISO’s competitive solicitation process. The proposed terms will provide stakeholders with more clarity about CAISO’s transmission planning process.

⁵⁹ See CAISO Tariff Section 24.1.

⁶⁰ *Id.* 24.1.

⁶¹ CAISO Second Compliance Filing Transmittal Letter at 3-4.

⁶² See CAISO eTariff, § 24.4.10 (Transmission Plan Approval Process) (5.0.0).

⁶³ See CAISO, eTariff § 24.5.1 (Competitive Solicitation Process) (3.0.0).

42. We further find the revised tariff provision concerning a participating transmission owner having the responsibility to construct, own, finance, and maintain any upgrade or addition to an existing transmission facility complies with the First Compliance Order. We note that the provision that was moved to section 25.5.1, was previously found to comply with the requirements of Order No. 1000.⁶⁴

b. Qualification Criteria

43. Order No. 1000 required each public utility transmission provider to revise its OATT to establish appropriate qualification criteria for determining an entity's eligibility to propose a transmission project for selection in the regional transmission plan for purposes of cost allocation.⁶⁵ These criteria must not be unduly discriminatory or preferential when applied to either an incumbent transmission provider or a nonincumbent transmission developer.⁶⁶ In addition, public utility transmission providers must adopt procedures for timely notifying transmission developers of whether they satisfy the region's qualification criteria and allowing them to remedy any deficiencies.⁶⁷

44. Order No. 1000-A clarified that it would be an impermissible barrier to entry to require a transmission developer to demonstrate, as part of the qualification criteria, that it has, or can obtain, state approvals necessary to operate in a state to be eligible to propose a transmission facility.⁶⁸

i. First Compliance Order

45. In the First Compliance Order, the Commission noted that under CAISO's proposal, a project sponsor is required to demonstrate that its proposal is consistent with needed transmission elements identified in the comprehensive transmission plan and satisfies applicable reliability criteria. A project sponsor must also demonstrate that it is physically, technically, and financially capable of completing the transmission project. The Commission found that the proposed qualification criteria provisions in CAISO's

⁶⁴ First Compliance Order, 143 FERC ¶ 61,057 at P 118.

⁶⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 225, 323.

⁶⁶ *Id.* P 323.

⁶⁷ *Id.* P 324.

⁶⁸ Order No. 1000-A, 139 FERC ¶ 61,132 at P 441.

compliance filing did not comply with the requirements of Order No. 1000. Specifically, the Commission found that CAISO's proposed qualification criteria did not provide, in sufficient detail, the information potential transmission developers must provide in order for CAISO to determine their ability to finance, own and construct a regional transmission facility.⁶⁹ The Commission therefore required CAISO to make a further compliance filing establishing not unduly discriminatory or preferential qualification criteria for determining an entity's eligibility to submit a proposal in its competitive solicitation process that provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities.

46. In particular, the Commission found that the qualification criteria a transmission developer must meet to submit a proposal in CAISO's competitive solicitation process were unclear. The Commission noted that CAISO's tariff combined qualification criteria and the information requirements for submitting such a proposal without distinguishing between the two. By way of example, the Commission noted that two criteria that CAISO characterized as qualification criteria (i.e., whether a proposed transmission project (1) is consistent with needed transmission elements identified in the comprehensive transmission plan and (2) satisfies applicable reliability criteria and CAISO planning standards) appeared to be related to CAISO's evaluation of a project sponsor proposal rather than criteria to assess whether a potential transmission developer is eligible to submit a proposal. Because CAISO's qualification criteria were unclear, the Commission did not make any determination regarding the qualification criteria.⁷⁰

47. The Commission also stated that, under CAISO's proposal, qualification criteria would not apply to potential transmission developers prior to the competitive solicitation process. The Commission explained that under this proposal a potential transmission developer would not be in a position to understand the criteria it must satisfy to demonstrate financial and technical expertise to develop, construct, own, operate, and maintain transmission facilities, and would not know whether it qualifies to submit a bid until after it has gone through the process to submit a bid. The Commission therefore required CAISO to revise its tariff to explicitly state the qualification requirements a potential transmission developer must satisfy before that transmission developer can submit a bid.⁷¹ In addition, the Commission found that, to the extent that CAISO intends to incorporate the qualification criteria and information requirements currently reflected

⁶⁹ First Compliance Order, 143 FERC ¶ 61,057 at P 146.

⁷⁰ *Id.* P 147.

⁷¹ *Id.* P 148.

in its Business Practice Manual into its tariff, it must clearly distinguish between the qualification criteria and the information requirements.⁷²

48. The Commission also found that CAISO's tariff did not include procedures to provide timely notification to transmission developers indicating whether they satisfy the region's qualification criteria and opportunities to remedy any deficiencies. The Commission thus required that CAISO include these procedures in a subsequent compliance filing.⁷³

ii. Summary of Compliance Filing

49. In response to the Commission's finding that the tariff was unclear regarding what criteria a transmission developer must meet in order to submit a proposal in the competitive solicitation process, CAISO proposes several tariff revisions. First, CAISO proposes to revise its tariff to state that all project sponsors must submit the project sponsor application form as set forth in the Business Practice Manual and posted on CAISO's website. The proposed tariff revision also affirmatively states that "[a]ny 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."⁷⁴

50. CAISO proposes that to become an approved project sponsor,⁷⁵ a potential project sponsor must submit the following financial information in its project sponsor application so that CAISO can determine whether the project sponsor meets the proposed qualification criteria: (1) a 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 transmission facilities will not significantly

⁷² *Id.* PP 149-150.

⁷³ *Id.* P 151.

⁷⁴ CAISO, eTariff, § 24.5.2 (Project Sponsor Application and Information Requirements) (3.0.0).

⁷⁵ We note that while under CAISO's tariff a project sponsor does not have to be pre-qualified prior to submitting a project sponsor application, the project sponsor must ultimately submit financial information and be qualified by CAISO in order to be selected as an approved project sponsor. *Id.*

impair the project sponsor's creditworthiness or financial condition; (2) the project sponsor's most recent audited financial statements showing that the project sponsor's assets are in excess of liabilities as a percentage of the total cost of the transmission solution; (3) financial funding ratios from the most recent audited financial statements; (4) credit arrangements between affiliated entities, including corporate parent, and compliance with regulatory restriction and requirements; and (5) bankruptcy, dissolution, merger, or acquisition history.⁷⁶

51. In addition to this financial information, CAISO proposes that a potential transmission developer must also provide in its project sponsor application: (1) 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; (2) 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; (3) the projected in-service date of each transmission solution with a construction plan and timetable; (4) a description of the project sponsor's proposed engineering, construction, maintenance and management teams, including relevant capability and experience; (5) a description of the project sponsor's resources for operating and maintaining the transmission solution after it is placed in service; (6) 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 CAISO; (7) 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; and (8) 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 CAISO controlled grid.⁷⁷

52. CAISO proposes to revise its tariff to state that once all applications are received, it will review each project sponsor application for completeness and will verify that the application includes sufficient information for CAISO to determine whether the potential transmission developer qualifies as an approved project sponsor. Under its proposal, CAISO will notify each potential project sponsor regarding the status of its application.

⁷⁶ CAISO, eTariff, § 24.5.2.1(a) (Project Sponsor Information Requirements) (3.0.0).

⁷⁷ CAISO eTariff § 24.5.2.1(b)-(i).

If additional information is required, such information must be submitted by the deadline set forth in its Business Practice Manual. Additionally, under the proposal, potential project sponsors are provided an opportunity to cure any deficiencies in accordance with the schedule set forth in the Business Practice Manual. After the cure period has ended, CAISO proposes to post on its website a list of project sponsors whose applications contain sufficient information and have met the requirements set forth in the Business Practice Manual, subject to confidentiality provisions.⁷⁸

53. CAISO will determine whether the project sponsor has demonstrated that its team is physically, technically, and financially capable of both completing the needed transmission solution in a timely and competent manner and operating and maintaining the transmission solution in a manner that is consistent with Good Utility Practice and applicable reliability criteria, for the life of the project. CAISO's proposed tariff revisions provide that CAISO will make this determination based on the following criteria: (1) whether the project sponsor has assembled a sufficiently-sized team with the manpower, equipment, knowledge and skill required to undertake the design, construction, operation and maintenance of the transmission solution; (2) whether the project sponsor and its team have sufficient financial resources, including, but not limited to, satisfactory credit ratings and other financial indicators as well as the demonstrated ability to assume liability for major losses resulting from failure of any part of the facilities associated with the transmission solution; (3) whether the project sponsor has proposed a schedule for development and completion of the transmission solution consistent with need date identified by CAISO and has the ability to meet that schedule; (4) whether the project sponsor and its team have the necessary technical and engineering qualifications and experience to undertake the design, construction, operation and maintenance of the transmission solution; and (5) whether the project sponsor makes a commitment to become a participating transmission owner for the purpose of turning the regional transmission facility that the project sponsor is selected to construct and own over to 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 the Western Electricity Coordinating Council (WECC) standards, where applicable. CAISO states that if the project sponsor meets these criteria, it shall be deemed a qualified project sponsor.⁷⁹ CAISO's revised tariff also provides that if any project sponsors submit a joint proposal to finance, own, and construct a regional transmission solution, CAISO

⁷⁸ CAISO, eTariff, § 24.5.2.2 (Posting Applications with Sufficient Information) (3.0.0).

⁷⁹ CAISO eTariff, § 24.5.3.1 (Project Sponsor Qualification) (2.0.0).

will use these same qualification criteria to determine whether the joint project sponsors are qualified to finance, construct, own, operate, and maintain the transmission solution.⁸⁰

54. CAISO proposes to revise its tariff to state that it will post a list of qualified project sponsors in accordance with the schedule set forth in its Business Practice Manual. CAISO's revised tariff provides that once this list has been posted, CAISO will provide any project sponsor who did not meet the qualification criteria time, as set forth in its Business Practice Manual, to cure deficiencies in its application. Finally, CAISO proposes to revise its tariff to state that it will evaluate any additional information that these project sponsors provide and, once it has completed its reassessment, will repost the list of qualified project sponsors, if necessary, in accordance with the schedule set forth in its Business Practice Manual.⁸¹

55. CAISO proposes that before undertaking its comparative analyses of project sponsors and their proposals, it will determine whether the transmission solution proposed by a project sponsor qualifies for consideration. Specifically, CAISO will ensure that: (1) the proposed design of the transmission solution is consistent with needs identified in the comprehensive transmission plan; and (2) the proposed design of the transmission solution satisfies applicable reliability criteria and CAISO planning standards.⁸²

56. CAISO states that while the Commission previously found that these two criteria in section 24.5.2.1 appeared to be related to CAISO's evaluation of a proposal that a potential transmission developer would submit after it has qualified, rather than to the evaluation of whether a potential transmission developer is eligible to submit a proposal in the first place,⁸³ it states that new proposed section 24.5.3.2 recognizes that under CAISO's phase 3 framework approved by the Commission: (1) project sponsors submit

⁸⁰ If two or more potential transmission developers submit proposals to finance, own, and construct the same regional transmission solution, CAISO will, upon request, facilitate an opportunity for those project sponsors to collaborate with each other to submit a joint proposal. CAISO eTariff, § 24.5.2.3 (Multiple Project Sponsor Proposals: Collaboration) (3.0.0).

⁸¹ CAISO eTariff, § 24.5.3.3 (Posting Qualified Project Sponsors and Proposals) (2.0.0).

⁸² This existing tariff provision has been moved to new section of the tariff. *See* CAISO eTariff, § 24.5.3.2 (Proposal Qualification) (2.0.0).

⁸³ First Compliance Order, 143 FERC ¶ 61,057 at P 147.

only a single application in the competitive solicitation process for any transmission solution selected in the comprehensive transmission plan; and (2) project sponsors are only competing to construct and own the specific transmission solutions and facilities identified by CAISO in phase 2 and reflected in the comprehensive transmission plan. Thus, project sponsors are not proposing different or alternative facilities or solutions.⁸⁴ CAISO asserts it would be inefficient and a waste of resources for it to undertake its comparative analyses of project sponsors and their proposals in the event that the transmission solution proposed by a potential transmission developer is inconsistent with the transmission solution identified in the comprehensive transmission plan or if it fails to meet basic reliability and planning standards.⁸⁵ CAISO asserts that this preliminary “thumbs up or thumbs down” determination with respect to these criteria is not well-suited to a comparative analysis; therefore a preliminary determination is a more appropriate and efficient process than considering these criteria as individual selection criteria in the comparative analysis used to select an approved project sponsor.⁸⁶

57. In addition, under its proposal, CAISO will post to its website a list of qualified proposals in accordance with the schedule set forth in its Business Practice Manual and will provide project sponsors whose proposals do not meet the proposal qualification criteria with time, as specified in its Business Practice Manual, to cure any deficiencies. CAISO will evaluate any additional information provided by these project sponsors and will re-post the list of qualified project sponsors, if necessary, once the re-assessment has been completed in accordance with the schedule in the Business Practice Manual.⁸⁷

iii. Protests/Comments

58. In its protest, LS Power raises three objections to CAISO’s qualification requirements. First, LS Power contends that CAISO ignored the Commission’s direction that CAISO explicitly state what qualification requirements a potential transmission developer must satisfy before the transmission developer submits a proposal. By asserting that any entity may submit an application rather than setting forth the qualification requirements, LS Power argues that CAISO has prevented a potential project sponsor from knowing whether it is qualified before it goes to the effort and

⁸⁴ CAISO Second Compliance Filing Transmittal Letter at 8.

