

**Pathfinder Renewable Wind Energy, LLC and Zephyr Power Transmission, LLC
Comments on the CAISO Draft 2012/2013 Transmission Planning Process Unified
Planning Assumptions and Study Plan**

Pursuant to the California Independent System Operator's ("CAISO's") February 7, 2012 Market Notice, Pathfinder Renewable Wind Energy, LLC ("Pathfinder") and Zephyr Power Transmission, LLC respectfully submit these comments on the CAISO Draft 2012/2013 Transmission Planning Process Unified Planning Assumptions and Study Plan ("Draft Study Plan").¹

I. Introduction and Summary

Pathfinder is in the development stages of a large-scale wind generation project, which currently has an active Interconnection Request pending in the CAISO's Queue Cluster 4. Pathfinder's wind project will be located in southeast Wyoming and interconnected to the CAISO Balancing Authority Area ("BAA") at the Eldorado Substation via a high-voltage direct current ("HVDC") transmission line being developed by Zephyr Power Transmission, LLC ("Zephyr Project"). Currently, issues associated with the reliability of the Zephyr Project and the nature of its interconnection within the CAISO BAA are under consideration by CAISO staff.

Summary

In its transmission planning process and when developing the Draft Study Plan, it is crucial that the CAISO provide for a meaningful opportunity and timeframe for stakeholders to review and provide input on data assumptions used by the CAISO. Specifically, stakeholders

¹ The CAISO Market Notice is available at <http://www.caiso.com/Documents/2012-2013TransmissionPlanStakeholderMeeting22812.htm>. The Draft Study Plan is available at <http://www.caiso.com/Documents/2012-2013ISOTransmissionPlanningProcessDraftStudyPlan.pdf>.

must be allowed to review and comment on generation scenarios recommended by the California Public Utilities Commission (“CPUC”) as well as other inputs used by the CAISO in its planning process. In several instances discussed below, the CAISO process does not permit Pathfinder and other stakeholders to present such comments here. Accordingly, Pathfinder urges the CAISO to provide a meaningful comment opportunity in the future.

Of greatest concern are the assumptions regarding generation portfolios. In planning for future generation scenarios, Pathfinder urges the CAISO to ensure that its transmission planning process focuses not only on least-cost transmission options, but overall costs to ratepayers, taking into account generation costs and different generation options and portfolios. Generation costs play a much more significant role in overall ratepayer costs than transmission costs, and the CAISO should take this fact into account when developing its transmission plan. Specifically, the plan should seek to accommodate a range of possible future scenarios rather than choosing only one or two. Such flexibility recognizes uncertainty and will promote generation options and competition that will reduce total ratepayer costs even if not producing the lowest cost for only the transmission component.

Among the scenarios that the CAISO should plan for is one that assumes a substantial increase in renewable energy imported into California. This is consistent with other California transmission planning efforts. Additionally, Federal Energy Regulatory Commission (“FERC”) requirements and the Federal Commerce Clause also require consideration of out-of-state resources in the transmission planning process. Additional issues, inputs, and studies, as described more fully below, should also be considered by the CAISO in its transmission planning process.

Lastly, in accordance with Section 24.3.4 of the CAISO Tariff, Zephyr Power Transmission, LLC requests that the CAISO perform an Economic Planning Study. The request is more fully described below.

II. Stakeholder Input is Vital to the Draft Study Plan and the Transmission Planning Process

A. The CAISO Must Ensure that Stakeholders have a Meaningful Opportunity to Review and Comment on Generation Scenarios and Portfolios Recommended by the California Public Utilities Commission

The Draft Study Plan, as presented, lacks appropriate information and processes to ensure broad stakeholder involvement in the creation of one of the most important assumptions used as an input into the modeling process: selection of renewable generation types, amounts, and locations. Specifically, the generation scenarios and portfolios that the CPUC will recommend to the CAISO are critical assumptions not included in the Draft Study Plan. Accordingly, Pathfinder and other stakeholders cannot comment on this most critical assumption now. Pathfinder appreciates the assurances offered by CAISO staff (and the CPUC staff) at the February 28 workshop that stakeholders will be given a future opportunity to comment on the portfolios once they are submitted. However, based on experience in the last planning cycle as well as given the schedule of the work plan, Pathfinder is concerned that this comment opportunity may not truly allow for meaningful amendment of the portfolios, either because the CAISO believes it is bound by them as submitted or because there is not sufficient time in the work plan to develop and consider amendments.

Specifically, Pathfinder reiterates its request raised at the February 28th stakeholder meeting that the CAISO process allow sufficient time for stakeholders to meaningfully review and comment on the Commission recommended generation assumptions. For the comment

opportunity to be meaningful, the work plan needs to allow for the possible amendment of the portfolios and the CAISO has to be willing to consider such amendments.