⁸⁵ *Id.*.

⁸⁶ *Id.* 9.

⁸⁷ *Id.* 7; CAISO Tariff Section 24.5.3.3.

expense of submitting a proposal in the competitive process.⁸⁸ LS Power also contends that if a submitting entity ultimately does not qualify to construct, own, and operate the facility, the ability to submit a proposal is of no value.⁸⁹

59. Second, LS Power alleges that CAISO failed to separate the qualification requirements and the project information requirements.⁹⁰ By way of example, LS Power notes that proposed tariff section 24.5.2.1(a)-(i) includes items, such as the projected in-service date with a construction plan and timetable, which relate to solution development yet these items are also included in section 24.5.3.1(c), which CAISO identifies as qualification criteria.⁹¹ LS Power argues that these requirements are project specific information and are inappropriate considerations to qualify as a project sponsor. Similarly, LS Power argues that CAISO has inappropriately included selection and post selection criteria in its qualification requirements. LS Power contends that the First Compliance Order directed that qualification requirements should be separated from project information requirements and CAISO's Second Compliance Filing failed to comply with this directive.⁹²

60. LS Power also argues that CAISO's proposed financial qualification criteria are unduly restrictive and discriminatory.⁹³ LS Power states that CAISO requests credit-rating information and a showing of the project sponsor's most recent audited financial statements.⁹⁴ LS Power asserts that these proposed provisions are vague because they do not indicate whether each of the financial qualification criteria is mandatory for participation in the competitive solicitation and which are informational.⁹⁵

⁸⁸ LS Power Protest at 9.

⁸⁹ *Id.* 10.

⁹⁰ *Id.* 10.

⁹¹ *Id.* 11.

⁹² *Id.*.

⁹³ *Id.* 12.

⁹⁴ These audited financial statements must demonstrate that the project sponsor's assets are in excess of its liabilities as a percentage of the total cost of the transmission solution, as well as financial funding ratios. *See* CAISO Tariff Section 24.5.2.1(a)(ii).

⁹⁵ LS Power Protest at 12.

61. LS Power further contends that to the extent that credit ratings and other financial items are required for participation, the financial qualifications are unduly discriminatory. While it concedes that financial statements and funding ratios could provide some flexibility, LS Power contends that these requirements also may be unduly restrictive. According to LS Power, its affiliates have successfully funded major transmission development without meeting such stringent requirements. LS Power contends that the only necessary financial information requirement is 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.⁹⁶ LS Power asserts that the Commission should require CAISO to establish a range of financial information that may be submitted to establish an entity's financial qualifications and should reject the requirement for an entity to have a credit rating in order to be qualified.⁹⁷

62. LS Power also argues that CAISO's requirement that project sponsors provide information showing the project sponsor's ability to assume liability for major losses resulting from failure of, or damages to, the transmission facility, including damage after the facility has been placed into operation, is also vague.⁹⁸ LS Power asserts that CAISO failed to explain why this criterion is necessary or how a potential transmission developer would comply with the requirement, and therefore that the Commission should reject it.⁹⁹ Similarly, LS Power contends that the Commission previously found the phrase "for the life of the project" to be vague and directed CAISO to include more detailed qualification criteria in its tariff. According to LS Power, CAISO failed to clarify this qualification criterion in its Second Compliance Filing and, therefore, this qualification criterion should also be rejected.¹⁰⁰ Finally, LS Power objects to the qualification criterion that considers whether a project sponsor has assembled a sufficiently sized team with the capability to undertake a regional transmission solution, arguing that this criterion favors incumbent transmission providers.

⁹⁶ *Id.* 13 (citing CAISO Tariff Section 24.5.2.1(a)(1)).

⁹⁷ *Id.* 15.

⁹⁸ *Id.* (citing CAISO Tariff Section 24.5.2.1(c)).

⁹⁹ *Id.*

¹⁰⁰ *Id.* 16.

63. SoCal Edison asserts that CAISO should revise its qualification criteria to require project sponsors to demonstrate their ability to meet financial security requirements. SoCal Edison argues that while CAISO's Second Compliance Filing contains more detail than the initial compliance filing, the revised tariff still lacks sufficient detail to enable potential project sponsors to know the financial security requirements and alternatives, if any.¹⁰¹ SoCal Edison contends that CAISO should (1) establish financial security requirements through a stakeholder process, and (2) revise its tariff to incorporate creditworthy and collateral standards appropriate to all project sponsors, not just standards applicable to merchant transmission facilities.¹⁰²

iv. Answers

64. CAISO disputes LS Power's claim that the Commission required it to first determine that a potential project sponsor is qualified for a specific transmission solution before it can submit a proposal. CAISO asserts that the Commission's directive requires that the tariff specify the qualification requirements a potential transmission developer must satisfy, and that new or unspecified qualifications cannot be introduced after project sponsor proposals are submitted.¹⁰³ CAISO states that it complies with this requirement because (1) all interested transmission developers are permitted to submit a proposal in the competitive solicitation process before CAISO makes any qualification determination; (2) the information submission requirements are expressly stated; (3) the project sponsor will know the qualification standard and criteria before it submits a proposal; and (4) CAISO makes a separate qualification decision that also provides an opportunity for a project sponsor to cure any deficiency.¹⁰⁴ Further, CAISO argues that Order No. 1000 did not mandate a pre-qualification process. CAISO contends that adopting a pre-application process, prior to submission of a bid, would add unnecessary steps to the qualification process, including additional time for a project sponsor to cure any application deficiencies, and thereby unduly delay CAISO's comparative analysis of project sponsors and the date for selecting an approved project sponsor.¹⁰⁵

¹⁰¹ SoCal Edison Protest at 3.

¹⁰² *Id.*.

¹⁰³ CAISO Answer at 7.

¹⁰⁴ *Id.* 7-8.

¹⁰⁵ *Id.* 12-13.

65. CAISO also asserts that LS Power's argument that the second compliance filing fails to separate qualification requirements from the project sponsor information requirements is erroneous. CAISO asserts that the proposed tariff provisions indeed separate the two, pointing out that each is set forth in separate sections of the tariff. CAISO notes that the information submission requirements are pertinent to its qualification determination, but that is a necessary feature for it to make a fully informed qualification decision.¹⁰⁶

66. In response to LS Power's argument that the information submission items included in the project sponsor information requirements are related to solution development rather than qualification, CAISO reiterates that it identifies the needed solution(s) prior to the project sponsors submitting proposals to construct a solution.¹⁰⁷ CAISO states that the information requirements that LS Power opposes address a range of issues that enable CAISO to evaluate whether the project sponsors and their teams are physically able to construct, operate, and maintain facilities.¹⁰⁸ Moreover, CAISO argues, the information is clearly relevant to evaluate a project sponsor's qualification to build the identified solution in a timely manner.¹⁰⁹

67. CAISO states that LS Power cites no tariff provision that expressly requires a project sponsor to have a credit rating or it will not be qualified.¹¹⁰ CAISO maintains that project sponsors have flexibility to demonstrate how they are financially qualified to build, own, operate, and maintain the transmission solution that they seek to build.¹¹¹ CAISO argues that its proposed tariff language provides flexibility since the tariff states that it will assess whether the project sponsor and its team have sufficient financial

¹⁰⁶ *Id.* 19.

¹⁰⁷ *Id.* 14.

¹⁰⁸ *Id.* 15 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 323-324).

¹⁰⁹ *Id.* 15-16. CAISO also states that the proposed requirements and criteria are consistent with the information submission requirements and qualification criteria that were approved in the ISO-NE First Compliance Order, (citing ISO-NE First Compliance Order, 143 FERC ¶ 61,150 at PP 267, 291 (2013)).

¹¹⁰ CAISO Answer at 30.

¹¹¹ *Id.*.

resources including, but not limited to, satisfactory credit ratings and other financial indicators.¹¹²

68. CAISO also states that its proposed tariff provision requiring project sponsors to provide information showing the project sponsor's ability to assume liability for major losses is an information requirement, not a qualification criterion.¹¹³ CAISO argues that the relevant qualification consideration is whether the project sponsor and its team have sufficient financial resources as well as the demonstrated ability to assume liability for major losses resulting from failure of any part of the facilities associated with the transmission solution.¹¹⁴ CAISO states that the demonstrated ability to assume liability for major losses is only one factor that it will consider in evaluating financial resources.¹¹⁵

69. CAISO also disputes LS Power's assertion that the Commission directed CAISO to provide additional clarity regarding the information a potential transmission developer must submit to satisfy the "for the life of the project" criterion.¹¹⁶ According to CAISO, the Commission directed it to: (1) include more detailed qualification criteria in its tariff; (2) separate its qualification criteria and information requirements; and (3) reflect the information in its tariff, rather than its Business Practice Manual.

70. CAISO asserts that the qualification criterion that considers whether a project sponsor has assembled a sufficiently sized team with the capabilities to undertake a regional transmission solution does not inappropriately favor incumbent transmission providers.

¹¹² *Id.* (citing CAISO Tariff Section 24.5.3.1(b)).

¹¹³ *Id.* 31.

¹¹⁴ *Id.* (citing CAISO Tariff Section 24.5.3.1).

¹¹⁵ *Id.* CAISO explains that such information can include letters of credit, letters of intent from financial institutions regarding financial commitments to support the project sponsor, insurance policies or the ability to obtain insurance to cover such losses, the use of account set-asides or accumulated funds, the revenues earned from the project, sufficient credit ratings or other evidence showing sufficient financial basis to cover these losses in the normal course of business, and contingency financing. *Id.* at 34.

¹¹⁶ *Id.* 35-36.

71. In response to SoCal Edison's comments, CAISO argues that the application of financial security requirements to project sponsors is beyond the scope of its compliance filing. It states that the Commission did not direct the inclusion of such requirements in its First Compliance Order, and has not imposed the obligation on other transmission planning regions. CAISO concludes that because there is no existing financial security requirement, there is no basis at this time for SoCal Edison's suggestion of requiring project sponsors to demonstrate their ability to meet such requirements. CAISO notes that a future stakeholder process is the appropriate forum to address such matters.¹¹⁷

72. In its answer to CAISO, LS Power disagrees with CAISO's assertions addressing whether the proposed revisions to the qualification criteria tariff provisions comply with the First Compliance Order. LS Power argues that CAISO's compliance filing did not address the First Compliance Order's concerns about timely notification of whether a transmission developer meets the qualification criteria.¹¹⁸ It also argues that CAISO failed to separate the qualification criteria from transmission project information requirements, disputing CAISO's assertion that other transmission planning regions also have combined information requirements.¹¹⁹

v. Commission Determination

73. In the First Compliance Order, the Commission found that the proposed qualification criteria provisions in CAISO's compliance filing were not sufficiently detailed and required CAISO to make a compliance filing establishing not unduly discriminatory or preferential qualification criteria for determining an entity's eligibility to submit a proposal in its competitive solicitation process that provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities.¹²⁰ We find that CAISO's proposed qualification criteria provisions, with three exceptions discussed below, comply with the directives in the First Compliance Order. CAISO has provided detailed qualification criteria in its tariff that provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, and operate, and maintain the transmission facility for which it is submitting a bid in the

¹¹⁷ *Id.* 41.

¹¹⁸ LS Power Answer at 4-10

¹¹⁹ *Id.* 10-12.

¹²⁰ First Compliance Order, 143 FERC ¶ 61,057 at P 146.

competitive solicitation process.¹²¹ In addition, CAISO has described, in its tariff, the information that a potential transmission developer must include in its application in order for CAISO to evaluate whether it satisfies the proposed qualification criteria.¹²²

74. On compliance, CAISO has separated the qualification criteria and information requirements for submitting a proposal in the competitive solicitation process. CAISO has provided, in detail, the financial and other information a potential transmission developer must submit in its application to demonstrate that it is qualified to develop, construct, own, operate, and maintain the transmission facility for which it is submitting a bid in the competitive solicitation process. In addition, CAISO has proposed specific qualification criteria it will use to determine whether the transmission developer has demonstrated that it is physically, technically, and financially capable of completing the needed transmission solution in a timely and competent manner and operating and maintaining the transmission solution consistent with Good Utility Practice. We find that the detailed qualification criteria will allow transmission developers to understand how CAISO will assess their qualifications and enable them to prepare and submit bids in the competitive solicitation process accordingly.¹²³

75. LS Power argues that CAISO's proposal to require transmission developers to submit credit rating information and audited financial statements in their applications is inflexible and restrictive, claiming that a transmission developer should be required to submit a financial plan demonstrating that it has adequate capital resources to finance the transmission solution and that constructing, operating, and maintaining the facilities will not impair its financial conditions. We agree with CAISO's view of the proposed revisions that there is no requirement for a transmission developer to have a credit rating or audited financial statements in order to qualify.¹²⁴ Rather, the information submitted in the transmission developer's application will be used to determine whether the transmission developer is physically, technically, and financially capable to complete and operate and maintain the transmission solution, using the qualification criteria in the tariff. As CAISO explains, a lack of credit rating or audited financial statements does not in itself disqualify a transmission developer. Therefore, we disagree that these requirements are inflexible and restrictive. However, we find section 25.5.3.1(b) of CAISO's tariff, which states "...including but not limited to satisfactory credit ratings"

¹²¹ CAISO Tariff Section 24.5.3.1.

¹²² CAISO Tariff Section 24.5.2.1(a)-(h)

¹²³ CAISO Tariff Section 24.5.3.1

¹²⁴ CAISO Answer at 30.

requires additional clarification based on the information provided in CAISO's answer.¹²⁵ Accordingly, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing to clarify that credit ratings and/or audited financial statements are examples of information to be submitted to demonstrate a potential transmission developer's financial capability.

76. We agree with LS Power that the information to be provided by a potential project developer demonstrating an ability to assume liability for major losses resulting from failure of the transmission facility is vague. We note that, in its answer, CAISO provides information that a potential transmission developer could submit to satisfy this requirement, including letters of credit, letters of intent from financial institutions regarding financial commitments to support the project sponsor, insurance policies or the ability to obtain insurance to cover such losses, the use of account set-asides or accumulated funds, the revenues earned from the project, sufficient credit ratings or other evidence showing sufficient financial basis to cover these losses in the normal course of business, and contingency financing.¹²⁶ We find that the additional information reflected in CAISO's answer provides clarity for potential transmission developers and conclude that this information should be included in CAISO's tariff. Accordingly, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing that specifies the information a potential transmission developer should provide to demonstrate that it has the ability to assume liability for major losses resulting from failure of the transmission facility.

77. We deny LS Power's request that CAISO be required to further clarify how it will evaluate competing transmission developers to determine their respective capabilities to operate and maintain a transmission facility "for the life of the project." The Commission has previously found it reasonable to consider whether the transmission developer's existing resources and commitments provided sufficient assurance that the developer would be able to operate and maintain a facility for the life of the project in evaluating the qualifications of a transmission developer.¹²⁷ LS Power has not persuaded us that it is unreasonable for CAISO to similarly consider a potential transmission developer's capabilities to operate and maintain a transmission facility for the life of the project when evaluating whether a potential transmission developer meets the proposed qualification criteria. Additionally, we find CAISO's revised qualification criteria provide added clarity as to the specific information that potential transmission developers

¹²⁵ CAISO Tariff Section 25.5.3.1(b).

¹²⁶ CAISO Answer at 34.

¹²⁷ *ISO New England, Inc.*, 143 FERC ¶ 61,150 at P 273.

must submit to demonstrate that they satisfy CAISO's qualification criteria and therefore deny LS Power's request for further revisions.¹²⁸

78. LS Power also asserts some of the information a potential transmission developer must submit to demonstrate that it meets the qualification criteria, such as project in-service dates and construction plans, is related to transmission project development rather than transmission developer qualifications. We agree that some of the information that a potential transmission developer must submit to demonstrate that it satisfies the proposed qualification criteria relates to the transmission project that the developer is proposing to sponsor; however, because Order No. 1000 stated that qualification criteria must provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to develop, construct, own, operate, and maintain transmission facilities,¹²⁹ we find it reasonable for CAISO to require a potential transmission developer to provide information about the projected in-service date with a construction plan and timetable and for CAISO to consider whether the transmission developer has proposed a schedule for development and completion of the transmission solution and has the ability to meet that schedule. This information relates to whether a potential transmission developer has the technical expertise to develop, construct, own, operate, and maintain transmission facilities and thus may be reviewed by CAISO as part of its evaluation of the transmission developer qualification criteria.

79. We note that CAISO will assess a potential transmission developer's qualifications, and will also assess whether the proposed solution submitted in response to the competitive solicitation is consistent with the solution identified in CAISO's comprehensive transmission plan in phase 2 of the planning process and satisfies reliability criteria. CAISO refers to this as "proposal qualification."¹³⁰ This assessment will verify that the submitted proposal is consistent with the more efficient or cost-effective solution identified in CAISO's transmission plan and will address the needs identified in CAISO's comprehensive transmission plan consistent with reliability

¹²⁸ For example, among the information a transmission developer may submit to demonstrate that it should qualify to be a project sponsor is a description of its resources for operating and maintaining the transmission solution after it is placed in-service and the capability and experience of the transmission developer that would enable it to comply with all ongoing scheduling, operating, and maintenance activities required for each transmission solution. CAISO Tariff Section 24.5.2.1 (f)-(g).

¹²⁹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 323.

¹³⁰ CAISO Tariff Section 24.5.3.2.

criteria. Therefore, we find that this “proposal qualification” is a reasonable method of assessing the potential transmission developer’s submission.

80. However, we agree with LS Power regarding one other qualification criterion CAISO has proposed. CAISO proposes to evaluate whether the potential transmission developer has assembled a sufficiently-sized team with the manpower, equipment, knowledge, and skill required to undertake the design, construction, operation, and maintenance of the transmission solution. We agree with LS Power that at the time the application is submitted in the competitive bidding process, the transmission developer may not have assembled its full transmission development team. Accordingly, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing to clarify that a potential transmission developer need only demonstrate that it has a plan to assemble a sufficiently-sized team with the manpower, equipment, knowledge and skill required to undertake the design, construction, operation and maintenance of the transmission solution in the event that its transmission solution is selected.¹³¹

81. With regard to SoCal Edison’s request that CAISO revise its qualification criteria to require transmission developers to demonstrate their ability to meet financial security requirements, we agree with CAISO that the First Compliance Order did not require the application of financial security requirements to transmission developers. Therefore, we find that SoCal Edison’s request is beyond the scope of this proceeding.

82. We also disagree with LS Power’s argument that CAISO’s response to the Commission’s directive for it to explicitly state the qualification requirements a potential transmission developer must satisfy before that transmission developer can submit a bid is deficient. Rather, we conclude that CAISO’s revised proposal has addressed the concerns raised by the Commission in the First Compliance Order by, among other things, separately stating the qualification requirements for potential transmission developers and by providing opportunities to correct deficiencies in advance of the comparative analysis.

83. Under CAISO’s competitive solicitation model, potential transmission developers submit applications in phase 3 to sponsor transmission solutions identified by CAISO in the comprehensive transmission plan. Therefore, as CAISO explains, during the

¹³¹ We note that CAISO Tariff section 24.5.2.1(h) requires an Approved Project Sponsor application to include resumes for all key management personnel, including contractors, who will be involved in obtaining siting approval and other required regulatory approvals and for constructing, operating and maintaining each transmission solution.

competitive solicitation phase of CAISO's transmission planning process, transmission developers do not submit proposed transmission solutions. Instead, they submit information to demonstrate that they are best equipped to construct, finance, own, operate, and maintain CAISO-identified solutions. Because CAISO selects among competing transmission developers rather than competing transmission solutions, the information that a potential transmission developer submits to demonstrate that it meets CAISO's qualification criteria is similar to the information that CAISO will consider in its evaluation process when determining which transmission developer to select. We therefore find that it is reasonable for CAISO to require that a potential transmission developer submit the information necessary to demonstrate that it satisfies CAISO's qualification criteria as part of its bid. Moreover, by revising its tariff to explicitly state the qualification requirements that a potential transmission developer must meet to become a qualified project sponsor, including the information that a transmission developer must submit as part of its bid to demonstrate that it satisfies these requirements, we find that CAISO has addressed the Commission's concern in the First Compliance Order that a potential transmission developer would not be in a position to understand the criteria it must satisfy to demonstrate financial and technical expertise to develop, construct, own, operate, and maintain transmission facilities.¹³² Finally, we agree with CAISO that, contrary to LS Power's arguments, the submission of the required information to demonstrate a transmission developer's technical and financial capabilities is not so burdensome as to deter transmission developers from participating in CAISO's competitive solicitation process.

84. We also disagree with LS Power that the revised tariff language confuses qualification criteria and information requirements. CAISO's revised tariff identifies the information a transmission developer must submit in its application to sponsor a transmission solution.¹³³ Also, CAISO has set forth the information submitted as part of the application that it will use to determine whether a transmission developer is qualified using the five qualification criteria included in the tariff.¹³⁴ Finally, we note that any potential transmission developer will have the opportunity to correct any deficiency in its bid if it fails to meet the qualification requirements. Therefore, we find CAISO has complied with the First Compliance Order directive to provide detailed qualification criteria in its tariff that provide each potential transmission developer the opportunity to demonstrate that it has the necessary financial resources and technical expertise to

¹³² First Compliance Order, 143 FERC ¶ 61,057 at P 148.

¹³³ CAISO Tariff Section 24.5.2.1.

¹³⁴ CAISO Tariff Section 24.5.3.1.

develop, construct, own, operate, and maintain the transmission facility for which it is submitting a bid in the competitive solicitation process.

c. Information Requirements

85. Order No. 1000 required each public utility transmission provider to identify in its OATT the information that a potential transmission developer must submit in support of a transmission project proposed in the regional transmission planning process.¹³⁵ The information requirements must be sufficiently detailed to allow a proposed transmission project to be evaluated comparably to other transmission facilities proposed in the regional transmission planning process. The information requirements must be fair and not be so cumbersome as to effectively prohibit transmission developers from proposing transmission facilities, yet not be so relaxed that they allow for relatively unsupported proposals.¹³⁶ Order No. 1000 also required each public utility transmission provider to identify in its OATT the date by which a transmission developer must submit information on a proposed transmission project to be considered in a given transmission planning cycle.¹³⁷

i. First Compliance Order

86. In the First Compliance Order, the Commission found that, with the exception of identifying the date by which information in support of a transmission project must be submitted, CAISO's proposal addressing information requirements for submitting proposals did not comply with the requirements of Order No. 1000. Specifically, the Commission stated that CAISO had not proposed to revise its tariff to identify the information that a potential transmission developer must submit in support of a transmission project proposal in sufficient detail to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects that are proposed in this process.¹³⁸ The Commission found that CAISO must include more detailed information in its tariff rather than refer to such detailed information as set forth in section 5.2.1 of the Business Practice Manual.¹³⁹

¹³⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 325.

¹³⁶ *Id.* P 326.

¹³⁷ *Id.* P 325.

¹³⁸ First Compliance Order, 143 FERC ¶ 61,057 at P 164.

¹³⁹ *Id.* P 165.

Furthermore, the Commission found that CAISO's tariff combined qualification criteria and the information requirements for submitting such a proposal without distinguishing between the two.¹⁴⁰

87. The Commission directed CAISO to submit a further compliance filing that revises its tariff to identify in sufficient detail the information that a potential transmission developer must submit in support of a transmission project it proposes in the regional transmission planning process, to allow a proposed transmission project to be evaluated in the regional transmission planning process on a basis comparable to other transmission projects proposed in this process.¹⁴¹ The Commission again noted that, on compliance CAISO must clearly distinguish between the qualification criteria and the information requirements in its tariff.¹⁴²

ii. Summary of Compliance Filing

88. To comply with the requirements of the First Compliance Order, CAISO states that it has revised its tariff to include new provisions setting forth the project sponsor information requirements. CAISO states that these provisions generally reflect the information requirements currently contained in section 5.2.1 of the Business Practice Manual for Transmission Planning.¹⁴³ Additionally, in response to the Commission's directive to clearly distinguish in its tariff between qualification criteria and project sponsor application requirements, CAISO proposes two separate tariff sections -- one describes the project sponsor information requirements (section 24.5.2.1) and the other separately sets forth the project sponsor qualification criteria (section 24.5.3.1).

89. As discussed above, CAISO's proposes to revise its tariff to state that an entity seeking to become an approved project sponsor shall provide financial information in its application in response to the competitive solicitation. Other information a potential project sponsor must submit with its application include: (1) the project sponsor's previous record regarding construction, operation and maintenance of transmission facilities within and outside the CAISO controlled grid; (2) the project sponsor's preexisting procedures and practices for acquiring and managing right-of-way and other land for transmission facilities, or, in the absence of preexisting procedures or practices, a

¹⁴⁰ *Id.* P 166.

¹⁴¹ *Id.* P 167.

¹⁴² *Id.* P 166.

¹⁴³ CAISO Second Compliance Filing Transmittal Letter at 5.

detailed description of its plan for right-of-way and other land acquisition; (3) 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; and (4) 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.¹⁴⁴

90. Under CAISO's proposal, a project sponsor's application must also include a description of and information related to: (1) the proposed structure types and composition, conductor size and type; (2) the proposed route and rights-of-way; and (3) a plan for addressing topography issues.¹⁴⁵ In addition, a project sponsor's application must include its cost containment capabilities and cost cap, if any, and a description of the project sponsor's plan for complying with standardized maintenance and operation practices and all applicable reliability standards.¹⁴⁶ The project sponsor may also provide information on 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.¹⁴⁷ In addition, the project sponsor must provide information about the authorized government body from which it 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.¹⁴⁸ The tariff also states that the Business Practice Manual and the application form provide additional detail regarding the information that must be submitted. At CAISO's request, the project sponsor must provide additional information that CAISO reasonably determines is necessary to conduct

¹⁴⁴ CAISO Tariff Section 24.5.2.1(j) – (m).

¹⁴⁵ CAISO Tariff Section 24.5.2.1(n).

¹⁴⁶ CAISO Tariff Section 24.5.2.1(o) – (p).

¹⁴⁷ CAISO Tariff Section 24.5.2.1(q).

¹⁴⁸ CAISO Tariff Section 24.5.2.1(r).

its qualification and selection evaluation with respect to the particular transmission solutions that are subject to competitive solicitation.¹⁴⁹

91. CAISO also proposes to revise its tariff to provide for an opportunity to cure any informational deficiencies in a project sponsor's application.¹⁵⁰ Upon receipt of a project sponsor's application, CAISO will review the application for completeness and will verify that the application contains sufficient information for it 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, CAISO will notify each project sponsor to indicate whether its application is complete or whether additional information is required.¹⁵¹ Project sponsors will be given the 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 confidentially restrictions described in the tariff, 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.¹⁵²

iii. Commission Determination

92. We find that the provisions in CAISO's filing addressing information requirements for submitting proposals to construct, own, operate, and maintain a transmission solution subject to competitive solicitation partially comply with the directives in the First Compliance Order. CAISO has proposed to revise its tariff to include new provisions setting forth the project sponsor information requirements and has included relevant information in its tariff rather than citing to the Business Practice Manual. We find that the information requirements provide sufficient detail to allow a potential transmission developer to submit a proposal to construct, own, operate, and maintain a transmission solution subject to competitive solicitation that will be evaluated in the regional transmission planning process on a basis comparable to other proposals that are submitted in CAISO's competitive solicitation process.

¹⁴⁹ CAISO, eTariff § 24.5.2.2 (Posting Applications with Sufficient Information) (1.0.0).

¹⁵⁰ CAISO Tariff Section 24.5.3.3.

¹⁵¹ CAISO Tariff Section 24.5.2.2.

¹⁵² CAISO eTariff Section 24.5.2.2.

93. In addition, we accept CAISO's proposal to notify each transmission developer whether the application is complete or whether additional information is required and provide the opportunity to cure any deficiencies. We find the proposal is just and reasonable, because it allows for the timely notification of deficiencies in a transmission developer's application and an opportunity to cure those deficiencies.

94. However, we find that the requirement that a transmission developer provide information regarding its previous record of construction, operation, and maintenance of transmission facilities within and outside the CAISO controlled grid is unreasonably stringent and may effectively prohibit transmission developers from submitting proposals into the competitive solicitation process if the transmission developer itself does not have the requisite experience, even though the transmission developer could rely on third-party contractors with such experience. We note that other information requirements proposed by CAISO afford flexibility to potential transmission developers where, for example, a potential transmission developer must either describe its preexisting procedures and practices for acquiring and managing right-of-way and other land for transmission facilities, as well as for mitigating the impact of the transmission solution on affected landowners and for addressing public concerns regarding facilities associated with the transmission solution, or, absent such preexisting procedures and practices, must provide a detailed description of its plan for right-of-way and other land acquisition, as well as for mitigating impacts on affected landowners and for addressing public concerns. Likewise, we find additional flexibility is warranted where a transmission developer itself does not have a previous record of construction, operation, and maintenance of transmission facilities within or outside the CAISO controlled grid. In such a case the transmission developer should have the option to submit a detailed plan for constructing, owning, and maintaining the transmission facility, including the record and experience of any third parties with which it will contract for these purposes. Accordingly, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing that revises the tariff to allow a potential transmission developer to submit a detailed plan for constructing, operating, and maintaining transmission facilities in the absence of a previous record regarding construction, operation, and maintenance of transmission facilities.

d. Evaluation Process for Transmission Proposals Selection in the Regional Transmission Plan for Purposes of Cost Allocation

95. Order No. 1000 required each public utility transmission provider to amend its OATT to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposed transmission facility in the regional transmission plan for

purposes of cost allocation.¹⁵³ The evaluation process must ensure transparency and provide the opportunity for stakeholder coordination.¹⁵⁴ In addition, the evaluation process must culminate in a determination that is sufficiently detailed for stakeholders to understand why a particular transmission project was selected or not selected in the regional transmission plan for purposes of cost allocation.¹⁵⁵

i. First Compliance Order

96. In the First Compliance Order, the Commission found that with certain additional revisions, CAISO's framework for competitive solicitation was just and reasonable and not unduly discriminatory or preferential, and was consistent with Order No. 1000. Specifically, the Commission determined that the competitive solicitation process used the same process to evaluate proposals by nonincumbent transmission developers as it does for proposals by incumbent transmission developers, did not provide an advantage or preference for incumbent transmission developers, and culminated in a determination and posting of a report that allows stakeholders to understand why a particular transmission developer was selected or not selected.¹⁵⁶ However, the Commission found that certain additional revisions were necessary to ensure that CAISO's evaluation process for transmission developer proposals is consistent with the requirements of Order No. 1000.¹⁵⁷

97. CAISO proposed three scenarios resulting in the selection of a transmission developer to finance, own, and construct a regional transmission project. First, if there is only one qualified transmission developer proposing to build a regional transmission project, CAISO will select that transmission developer and the transmission developer must initiate the process of siting approval within 120 days of CAISO selection. The Commission found this scenario compliant with Order No. 1000 because both incumbent and nonincumbent transmission developers have the opportunity to submit proposals and

¹⁵³ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 452.

¹⁵⁴ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 454.

¹⁵⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 328; Order No. 1000-A, 139 FERC ¶ 61,132 at P 267.

¹⁵⁶ First Compliance Order, 143 FERC ¶ 61,057 at P 221.

¹⁵⁷ *Id.* P 218.

if there is only one qualified transmission developer that proposes to build a regional transmission project selected in CAISO's transmission plan, the transmission developer may proceed to obtain the necessary permits from the appropriate siting authority and build the transmission project.¹⁵⁸

98. Under the second scenario, if there are multiple qualified transmission developers who designate different siting authorities from which they will seek siting approval, CAISO will select the transmission developer. The Commission found this to be compliant with Order No. 1000 requirements because the public utility transmission provider – CAISO – will determine which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in a regional transmission plan for purposes of cost allocation.¹⁵⁹

99. Under the third scenario, if there are two or more qualified transmission developers and they have all designated the same siting authority from which they will seek siting approval, CAISO originally proposed to defer the selection of the transmission developer to the siting authority. In the First Compliance Order, the Commission found that this scenario did not comply with Order No. 1000 and directed CAISO to make a further compliance filing to eliminate provisions in its tariff that allowed a siting authority to select the transmission developer for a transmission facility selected in the regional transmission plan for purposes of cost allocation.¹⁶⁰ The Commission explained that Order No. 1000 requires public utility transmission providers in a region to make the decision to choose a transmission developer, noting that such decision will depend in part on their combined view of whether the transmission project is a more efficient or cost-effective solution to their transmission needs.¹⁶¹ Therefore, the Commission found that CAISO must include a transmission developer selection process whereby CAISO, not the siting authority, will ultimately decide which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation.¹⁶²

¹⁵⁸ *Id.* P 233.

¹⁵⁹ *Id.* P 228.

¹⁶⁰ *Id.* P 224.

¹⁶¹ The Commission stated that the role of state regulatory authorities must be defined in CAISO's tariff as providing guidance and recommendations. *See* First Compliance Order, 143 FERC ¶ 61,057 at P 227.

¹⁶² First Compliance Order, 143 FERC ¶ 61,057 at P 227.

100. Next, the Commission reviewed the individual selection factors CAISO proposed to use in its comparative analysis of competing transmission developers and concluded that the individual selection factors are not unduly discriminatory, and in general are sufficiently detailed to provide potential transmission developers with an understanding of how their proposals will be evaluated.¹⁶³ However, the Commission expressed concern with regard to how CAISO will determine that certain transmission developer selection factors are “key” depending on the transmission project at issue. The Commission found that CAISO’s proposal to post the key selection factors did not go far enough in explaining how CAISO would measure the relative efficiency and cost-effectiveness of a proposed bid. Thus, the Commission directed CAISO to explain how it will determine which are the key selection factors for each transmission facility selected in the regional transmission plan for purposes of cost allocation and how it will ensure that these key selection factors will result in a regional transmission plan with the more efficient or cost-effective transmission solutions.¹⁶⁴

101. Among the factors CAISO proposed to consider when selecting among competing transmission developers that plan to seek siting from different siting authorities was the transmission developers’ cost containment capability. CAISO also proposed to consider the authority and history of the selected siting authorities to impose cost containment measures on transmission developers.¹⁶⁵ The Commission concluded that this consideration is inappropriate for transmission developer selection in some

¹⁶³ *Id.* at PP 229-230. The transmission developer selection criteria include: (a) the current and expected capabilities of the transmission developer and its team to finance, license, and construct the facility and operate and maintain it for the life of the project; (b) the transmission developer’s existing rights-of-way and substations; (c) the experience of the transmission developer in acquiring rights-of-way; (d) the proposed schedule and demonstrated ability to meet that schedule; (e) the financial resources of the transmission developer and its team; (f) the technical and engineering qualifications of the transmission developer and its team; (g) the transmission developer’s previous record of construction and maintenance of transmission facilities; (h) demonstrated capability to adhere to standardized construction, maintenance and operating practices; (i) demonstrated ability to assume liability for major losses resulting from failure of facilities; (j) demonstrated cost containment capability and specific, binding cost control measures the transmission developer agrees to accept; and (k) any other strengths and advantages the transmission developer and its team may have. *Id.* at P 229 n.393.

¹⁶⁴ *Id.* P 230.

¹⁶⁵ *Id.* P 231.

circumstances, explaining that in those cases where transmission developers agree to binding cost containment measures, it would be inappropriate for CAISO to speculate on actions of a siting authority based on that siting authority's history. However, the Commission concluded that, in instances where no transmission developer competing to build a transmission project selected in the regional transmission plan for purposes of cost allocation commits to a binding cost containment measure, it is reasonable for CAISO to consider, among its other selection factors, the cost containment history of the siting authorities to which competing transmission developers plan to apply. Therefore, the Commission directed CAISO to revise its selection factors to clarify that CAISO will consider a siting authority's ability to impose cost containment measures and its history of doing so only in those instances where the competing transmission developers have not accepted specific binding cost control measures.¹⁶⁶

102. The Commission also found just and reasonable and not unduly discriminatory CAISO's proposal to consider, among its transmission developer selection factors, a transmission developer's existing rights-of-way and substations that would contribute to a transmission project. However, the Commission directed CAISO to revise its tariff to clarify that a transmission developer in possession of relevant existing rights-of-way must indicate whether it would incur any incremental costs in connection with placing new and additional facilities on such existing right-of-way.¹⁶⁷

103. Finally, CAISO proposed tariff language that provides a 30-day window for transmission developers to formulate proposals in response to CAISO's posting of key selection factors. In response to comments, CAISO explained that its proposed tariff provisions did not reflect its intent to allow transmission developers three month time frame, after the posting of key selection criteria, before the deadline to submit their proposals. Upon review, the Commission directed CAISO to revise the tariff in accordance with its intent.¹⁶⁸

ii. Request for Clarification

(a) Summary of Request for Clarification

104. With respect to CAISO's transmission developer selection criteria considering "the current and expected capabilities of the transmission developer and its team to

¹⁶⁶ *Id.* P 235.

¹⁶⁷ *Id.* PP 237- 238.

¹⁶⁸ *Id.* P 243.

finance, license, and construct the facility and operate and maintain it for the life of the project,” LS Power requests that the Commission clarify that CAISO must provide additional detail on how it will evaluate among competing transmission developers to determine their respective capabilities to operate and maintain a transmission facility “for the life of the project.”¹⁶⁹

105. In addition, LS Power argues that it is unclear how CAISO will evaluate a transmission developer’s ability to operate and maintain a transmission project over the life of that project and that CAISO provides no insight on how it will evaluate a company’s capabilities 30 to 40 years into the future. Absent this clarification, LS Power argues that CAISO’s evaluation may not result in the more efficient or cost-effective transmission project and CAISO may be provided with undue discretion when applying the transmission developer selection criteria.¹⁷⁰

(b) Commission Determination

106. We deny LS Power’s request for clarification. As explained above, the Commission previously found it reasonable for a transmission planning region to consider whether the transmission developer’s existing resources and commitments provided sufficient assurance that the developer would be able to operate and maintain a transmission facility for the life of the project.¹⁷¹ We similarly find that it is reasonable for CAISO to consider the current and expected capabilities of the transmission developer and its team to finance, license, and construct the facility, and operate and maintain it for the life of the project when evaluating competing proposals to construct, own, operate, and maintain a transmission solution, subject to competitive solicitation. Moreover, in the CAISO transmission planning process all interested transmission developers are permitted to submit a proposal in the competitive solicitation process prior to CAISO making any qualification determination, the information submission requirements are expressly stated so a potential transmission developer has access to the qualification standard and criteria before it submits a proposal, CAISO separately determines whether a transmission developer meets the qualification criteria, and CAISO provides potential transmission developers with an opportunity to cure deficiencies. Additionally, CAISO separately determines whether a proposal to construct, own, operate, and maintain a transmission solution subject to competitive solicitation satisfies the information requirements, providing an opportunity for transmission developers to cure any

¹⁶⁹ LS Power Request for Clarification at 1.

¹⁷⁰ *Id.* 1-3.

¹⁷¹ ISO-NE First Compliance Order, 143 FERC ¶ 61,150 at P 273.

deficiency. We therefore find that CAISO's revised qualification criteria and information requirements provide added clarity regarding the specific information that CAISO will consider when evaluating proposals to construct, own, operate, and maintain a transmission solution subject to competitive solicitation. Accordingly, we deny LS Power's request for clarification.

iii. Compliance

(a) Summary of Compliance Filing

107. In response to the Commission's directive to eliminate provisions in its tariff that allow a siting authority to select the sponsor of a needed transmission facility identified in the regional transmission plan for purposes of cost allocation, CAISO has deleted section 24.5.2.3.b of the tariff.¹⁷²

108. With respect to the Commission directive to explain how it will determine the key selection factors used when selecting among competing transmission developers and how it will ensure the key selection factors will result in a regional transmission plan with the more efficient or cost-effective transmission solutions, CAISO explains that in phase 2 of its transmission planning process, it identifies the more efficient or cost-effective transmission solutions for selection in the comprehensive transmission plan. CAISO further explains that key selection factors apply only to the phase 3 competitive solicitation process, i.e., project sponsor selection, not to CAISO's identification during phase 2 of the more efficient or cost-effective transmission solutions.¹⁷³ However, on compliance, CAISO states that it proposes a number of tariff revisions to address the Commission's directive without undermining the Commission's acceptance of other aspects of CAISO's transmission planning framework.¹⁷⁴

109. First, CAISO proposes tariff provisions stating that, to determine the key criteria for each transmission solution subject to competitive solicitation, it 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;

¹⁷² CAISO Second Compliance Filing Transmittal Letter at 9-10.

¹⁷³ *Id.* 12.

¹⁷⁴ *Id.* 14.

(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 CAISO's prior determination of, and inclusion in, the comprehensive transmission plan of the more efficient or cost-effective solution during in phase 2 of the transmission planning process.¹⁷⁵ CAISO states that the last consideration addresses the Commission's concern that the posting of key selection criteria is consistent with the phase 2 determination as to what solution is "more efficient or cost-effective" and should be included in the final comprehensive transmission plan approved by CAISO's Board at the end of phase 2.¹⁷⁶

110. Second, CAISO proposes to add tariff provisions clarifying that: (1) the posting of the key selection criteria is not a replacement or substitute for the qualification and selection criteria set forth elsewhere in the tariff; (2) in its comparative analysis, CAISO is required to comparatively assess all of the qualification and selection criteria, not just those listed as key selection criteria; and (3) in its posting of the key selection criteria, CAISO cannot add new or different criteria than those already specified in the tariff.¹⁷⁷ In addition, CAISO proposes to add tariff language stating that the posting of the key selection criteria shall not undermine CAISO'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 CAISO's obligation to undertake a comparative analysis of each project sponsor with respect to each project sponsor qualification and selection criterion.¹⁷⁸

111. Third, CAISO states that the identification of key selection factors are for informational purposes only.¹⁷⁹ CAISO proposes tariff language stating that the posting of key selection factors is solely intended to provide information to project sponsors to

¹⁷⁵ CAISO Tariff Section 24.5.1.

¹⁷⁶ CAISO Second Compliance Filing Transmittal Letter at 16.

¹⁷⁷ CAISO Tariff Section 24.5.1.

¹⁷⁸ *Id.*

¹⁷⁹ CAISO Second Compliance Filing Transmittal Letter at 15.

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.¹⁸⁰ CAISO maintains that the posting does not replace the comparative assessment standard and criteria that the Commission approved for phase 3 and found adequately considered costs.¹⁸¹

112. Fourth, CAISO proposes to add the word “efficient” to the project sponsor selection standard by proposing tariff language stating that the purpose of the 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.¹⁸² CAISO states that this will ensure that both efficiency and cost-effectiveness concepts are captured in the project sponsor selection process.¹⁸³

113. Finally, CAISO proposes to revise its tariff to state that if 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, 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, 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.¹⁸⁴

114. In response to the Commission’s directive to limit application of the selection factor that considers whether a siting authority will impose cost containment measures to instances where none of the competing transmission developers has accepted specific binding cost control measures, CAISO proposes to revise this selection factor to state that

¹⁸⁰ CAISO Tariff Section 24.5.1.

¹⁸¹ *Id.*

¹⁸² CAISO Tariff Section 24.5.4.

¹⁸³ CAISO Second Compliance Filing Transmittal Letter at 15.

¹⁸⁴ CAISO Tariff Section 24.5.1.

it will consider the authority of the selected siting authority to impose binding cost caps or cost containment measures on the project sponsor, and its history of imposing such measures, only “if none of the competing [p]roject [s]ponsors proposes a binding cost cap.”¹⁸⁵

115. To comply with the Commission’s directive with regard to the project sponsor selection factor addressing existing right-of-way, CAISO proposes to revise this selection factor to state that, “in the case of a [p]roject [s]ponsor with existing rights-of-way, whether the [p]roject [s]ponsor would incur incremental costs in connection with placing new or additional facilities associated with the transmission solution on such existing right-of-way” will be considered.¹⁸⁶

116. Lastly, to comply with the Commission’s directive to clarify that the deadline for submitting proposals is at least three months after the posting of the key selection criteria, CAISO proposes to revise its tariff to state that, within 30 days after it posts the draft comprehensive transmission plan (as opposed to 30 days after it posts the revised draft comprehensive transmission plan) to its website, CAISO will post for each regional transmission facility that is subject to competitive solicitation, those qualification criteria and selection factors, in addition to any binding cost containment commitments, which CAISO believes are key for purposes of selecting an approved project sponsor for the particular transmission solution.¹⁸⁷ CAISO proposes that this posting will be for informational purposes only. CAISO explains that, under its planning framework, CAISO posts a draft comprehensive transmission plan before it posts a revised draft comprehensive transmission plan.¹⁸⁸ CAISO also proposes to add tariff language expressly stating that project sponsors will have at least 90 days after the posting of the key selection criteria to submit their project sponsor proposals.¹⁸⁹

(b) Protests/Comments

117. LS Power argues that CAISO’s proposed phase 3 competitive solicitation process and the key selection factors fail to determine the more efficient or cost-effective

¹⁸⁵ CAISO Tariff Section 24.5.4(j).

¹⁸⁶ CAISO Tariff Section 24.5.4(c).

¹⁸⁷ CAISO Tariff Section 24.5.1.

¹⁸⁸ CAISO Second Compliance Filing Transmittal Letter at 10.

¹⁸⁹ CAISO Tariff Section 24.5.1.

transmission solution, as required by Order No. 1000. LS Power asserts that CAISO's regional transmission plan will be determined and "set in stone" in phase 2, before competition can contribute to determine the more efficient or cost-effective transmission plan.¹⁹⁰ LS Power submits that CAISO's tariff does not identify how phase 2 of the transmission planning process will determine the more efficient or cost-effective solutions. LS Power further argues that in its second compliance filing, CAISO has confirmed that "key" selection factors are for informational purposes only and do not contribute to the selection of the more efficient or cost-effective transmission solutions. In light of this, LS Power requests that the Commission determine whether CAISO's entire transmission planning process must be reexamined.¹⁹¹

118. LS Power asserts that CAISO's proposed tariff provisions, by stating that the posting of key selection factors is for information purposes and does not replace the comparative assessment standard, "take[] away the very transparency that the Commission held was essential to its acceptance of the selection process."¹⁹² According to LS Power, selection criteria are either key or they are not, and CAISO's proposed language makes the key criteria irrelevant without removing them from the tariff. LS Power suggests that CAISO has not explained how the posting of key selection criteria for selecting a project sponsor can undermine CAISO's selection of a more efficient or cost-effective transmission solution in phase 2 of the transmission planning process. Therefore, LS Power requests that the Commission reject CAISO's proposed language.¹⁹³

119. Finally, LS Power argues that there is no clarity in CAISO's tariff that cost factors will outweigh non-cost selection factors. LS Power argues that in orders addressing proposals by Midcontinent Independent System Operator (MISO) and Southwest Power Pool (SPP) to comply with Order No. 1000, the Commission rejected MISO's and SPP's proposed transmission developer selection processes because non-cost selection factors outweighed cost-based selection factors.¹⁹⁴ LS Power claims that CAISO's proposed tariff language does not provide certainty or guidance on this issue.¹⁹⁵

¹⁹⁰ LS Power Protest at 6.

¹⁹¹ *Id.*

¹⁹² *Id.* 7.

¹⁹³ *Id.* 7-8.

¹⁹⁴ *Id.* 8-9.

¹⁹⁵ *Id.*

(c) Answers

120. In response to LS Power's claim that CAISO failed to explain how the key selection factors will result in transmission solutions that are more efficient or cost-effective, CAISO states that the selection of more efficient or cost-effective solutions is a two-step process. CAISO explains that in phase 2 of its transmission planning process, CAISO determines the specific solution or solutions that will address the identified need in a more efficient or cost-effective manner and selects them in the transmission plan. If there is more than one possible solution to an identified need, the selection of the more efficient or cost-effective solution will depend on the outcome of phase 3 competitive solicitation. CAISO asserts that its proposed tariff provisions explicitly address this possibility and that the identification of key selection factors allows transmission developers to provide a complete picture of their ability to meet CAISO's identified transmission needs and satisfy the more efficient or cost-effective standard. CAISO further states that CAISO will determine the project sponsor that can construct a transmission solution in the comprehensive transmission plan in the more efficient or cost-effective manner.¹⁹⁶

121. CAISO states that the proposed tariff changes, along with the tariff provisions submitted in its First Compliance Filing ensure that posting of key selection factors is consistent with the requirement that the regional transmission plan identify the more efficient or cost-effective transmission solutions and that CAISO has the necessary information to determine who can construct that solution in the more efficient or cost-effective manner. CAISO asserts that in its compliance filing it has attempted to harmonize all relevant Commission approvals and directives to ensure the tariff is internally consistent and that the transmission planning process is transparent and effective, and reflects a clear *ex ante* understanding of what was required.¹⁹⁷

122. With regard to LS Power's objection to CAISO's proposed tariff language on key selection criteria, CAISO argues that the Commission has concluded that the phase 3 project sponsor selection factors demonstrate that CAISO adequately considers cost and cost-effectiveness in its transmission planning process and the proposed tariff language ensures that key selection factors will likewise ensure selection of the more efficient or

¹⁹⁶ CAISO Answer at 19-20. CAISO notes that section 24.5.4 of its tariff states that it will select a qualified project sponsor that 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. *Id.* at 20 (citing to CAISO Tariff Section 24.5.4).

¹⁹⁷ *Id.* 22.

cost-effective solution. CAISO claims that the tariff provision stating that CAISO cannot post key selection criteria that are different than or unrelated to the existing qualification and selection criteria, is consistent with the Commission's statement that the posting of the most relevant criteria from the list of approved selection criteria is consistent with the Commission-approved evaluation and selection methodologies.¹⁹⁸

123. CAISO asserts that LS Power misunderstands the role of key selection factors. CAISO argues that the posting of key selection factors is intended to add more transparency and provide guidance to transmission developers in the preparation of their bids by designating those factors which will be the most important in the transmission developer selection process. CAISO claims that the proposed tariff provisions also ensure that the posting of key selection factors cannot in any way undermine the goal of selecting the most efficient or cost-effective transmission solution because it is for informational purposes only.¹⁹⁹

124. With regard to LS Power's argument that CAISO's tariff does not make clear that cost factors outweigh non-cost factors, CAISO counters that the cases cited by LS Power are inapt. CAISO argues that unlike MISO and SPP, it does not rely on pre-assigned weights for each of the selection criteria and that the Commission has previously rejected LS Power's arguments supporting pre-assigned weights or for making cost the primary selection factor. CAISO argues that in the First Compliance Order the Commission determined that CAISO's selection criteria adequately consider cost, and that cost is not an afterthought as LS Power had implied. CAISO contends that LS Power's argument is thus a collateral attack on the First Compliance Order.²⁰⁰

125. CAISO asserts that LS Power's argument that CAISO's transmission plan is set in stone before competition can result in more efficient or cost-effective solutions is erroneous. CAISO explains that nonincumbent transmission developers, like all stakeholders, can contribute to the comprehensive transmission plan by suggesting solutions in phase 2 of the planning process; however, they do not have a right to reserve a particular solution to themselves. CAISO claims that this is the nature of its top-down transmission planning process, and points out that the Commission approved almost all of CAISO's tariff provisions related to the phase 2 planning process.²⁰¹

¹⁹⁸ *Id.* 23.

¹⁹⁹ *Id.* 25.

²⁰⁰ *Id.* 27.

²⁰¹ *Id.* 28.

126. In its answer to CAISO's answer, LS Power contends that CAISO has failed to explain how it will ensure that the key selection factors for each transmission facility will result in a regional transmission plan with more efficient or cost-effective transmission solutions when those factors do not apply to phase 2 determinations of solutions at all.²⁰² LS Power claims that the phase 2 process cannot determine the more efficient or cost-effective project because CAISO will have no basis to make that determination since during phase 2 CAISO looks at projects based on planning level costs rather than market costs.²⁰³ LS Power asserts that CAISO failed to address the fact that the key selection factors play no role in phase 2 or the determination of the regional transmission plan.²⁰⁴

127. LS Power also argues that key selection criteria must be more important than other standard criteria. According to LS Power, the caveats CAISO placed in the tariff mean that the posting of the key factors will not provide project sponsors the information needed.²⁰⁵ Finally, LS Power objects to the language CAISO added to section 24.5.1, arguing that this language permits CAISO to reject project sponsors who excel at all the key factors because another entity fared better in other factors that are not listed as key selection criteria.²⁰⁶

(d) Commission Determination

128. We find that CAISO partially complies with the Commission's directives in the First Compliance Order. In the First Compliance Order, the Commission found that CAISO must include a transmission developer selection process whereby CAISO will decide which transmission developer is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation. The Commission stated that a state entity or regional state committee can consult, collaborate, inform, and even recommend a transmission developer that is eligible to use the regional cost allocation method for a transmission project selected in the regional transmission plan for purposes of cost allocation, but the public utility transmission providers in a transmission planning region must make the selection decision with respect to the developer, not the state entity or regional state committee.

²⁰² LS Power Answer at 14.

²⁰³ *Id.* 15.

²⁰⁴ *Id.* 16.

²⁰⁵ *Id.* 18.

²⁰⁶ *Id.* 18-19

On compliance, CAISO eliminated tariff provisions that allowed a siting authority to select the transmission developer of a transmission facility selected in the regional transmission plan for purposes of cost allocation.²⁰⁷ Therefore, the Commission finds that CAISO has complied with this directive from the First Compliance Order.

129. CAISO has also proposed to revise its tariff to explain how it will determine which are the “key” selection factors to evaluate bids for each transmission facility selected in the regional transmission plan for purposes of cost allocation and how it will ensure the key selection factors for each transmission facility will result in a regional transmission plan with the more efficient or cost-effective transmission solutions. CAISO’s tariff revisions specify the criteria it will consider to determine the key selection factors that will be used to evaluate bids for each transmission solution subject to competitive solicitation. CAISO’s tariff revisions also clarify that the posting of key selection criteria is not a replacement or substitute for the qualification and selection criteria, that CAISO is required to comparatively assess all of the qualification and selection criteria, not just the key selection criteria, and that CAISO cannot add new or different criteria than those already specified in the tariff. Lastly, CAISO’s tariff revisions further clarify that the posting of key selection factors in phase 3 have no effect on the previous determinations in phase 2 of the transmission planning process of the more efficient or cost-effective transmission solution. Rather, key selection factors provide information to assist transmission developers in the preparation of their bids and to highlight specific topics to which particular attention should be paid in the bid, given their importance in connection with a particular regional transmission facility that has been selected in the regional transmission plan for purposes of cost allocation. We find that these proposed tariff revisions comply with the directive in the First Compliance Order requiring CAISO to explain how it will determine which are the “key” selection factors and how it will ensure the key selection factors will result in a regional transmission plan with the more efficient or cost-effective transmission solutions.

130. We disagree with LS Power’s assertion that CAISO’s proposed phase 3 competitive solicitation process and the key selection factors fail to determine the more efficient or cost-effective transmission solution, as required by Order No. 1000. Key selection factors apply to the phase 3 competitive solicitation process, not to phase 2. We find the posting of key selection factors does not undermine the goal of selecting the more efficient or cost-effective transmission solution because it is intended solely to inform transmission developers how best to structure their bids to construct, own, operate, and maintain such a transmission solution in the competitive solicitation

²⁰⁷ CAISO, eTariff, § 24.5.3.5 (Multiple Qualified Project Sponsors and Proposals: Selection of Approved Project Sponsor) (2.0.0).

process.²⁰⁸ In addition, CAISO will, as part of its competitive solicitation process, select a transmission developer that 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.”²⁰⁹ Thus, we find that CAISO will consider the relative efficiency and cost-effectiveness of each transmission developer’s proposal in phase 3 of its regional transmission planning process, consistent with the requirements of Order No. 1000 and the directives of the First Compliance Order.

131. CAISO has also proposed tariff revisions stating that if 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, 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 in phase 3, CAISO will make the final determination of which alternative transmission solutions identified in the Board-approved comprehensive transmission plan constitutes the more efficient or cost-effective transmission solution to be selected for construction.

132. We note that in the First Compliance Order, the Commission found that CAISO’s production of a comprehensive transmission plan satisfies Order No. 1000’s requirement that the regional transmission planning process developed by public utility transmission providers, in consultation with stakeholders, must result in a regional transmission plan that reflects the determination of the set of transmission facilities that more efficiently or cost-effectively meet the region’s transmission needs.²¹⁰ Under its original proposal, CAISO identified one solution in phase 2 of the transmission planning process that

²⁰⁸ As section 24.5.1 of CAISO’s tariff explains:

[t]he 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. CAISO Tariff Section 24.5.1.

²⁰⁹ CAISO Tariff Section 24.5.4.

²¹⁰ First Compliance Order, 143 FERC ¶ 61,057 at P 55.

constitutes the more efficient or cost-effective solution for any given need. In its compliance filing, CAISO has revised its proposal to permit more than one potential transmission solution to a transmission need in the comprehensive transmission plan for purposes of cost allocation and to make the final determination of the more efficient or cost-effective solution in phase 3 competitive solicitation process.²¹¹

133. We also note that the proposed key selection factors and other information requirements in phase 3 are used to select among competing transmission developers bidding to construct an identified transmission solution, not to select among competing transmission solutions to an identified need. Because CAISO's revised proposal allows for selection of more than one potential solution to a transmission need in phase 2, it is now unclear how CAISO will select among multiple solutions in phase 3 using criteria developed to select among transmission developers for a single transmission project. In addition, CAISO has not explained why its proposed revision was necessary to comply with the Commission's directives in the First Compliance Order. Therefore, on compliance CAISO is directed to either delete the provision permitting selecting more than one potential solution to a transmission need in phase 2 or further explain in sufficient detail why the revision is consistent with the compliance directives in the First Compliance Order and further describe how CAISO will select from among multiple proposed solutions.²¹²

134. We disagree with LS Power that CAISO's tariff should clarify that cost factors should outweigh non-cost selection factors. As the Commission has previously stated, it is important that transmission developers have the ability to finance, license, and successfully construct transmission facilities in a timely manner so that the policy goals driving the need for such facilities can be met and to minimize the risk of abandoned projects.²¹³ While cost and cost containment are important selection factors, the Commission acknowledged in Order No. 1000 that other factors may be considered as well.²¹⁴ CAISO's key selection factors are sufficiently descriptive to provide prospective

²¹¹ CAISO Tariff Section 24.5.1.

²¹² If CAISO chooses to delete the provision permitting selecting more than one potential solution to a transmission need in phase 2, it can later submit a section 205 filing to bring this proposal to the Commission and explain how, in phase 3 of its transmission planning process, it will select a single transmission developer and a single transmission solution from among multiple proposals transmission developers and multiple proposals.

²¹³ *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224, at P 220 (2010).

²¹⁴ First Compliance Order, 143 FERC ¶ 61,057 at P 234.

transmission developers with an understanding of how their proposals will be evaluated and are consistent with Order No. 1000. Order No. 1000 does not require a public utility transmission provider to specify in its OATT the relative weight of the factors considered in the evaluation process. Furthermore, the Commission recognized in Order No. 1000 that the process for evaluating whether to select a transmission facility in the regional transmission plan for purposes of cost allocation will likely vary from region to region.²¹⁵ While the Commission allowed flexibility in choosing a process to evaluate projects, once MISO and SPP chose a “weighting” approach, the Commission required more information to ensure that those weights are transparent and not unduly discriminatory or preferential. However, CAISO has not proposed a weighting approach and we decline to require CAISO to make additional specifications in its tariff regarding the relative weight attributable to the factors considered in the evaluation process.

135. In the First Compliance Order, the Commission found that in cases where one or more transmission developers agree to binding cost containment measures, it would be inappropriate for CAISO to speculate on actions a siting authority for a competing transmission developer may take based on its history. However, the Commission stated that in instances where no transmission developer competing to build a transmission project commits to a binding cost containment measure, it is reasonable for CAISO to consider, among its other selection factors, the cost containment history of the siting authorities to which competing transmission developers plan to apply. On compliance, CAISO proposes to revise its selection factors to state that it will consider the ability of the selected siting authority to impose binding cost caps or cost containment measures on the project sponsor, and its history of imposing such measures only “if none of the competing project sponsors propose a binding cost cap.”²¹⁶ Therefore, we find that CAISO has complied with the directive in the First Compliance Order.

136. In the First Compliance Order, the Commission concluded that information about whether a transmission developer in possession of relevant existing rights-of-way would incur any incremental costs in connection with placing new and additional facilities on such existing rights-of-way is relevant to determining the extent to which possession of existing rights-of-way contribute towards reducing the costs of developing a transmission project.²¹⁷ On compliance, CAISO proposes to revise its selection factors to require that a transmission developer in possession of relevant existing rights-of-way indicate whether it would incur any incremental costs in connection with placing new and

²¹⁵ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 323.

²¹⁶ CAISO Tariff Section 24.5.4(j).

²¹⁷ First Compliance Order, 143 FERC ¶ 61,057 at P 238.

additional facilities on such existing rights-of-way.²¹⁸ Therefore, we find that CAISO has complied with the directive in the First Compliance Order.

137. Lastly, on compliance, CAISO revised its tariff to specify that within thirty days after CAISO posts the revised draft comprehensive transmission plan to its website, CAISO will post, for informational purposes only, those qualification criteria and selection factors, in addition to any binding cost containment commitments, which CAISO believes are key for purposes of selecting an approved project sponsor for the particular transmission solution.²¹⁹ Moreover, CAISO proposes to add tariff language expressly stating that project sponsors will have at least 90 days after the posting of the key selection criteria to submit their project sponsor proposals.²²⁰ Therefore, we find that CAISO has complied with the directive in the First Compliance Order that CAISO revise its tariff so that transmission developers have at least three months after the posting of the key selection criteria before the deadline for submitting proposals.

e. **Reevaluation Process for Transmission Proposals for Selection in the Regional Transmission Plan for purposes of Cost Allocation**

138. To ensure the incumbent transmission provider can meet its reliability needs or service obligations, Order No. 1000 required each public utility transmission provider to amend its OATT to describe the circumstances and procedures for reevaluating the regional transmission plan to determine if alternative transmission solutions must be evaluated as a result of delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation.²²¹ If an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint, and if that solution is a transmission facility, then the proposed transmission facility should be evaluated for possible selection in the regional transmission plan for purposes of cost allocation.²²²

²¹⁸ CAISO Tariff Section 24.5.4(c).

²¹⁹ CAISO Tariff Section 24.5.1.

²²⁰ *Id.*

²²¹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 263, 329; Order No. 1000-A, 139 FERC ¶ 61,132 at P 477.

²²² Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 329.

i. First Compliance Order

139. In the First Compliance Order, the Commission found that CAISO's proposed reevaluation of reliability, economic and public policy transmission projects partially complied with the requirements of Order No. 1000. The Commission approved CAISO's proposal to provide status updates on transmission facilities previously selected in each year's regional transmission plan for purposes of cost allocation, and identify mitigation solutions if warranted by project delays. The Commission found that CAISO's proposal complies with Order No. 1000's requirement that it will reevaluate the regional transmission plan to determine if delays in the development of a transmission facility selected in a regional transmission plan for purposes of cost allocation require evaluation of alternative transmission solutions to ensure the incumbent transmission provider can meet its reliability needs or service obligations. Furthermore, the Commission found that CAISO's proposal ensures that CAISO, the selected transmission developer, and the participating transmission owner will work together to address possible reliability concerns if a transmission project is delayed, complying with Order No. 1000's requirement that if an evaluation of alternatives is needed, the regional transmission planning process must allow the incumbent transmission provider to propose solutions that it would implement within its retail distribution service territory or footprint.²²³

140. However, the Commission also determined that CAISO's proposal to establish additional reporting requirements for participating transmission owners to submit mitigation plans to NERC and the Western Electricity Coordinating Council (WECC) in cases where a construction delay could cause potential reliability standard violations was duplicative because the participating transmission owner whose system reliability needs are impacted is obligated to prepare corrective plans and to self-report, if necessary, to NERC and WECC on reliability standard violations and associated mitigation plans. Therefore, the Commission directed CAISO to remove the proposed provision requiring impacted participating transmission owners to submit mitigation plans to NERC and WECC in cases where a construction delay could cause potential reliability standard violations.²²⁴

141. Additionally, the Commission also directed CAISO to revise proposed section 24.6.4 to explicitly state that, before directing a participating transmission owner to construct an economic or public policy driven transmission project that is abandoned or otherwise not able to be built by the original approved transmission developer, CAISO

²²³ First Compliance Order, 143 FERC ¶ 61,057 at P 265.

²²⁴ *Id.* P 269.

will first consider the reasons why the project was abandoned and consider alternatives to the project, including whether the project is still needed.²²⁵

ii. Summary of Compliance Filing

142. In response to the Commission directives, CAISO proposes to revise its tariff to delete the requirement for an applicable participating transmission owner to submit mitigation measures to NERC and WECC in the event of possible delay in reliability projects.²²⁶ CAISO also proposes to revise the tariff to provide that, in the event that the approved project sponsor abandons an economic or public policy project, CAISO will consider in its evaluation of further actions: (1) the reasons that the approved project sponsor was unable to construct the transmission solution; (2) whether the transmission solution is still needed; and (3) whether there are other solutions that could replace the original transmission solution as it was originally configured.²²⁷

iii. Protests/Comments

143. SoCal Edison states that implicit in the Commission's directive in the First Compliance Order for the CAISO to consider whether a transmission project is still needed before directing a participating transmission owner to construct an abandoned economic or public policy driven project is the proposition that if CAISO determines that an abandoned project is no longer needed, CAISO should not direct a participating transmission owner to backstop the continued development of the project. It therefore requests that CAISO include in its tariff a provision stating: "If the CAISO determines that project is no longer needed, the CAISO will not pursue continued development of that project."²²⁸

²²⁵ *Id.* P 267.

²²⁶ CAISO Second Compliance Filing Transmittal Letter at 16-17 and CAISO Tariff Section 24.6.3, CAISO, eTariff, § 24.6.3 (Development and Submittal of Mitigation Plans) (3.0.0).

²²⁷ CAISO Second Compliance Filing Transmittal Letter at 17; and CAISO, eTariff, § 24.6.4 (Inability of Sponsor to Complete the Transmission Solution) (3.0.0).

²²⁸ SoCal Edison Protest at 5.

144. SoCal Edison further states that the addition of the word “not” in tariff section 24.6²²⁹ was an error and CAISO should delete it. SoCal Edison notes that this tariff section currently prohibits a project sponsor from selling, assigning, or otherwise transferring its rights to finance, construct, and own a needed transmission solution before the facilities have been energized and, if applicable, turned over to CAISO control, unless CAISO has not approved such a proposed transfer.²³⁰

iv. Answer

145. CAISO states that it has no objection to adding the tariff provision requested by SoCal Edison in a further compliance filing, if the Commission so directs. It states, however, that it believes its ability to forgo a project no longer necessary is implicit in the requirement for reassessment of whether a project is still required. CAISO also agrees that the inclusion of the word “not” in the tariff provision relating to the obligation to construct transmission solutions was a clerical error and should be deleted.²³¹

v. Commission Determination

146. We accept CAISO’s revision to its tariff to remove the requirement for an applicable participating transmission owner to submit mitigation measures to NERC and WECC in the event of possible delay in reliability projects. We find that this revision is in compliance with the First Compliance Order, where the Commission concluded that there is no need to set requirements in addition to those already established in the applicable NERC reliability standards and NERC’s Rules of Procedure.

147. We also find that CAISO’s proposed revision to the tariff, providing explicitly that in the event that the approved project sponsor abandons an economic or public policy project, CAISO will reevaluate whether the project is still needed, complies with the First Compliance Order directive.²³² However, we agree with SoCal Edison that implicit in this directive is the proposition that if CAISO determines that an abandoned project is no longer needed, CAISO should not direct a participating transmission owner to backstop the continued development of the project. Accordingly, we direct CAISO to submit,

²²⁹ CAISO, eTariff, § 24.6 (Obligation to Construct Transmission Solutions) (3.0.0).

²³⁰ SoCal Edison Protest at 7.

²³¹ CAISO Answer at 43.

²³² First Compliance Order, 143 FERC ¶ 61,057 at P 267.

within 60 days of the date of issuance of this order, a further compliance filing that makes this understanding explicit in the tariff. Also, we direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing to delete the word “not” in tariff section 24.6 that CAISO agreed was an error.

5. Cost Allocation

148. Order No. 1000 required each public utility transmission provider to have in its OATT a method, or set of methods, for allocating the costs of any new transmission facility selected in the regional transmission plan for purposes of cost allocation.²³³ Each public utility transmission provider must demonstrate that its cost allocation method satisfies six regional cost allocation principles.²³⁴ In addition, while Order No. 1000 permitted participant funding, participant funding cannot be the regional cost allocation method.²³⁵

149. Regional Cost Allocation Principle 1 requires that the cost of transmission facilities be allocated to those within the transmission planning region that benefit from those facilities in a manner that is at least roughly commensurate with estimated benefits. The cost allocation methods must clearly and definitively specify identifiable benefits and the class of beneficiaries, and the transmission facility costs allocated must be roughly commensurate with that benefit.²³⁶

150. Regional Cost Allocation Principle 2 requires that those that receive no benefit from transmission facilities, either at present or in a likely future scenario, not be involuntarily allocated any of the costs of those transmission facilities.²³⁷

151. Regional Cost Allocation Principle 3 specifies that, if a benefit to cost threshold is used to determine which transmission facilities have sufficient net benefits to be selected in a regional transmission plan for the purpose of cost allocation, the threshold must not be so high that transmission facilities with significant positive net benefits are excluded from cost allocation. Such a threshold may not include a ratio of benefits to costs that

²³³ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at PP 558, 690.

²³⁴ *Id.* P 603.

²³⁵ *Id.* P 723.

²³⁶ *Id.* PP 625, 678.

²³⁷ *Id.* P 637.

exceeds 1.25 unless the transmission planning region or public utility transmission provider justifies, and the Commission approves, a higher ratio.²³⁸

152. Regional Cost Allocation Principle 4 specifies that the regional cost allocation methods must allocate costs solely within that transmission planning region unless another entity outside the region or another transmission planning region voluntarily agrees to assume a portion of those costs. In addition, each regional transmission planning process must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.²³⁹

153. Regional Cost Allocation Principle 5 specifies that the cost allocation method and data requirements for determining benefits and identifying beneficiaries for a transmission facility must be transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility.²⁴⁰

154. Regional Cost Allocation Principle 6 specifies that a transmission planning region may choose to use a different cost allocation method for different types of transmission facilities in the regional transmission plan, but there can be only one cost allocation method for each type of transmission facility.²⁴¹ If a transmission planning region chooses to use a different cost allocation method for different types of transmission facilities, each cost allocation method must be determined in advance for each type of facility.²⁴² A regional cost allocation method may include voting requirements for identified beneficiaries to vote on proposed transmission facilities.²⁴³

²³⁸ *Id.* P 646.

²³⁹ *Id.* P 657.

²⁴⁰ *Id.* P 668.

²⁴¹ *Id.* PP 685-686.

²⁴² *Id.* P 560.

²⁴³ *Id.* P 689.

a. First Compliance Order

155. In the First Compliance Filing, CAISO proposed to retain its current cost allocation method, which allocates the costs of regional transmission facilities to all users of CAISO controlled grid through access charges which are based on their actual MWh use of the system. In the First Compliance Order, the Commission found that CAISO's regional cost allocation method largely complies with regional cost allocation principles set forth in Order No. 1000. Specifically, the Commission found that the regional cost allocation method: (1) allocates costs in a manner that is at least roughly commensurate with estimated benefits; (2) does not involuntarily allocate costs to those who receive no benefits; (3) does not include a benefit-to-cost threshold that exceeds 1.25; (4) allocates costs solely within the affected transmission planning region; (5) provides for methods for determining the benefits and beneficiaries that are transparent with adequate documentation to allow a stakeholder to determine how they were applied to a proposed transmission facility; and (6) represents a single cost allocation method for all types of transmission facilities selected in the regional transmission plan for purposes of cost allocation.²⁴⁴ However, the Commission explained that Regional Cost Allocation Principle 4 requires that the regional transmission planning process identify the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions and address whether the transmission planning region agrees to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated. The Commission therefore directed CAISO to further revise its tariff to: (1) provide for the identification of the consequences of a transmission facility selected in the regional transmission planning process for purposes of cost allocation for other regions, such as other upgrades that may be required in the other region; and (2) address whether CAISO's transmission planning region has agreed to bear the costs associated with any required upgrade in another transmission planning region and, if so, how such costs will be allocated within CAISO's transmission planning region.²⁴⁵

b. Summary of Compliance Filing

156. In response to the Commission's directives, CAISO proposes modifications to its tariff to provide that it will identify the impacts of regional transmission facilities on neighboring planning regions or balancing authority areas, including the resulting need, if any, for new solutions in such neighboring planning regions or balancing authority

²⁴⁴ First Compliance Order, 143 FERC ¶ 61,057 at P 297.

²⁴⁵ *Id.* P 302.

areas.²⁴⁶ If CAISO finds that a regional transmission facility causes impacts on neighboring planning regions, transmission systems, or balancing authority areas, CAISO will coordinate with such neighbors to reassess and redesign the regional transmission facilities to be constructed. CAISO also proposes to revise the tariff to state that, if the identified impacts can be mitigated through other solutions on the CAISO controlled grid or through operational adjustments, the costs of such solutions shall be recovered through CAISO's regional access charge as part of the costs of the transmission solution. However, under the proposal, CAISO shall not be responsible for compensating another transmission provider, planning authority, or balancing area authority for costs of any required solutions, or other consequences, on their system associated with the regional transmission facilities, unless CAISO voluntarily agrees to bear such costs pursuant to a separate written agreement.²⁴⁷ The proposed tariff revisions also state that CAISO will not agree to bear any such costs until it first discusses the matter with stakeholders and provides an opportunity for stakeholders to submit comments.²⁴⁸ CAISO's proposed tariff revisions provide that any costs of required transmission facilities in neighboring transmission systems associated with regional transmission facilities that it agrees to bear will be recovered through the regional access charge, and all relevant tariff provisions pertaining to the calculation, billing, and recovery of that charge, as well as any other applicable provisions, shall apply.²⁴⁹ CAISO argues that the proposed tariff revisions are consistent with, and generally modeled after, the provisions that Midcontinent Independent System Operator, Inc. (MISO), PJM Interconnection, L.L.C. (PJM), and the New York Independent System Operator, Inc. (NYISO) recently filed to comply with Cost Allocation Principle Number 4.²⁵⁰

²⁴⁶ CAISO, eTariff, § 24.10 (Operational Review and Impact Analysis) (2.0.0).

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ CAISO also states its proposal goes further than the proposal it references because its proposal provides an express opportunity for stakeholder input on this specific matter. CAISO Compliance Filing Transmittal Letter at 18 (citing to Midcontinent Independent Transmission System Operator Compliance Filing, Docket No. ER13-187 (July 22, 2013), Attachment FF, Section II.D; New York Independent System Operator's Order No 1000 Interregional Compliance Filing, Transmittal Letter at 28, 40, Proposed Joint Operating Agreement Sections 35.10.2 (g) and 35.10.6, NYISO OATT, Attachment Y, Sections 31.2.2.7, 31.3.1.6, and 31.4.4.1; PJM Compliance Filing, Docket No. ER13-198, Transmittal Letter at 51-54 (July 22, 2013). Joint Operating Agreement

(continued...)

c. Protests/Comments

157. Neighboring Systems, comprised of entities that co-own transmission facilities with a participating transmission owner in CAISO and/or operate a “neighboring” transmission system, seek clarification that if a transmission project proposed in CAISO’s transmission planning process is expected to adversely impact the reliability of any neighboring transmission systems and neither CAISO nor the transmission developer is willing to pay for the necessary mitigation, the project cannot move forward in CAISO’s regional transmission plan to commercial operation. Neighboring Systems believe that this is the only reasonable way to interpret CAISO’s proposed tariff provision without jeopardizing reliability in the Western Interconnection, unlawfully abrogating existing contracts, or running afoul of the Commission’s Regional Cost Allocation Principles.²⁵¹

158. Neighboring Systems argue that that CAISO’s proposed tariff language is inconsistent with the WECC Project Coordination and Path Rating Processes which do not allow CAISO or a project developer to place a regional transmission facility into service without first accepting responsibility to pay for the mitigation of adverse reliability impacts on neighboring systems that the facility causes.²⁵² Neighboring Systems contend that if CAISO is unwilling to bear responsibility for such mitigation costs, then the project developer should be responsible for such costs, as required by the WECC processes.²⁵³

159. Neighboring Systems further state that CAISO’s proposed approach fails to acknowledge that existing agreements between participating transmission owners in the CAISO region and transmission owners outside that region may require those transmission owners to bear costs of mitigating adverse impacts. Neighboring Systems

Among and Between New York Independent System Operator, Inc. and PJM Interconnection LLC, PJM Interconnection LLC Rate Schedule 45 and NYISO OATT 35, Attachment CC; Operating Agreement between PJM Interconnection LLC and SERTP, Schedule 6-A, sections 1.1 and 2.1, Docket No. ER13-1936; Joint Operating Agreement between MISO and PJM. Sections 9.4.1, 9.4.2; Submission of Interregional Transmission Coordination Procedures between PJM Interconnection LLC and New York Independent System Operator, Inc., sections 35.10.7.2, 35.10.7.3(a), (b) and (d) (Docket No. ER13-1947).

²⁵¹ Neighboring Systems Protest at 1-2.

²⁵² *Id.* 5, 10-11.

²⁵³ *Id.* 8-10.

also assert that it is not clear from the proposed tariff language whether CAISO intends to allow the transmission owners to recover such costs via their respective transmission revenue requirements.²⁵⁴

160. Neighboring Systems further assert that CAISO's argument that its tariff language on this issue is consistent with language filed by other independent system operators and regional transmission organizations (ISO/RTOs), such as MISO, PJM, and NYISO, is irrelevant because those ISO/RTOs are not members of WECC that have agreed to follow the WECC Project Coordination and Path Rating Processes. According to Neighboring Systems, those ISO/RTOs' filings are also distinguishable because the ISO/RTOs coordinated with each other, as neighbors, and acted jointly on this important issue, whereas CAISO acted unilaterally. Neighboring Systems explain that, for example, in PJM's second regional compliance filing, to address this issue, PJM filed amendments to its respective joint operating agreements with MISO and NYISO, which were mutually agreed to, as part of its interregional compliance filing with Order No. 1000.²⁵⁵

161. Furthermore, Neighboring Systems argue that if the Commission allows CAISO or a transmission project developer to place a new transmission facility into operation in the region without first agreeing to bear responsibility for paying mitigation costs and instead require the adversely affected neighboring system to bear those costs, it would violate the just and reasonable standard as interpreted by the courts. In support, they cite a recent decision by the U.S. Court of Appeals for the Seventh Circuit that interpreted the "just and reasonable" standard of the FPA to require costs imposed on a party to be commensurate with the burdens imposed by that party or with the benefits received by that party.²⁵⁶ Neighboring Systems state that because CAISO's customers benefit from the regional transmission facility and cause the reliability violations in a neighboring system, it is just and reasonable for CAISO's customers to bear these costs. Neighboring Systems further argue that imposing the mitigation costs on neighboring systems that

²⁵⁴ Neighboring Systems provide the following example: section 12.1 of the Second Amended Owners Coordinated Operation Agreement between Pacific Gas & Electric Company, PacifiCorp, Transmission Agency of Northern California, and the Western Area Power Administration, requires a Party to avoid adverse impacts "and to the extent it does not avoid such adverse impacts [the Modifying Party] shall fully compensate affected Parties." *See id.* at 13.

²⁵⁵ *Id.* 14 (citing PJM Interconnection LLC Compliance Filing, Transmittal Letter, Docket No. ER13-198-002 at 51-54 (July 22, 2013)).

²⁵⁶ *Id.* 16 (citing *Ill. Commerce Comm'n v. FERC*, Nos. 11-3421, *et al.*, U.S. App., slip op. at 4 (7th Cir. June 7, 2013)).

neither benefit from the regional transmission facility nor are responsible for causing reliability issues on their systems would be unjust and unreasonable, unduly discriminatory to neighboring systems' customers, and unduly preferential to customers of CAISO.²⁵⁷ Accordingly, Neighboring Systems request the Commission to direct CAISO to revise its tariff to clarify that if the transmission developer refuses to pay for mitigation of adverse impacts on neighboring systems' reliability, such project may not proceed. Alternatively, Neighboring Systems suggest that CAISO should revise its tariff to provide that CAISO will bear cost of mitigation measures required on Neighboring Systems' transmission facilities.²⁵⁸

162. SoCal Edison states that CAISO's revised tariff language is problematic in the following three aspects: (1) the tariff only allows the costs of facilities under CAISO's operational control to be recovered in the regional access charge, and the neighboring transmission systems are not under CAISO's operational control; (2) the tariff contemplates that only costs incurred by participating transmission owners, and not by CAISO, may be recovered through the regional access charge; and (3) the tariff affords CAISO too much discretion to recover these costs, in that there are insufficient standards, as well as a lack of express stakeholder consent and appropriate scrutiny by the Commission.²⁵⁹

d. Answer

163. CAISO asserts that Neighboring Systems' request for clarification that a regional project not proceed if it is expected to have an adverse impact on the reliability of a neighboring system and neither CAISO nor the project sponsor agrees to pay for the necessary mitigation may sweep too broadly. CAISO states that it adheres to the WECC Path Rating Processes, but notes that not all potential impacts involve rated paths. According to CAISO, section 24.10 of the tariff requires it to broadly examine the impacts on neighboring regions and to coordinate with the neighboring systems with regard to mitigating any impacts on those systems. CAISO states that this coordination should ensure that its transmission plan will reflect how and what CAISO has done to address the needs of its planning region while accurately accommodating all impacts on other planning regions. CAISO further explains that when such impacts are discovered or identified, it is committed to redesign or establish operational control protocols within its planning region to mitigate the impact in the other planning region. CAISO notes that

²⁵⁷ *Id.* 16.

²⁵⁸ *Id.* 5-6.

²⁵⁹ SoCal Edison Protest at 6.

it does not, however, simulate contingencies in another planning region's system for purposes of assessing the performance and impact on another region's system as part of the development of its transmission plan, with the possible exception of a path rating. CAISO believes this is consistent with WECC policy and CAISO's current practice.²⁶⁰

164. CAISO acknowledges that it is possible that while its regional transmission plan is compliant with these procedures, it could nonetheless result in certain changes in system parameters on an adjacent planning region.²⁶¹ However, CAISO argues that the adjacent planning region should discover such issues when it completes an assessment of its own system and should provide that information to CAISO in conjunction with its transmission planning stakeholder process in which new transmission solutions are evaluated. CAISO asserts that a contingency on a neighboring system that results in the compliance issue should be the neighboring system's responsibility to address. Therefore, CAISO concludes, Neighboring Systems' requested clarification is not necessary.

165. CAISO further argues that its proposed tariff revision complies with the Commission's directives in the First Compliance Order. CAISO states that the Commission required it to identify any impacts on other systems and indicate whether CAISO has agreed to bear the costs associated with any required upgrades in another transmission planning region and, if so, how such costs will be allocated within CAISO's transmission planning region.²⁶²

166. In response to Neighboring Systems' assertion that the proposed tariff revision disregards existing contracts between participating transmission owners and neighboring systems, CAISO states that when it designates a project sponsor to construct a transmission solution, nothing in that designation would relieve the project sponsor of any responsibility for mitigation costs that arises from a contract to which the project sponsor is a party. CAISO further explains that contracts between participating transmission owners and neighboring systems are not CAISO agreements. CAISO states

²⁶⁰ CAISO Answer at 38.

²⁶¹ These include changes in flow or voltage, or could have short-circuit or sub-synchronous resonance impacts. *Id.* at 39.

²⁶² CAISO Second Compliance Filing Second Transmittal Letter at 17 (citing First Compliance Order, 143 FERC ¶ 61,057 at P 269).

that tariff section 24.10 is not intended to address obligations arising under existing contracts to which CAISO is not a party.²⁶³

167. State Water Project also asks the Commission to reject Neighboring Systems' request to state that if a proposed new transmission project in CAISO would have an adverse reliability impact on neighboring regions, such facility could not be built or made operational unless CAISO or the project developer first agrees to bear responsibility for the costs of mitigating that adverse reliability impact on neighboring regions.²⁶⁴ State Water Project adds that with respect to new interconnections, it agrees with the basic proposition that impacts of new interconnections must be mitigated; however, State Water Project disagrees that the same cost allocation solution will be appropriate in every instance, nor that a generic prohibition would be appropriate in every instance.²⁶⁵

168. In response to SoCal Edison's assertion that CAISO's agreement to include the costs of upgrades in neighboring transmission systems in CAISO's transmission access charge be subject to Commission approval,²⁶⁶ CAISO states that it was its intent that mitigation costs associated with a required upgrade on a neighboring system that CAISO agrees to bear would be the responsibility of the approved project sponsor who will construct and own the transmission facilities that necessitated such upgrades. CAISO explains that such mitigation costs would be recovered through the participating transmission owner's transmission revenue requirement, which in turn is subject to approval by the Commission. Although CAISO maintains that that it has fully complied with the Commission directive in the First Compliance Order,²⁶⁷ it commits to submit further revisions to its tariff to the extent the Commission believes that further clarification is required to address SoCal Edison's concerns.²⁶⁸ However, CAISO further asserts that there is no need to expressly state in the tariff that any increases in a participating transmission owner's transmission revenue requirement or the transmission access charge to account for the costs of necessary mitigation upgrades on the system of a neighboring transmission provider requires Commission approval because the FPA and

²⁶³ CAISO Answer at 41.

²⁶⁴ State Water Project at 3.

²⁶⁵ *Id.* 5-6.

²⁶⁶ CAISO Answer at 37.

²⁶⁷ *Id.* 38.

²⁶⁸ *Id.*

the Commission's regulations already require that any rate change be approved by the Commission as just and reasonable.

169. In response to CAISO's answer, SoCal Edison states that it disagrees with CAISO's assertion that CAISO should be allowed to authorize the inclusion of transmission system upgrade costs of a neighboring transmission system into a participating transmission owner's transmission access charge on the premise that these costs ultimately will be subject to Commission review once included in the revenue requirement of the participating transmission owner. SoCal Edison argues that the after-the-fact review by the Commission of inclusion of these costs pursuant to a FPA section 205 filing is not the right approach, because the participating transmission owner will already have assumed the costs by the time the Commission reviews them. SoCal Edison proposes that before the decision is made to pay costs for upgrades located outside CAISO's balancing authority area, this decision along with its underlying costs should be reviewed by the Commission to ensure the justness and reasonableness of proposed costs.²⁶⁹ Alternatively, SoCal Edison requests that CAISO clarify how costs of upgrades incurred outside of CAISO's balancing authority area can be placed into a participating transmission owner's transmission access charge.²⁷⁰

e. Commission Determination

170. Order No. 1000's Regional Cost Allocation Principle 4 specifies that each regional transmission planning process must identify consequences for other transmission planning regions, such as upgrades that may be required in another region and, if the original region agrees to bear costs associated with such upgrades, then the original region's cost allocation method or methods must include provisions for allocating the costs of the upgrades among the beneficiaries in the original region.²⁷¹ In the First Compliance Order, the Commission found that CAISO did not comply with this requirement and directed CAISO to further revise its tariff to: (1) provide for the identification of the consequences of a transmission facility selected in the regional transmission planning process for purposes of cost allocation for other regions, such as other upgrades that may be required in the other region; and (2) address whether CAISO's transmission planning region has agreed to bear the costs associated with any

²⁶⁹ SoCal Edison Answer at 2.

²⁷⁰ *Id.* 3.

²⁷¹ Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 657.

required upgrade in another transmission planning region and, if so, how such costs will be allocated within CAISO's transmission planning region.²⁷²

171. We find that CAISO has complied with the above directives. Specifically, CAISO proposes to revise tariff section 24.10 to require it to identify the impacts of regional transmission facilities on neighboring planning regions or balancing authority areas, including the resulting need, if any, for new solutions in such neighboring planning regions or balancing authority areas.²⁷³ If CAISO finds that a regional transmission facility causes impacts on neighboring planning regions, it will coordinate with such neighbors to reassess and redesign the regional transmission facilities to be constructed. If the identified impacts can be mitigated through other solutions on CAISO controlled grid or through operational adjustments, CAISO proposes to recover the costs of such solutions through CAISO's regional access charge as part of the costs of the transmission solution. CAISO's proposal, however, provides that CAISO shall not be responsible for compensating neighboring systems for costs of any required mitigation on their systems, unless upon consulting with its stakeholders,²⁷⁴ CAISO voluntarily agrees to bear such costs pursuant to a separate written agreement.²⁷⁵ CAISO's revised tariff also specifies that any costs associated with mitigation of impacts on neighboring transmission systems that it agrees to bear will be recovered through the regional access charge, and all relevant tariff provisions pertaining to the calculation, billing, and recovery of that charge, as well as any other applicable provisions, shall apply.²⁷⁶ We therefore find that CAISO has addressed all the Commission's concerns with the prior tariff language and that CAISO's proposed tariff language complies with Regional Cost Allocation Principle No. 4.

172. Although we find that CAISO has complied with the First Compliance Order's directives regarding Cost Allocation Principle No. 4, and thus do not direct any further tariff revisions, we understand Neighboring Systems' concerns regarding the potentially adverse consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation on other transmission systems that are not part of that transmission planning region. To that end, we encourage the continuation of existing

²⁷² First Compliance Order, 143 FERC ¶ 61,057 at P 302.

²⁷³ CAISO Tariff Section 24.10.

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ *Id.*

voluntary arrangements – such as the contractual agreements referenced by Neighboring Systems’ in their protest²⁷⁷ – as well as considering new opportunities to work together to address any such issues that might arise. Order No. 1000 was not intended to disrupt or impede any such arrangements. We also note that, in the past, CAISO has successfully resolved issues pertaining to reliability impacts of new transmission facilities on neighboring systems by following the WECC Project Coordination and Path Rating Processes and CAISO’s internal practices. Order No. 1000’s requirements are not intended to circumvent or replace the WECC processes. Therefore, while we do not require CAISO to file tariff revisions to respond to Neighboring Systems, we strongly encourage CAISO and its stakeholders to continue working with Neighboring Systems – as they have done in the past – to ensure that Neighboring Systems’ concerns about the impacts on their transmission systems of transmission facilities selected in CAISO’s regional transmission plan for purposes of cost allocation are adequately addressed.

173. SoCal Edison also requests further tariff revisions to require a section 205 review by the Commission to ensure the costs for upgrades located outside CAISO’s balancing authority area are just and reasonable. We find the issue raised by SoCal Edison is a matter of cost recovery – i.e., how costs allocated to a transmission owner are to be recovered from its customers – and thus is outside the scope of Order No. 1000. While the Commission permitted public utility transmission providers to include cost recovery provisions in their Order No. 1000 compliance filings, it explained that it did not require them to do so. Here, CAISO has not proposed any cost recovery provisions and we will not direct it to include such provisions in this proceeding. CAISO may, of course, submit a section 205 filing to address this issue, and the Commission will separately consider such a proposal. We therefore deny SoCal Edison’s request to require that CAISO’s tariff require prior Commission review of mitigation costs associated with an upgrade on a neighboring system.

174. In its answer, CAISO states that it commits to submit further tariff revisions to clarify that mitigation costs associated with a required upgrade on a neighboring system that CAISO agrees to bear would be the responsibility of the approved project sponsor who will construct and own the transmission facilities that necessitated such upgrades and such mitigation costs would be recovered through the participating transmission owner’s transmission revenue requirement, which in turn is subject to approval by the

²⁷⁷ Neighboring Systems Protest at 13 (referencing the Second Amended Owners Coordinated Operation Agreement between Pacific Gas & Electric Company, PacifiCorp, Transmission Agency of Northern California, and the Western Area Power Administration).

Commission.²⁷⁸ We accept CAISO's commitment to submit further tariff revisions with respect to this issue and thus direct CAISO to submit, within 60 days of the date of issuance of this order, a further compliance filing.

The Commission orders:

(A) LS Power's request for clarification is hereby denied, as discussed in the body of this order.

(B) CAISO's compliance filing is hereby accepted, effective October 1, 2013 subject to further compliance filing, as discussed in the body of this order.

(C) CAISO is hereby directed to submit a further compliance filing, within 60 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Clark is concurring with a statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

²⁷⁸ CAISO Answer at 38.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	Docket Nos. ER13-103-001 ER13-103-003
Pacific Gas and Electric Company	ER12-2709-001
San Diego Gas & Electric Company	ER13-87-001

(Issued March 20, 2014)

CLARK, Commissioner, *concurring*:

While I support the California Independent System Operator Corporation (CAISO) second round order 1000 compliance filing being issued here, I also note for the record my partial dissent in the initial compliance order.¹ While today's order does not expound upon those items on which I commented earlier, the Commission's previous decision does, by necessity, impact what is included, and not included, in CAISO's subsequent filings.

Accordingly, I respectfully concur.

Tony Clark
Commissioner

¹ *Cal. Indep. Operator Corp.*, 143 FERC ¶ 61,057 (2013) (First Compliance Order) (Clark, Comm'r, dissenting in part).