This last point merits emphasis. The CAISO should not automatically endorse generation and planning scenarios provided by the CPUC, even when the recommended scenarios are based on the CPUC's Long-Term Procurement Plan ("LTPP") proceeding that includes stakeholder input. The LTPP process is not employed specifically for the transmission planning process, but is rather designed to approve plans for utilities to purchase energy in an amount adequate to meet the demands of customers. The CAISO should therefore not automatically endorse the CPUC's recommended generation scenario. To this end, the CAISO should also review and include all LTPP planning scenarios in its transmission planning process, not just the scenario recommended by the CPUC, and allow stakeholders to review and comment on each of those scenarios. Such a methodology is utilized by many other regional transmission organizations ("RTOs") so that multiple input assumptions are used when developing transmission plans.

Furthermore, it is particularly important that stakeholders are provided with a meaningful opportunity to comment on CPUC generation scenarios for years such as this year when the CPUC's LTPP proceeding has not yet concluded, or if the CPUC's recommended generation scenario is developed without stakeholder input.² Relying on dated assumptions and without the benefit of stakeholder input, CPUC recommendations may not reflect appropriate generation scenarios.

² At the February 28th stakeholder meeting, Keith White from the CPUC stated that the CPUC has not had an open stakeholder process on the CPUC's recommended generation scenarios since the input to the last transmission planning process and has not proposed a major change in the generation portfolio from last year.

B. The CAISO Must Ensure that Stakeholders have a Meaningful Opportunity to Review and Comment on Other Inputs Used in the Draft Study Plan

In addition to allowing stakeholder input on CPUC recommendations, the review and comment opportunity should address many other key assumptions used in the Draft Study Plan, including the following:

- assumptions on generation resource additions and retirements;
- energy demand;
- fuel and pricing;
- production cost modeling; and
- CAISO's incorporation of resources in the CAISO Generator Interconnection Procedures ("GIP") queue.³

Furthermore, stakeholder input must be allowed on key environmental assumptions, including some not identified in the Draft Plan. Among the key environmental assumptions are:

- The impact of the State Water Resources Control Board's Policy on once-through-cooling;
- AB 1318 impacts;
- California's AB-32 greenhouse gas ("GHG") emission reductions; and
- Impacts from the Environmental Protection Agency rules regarding GHG emissions which should also be considered, particularly for long-term planning scenarios.

The Plan also needs to consider certain key public policy objectives including:

- The impact of increased distributed generation;
- Meeting potential renewable goals that are higher than 33%; and
- Reducing coal generation.

Another overarching issue is that all of the inputs and studies used in the Draft Study Plan should employ the same assumptions. It does not make sense to use one set of assumptions for reliability assessments, a second set of assumptions for economic planning, and a third set of assumptions for policy driven analyses.

³ This should apply to planning cases up to 1-year, 2-5 years, and 6-10 years.

III. The 2012-2013 Transmission Planning Process Should Seek to Meet Reliability and other Policy Goals at the Least Total Cost to Ratepayers, not just the Least Transmission Cost

The goal of transmission planning should be to meet reliability and other important policy goals at the least cost. However, when considering the “least cost,” the CAISO should consider the customer’s entire bill, not simply the transmission portion of it. Transmission is a relatively small portion of the customer’s bill whereas the generation portion of the bill is typically the largest portion. However, transmission can have a profound impact on generation costs by restricting competition, foreclosing generation options and excluding the least cost generation options.

Thus, “getting transmission right” means planning a transmission system that encourages least cost generation and generation competition in a variety of scenarios. If there is one thing certain about forecasts of the future, it is that they are wrong. To select any one generation scenario and put all California’s eggs in that basket vastly overstates the ability to forecast variables such as technology breakthroughs, weather, natural and man-made disasters, interest rates, regulatory change, the economy and many other factors that fundamentally impact fuel and other generation costs. Prudent planning recognizes such uncertainties and places a high value on preserving options and maintaining flexibility.

Accordingly, the transmission planning process should seek to accommodate—and create competition among—as many generation scenarios as is reasonable. Choosing a scenario that excludes any significant portion of the market limits generation options and risks substantially higher generation costs and overall rates. The CAISO must ensure that its transmission planning process considers sufficient generation scenarios to promote competition and provide customers with the lowest cost bills.

The CAISO should not only consider what projects it needs to initiate in the near term, but also consider what generation and associated transmission opportunities are on the horizon to ensure that California's electricity customers can obtain environmentally suitable renewable energy at the lowest possible cost.

IV. The CAISO Must Consider At Least One Scenario with Significant Out-of-State Imports and Options

To help ensure that reliability and other policy goals are served at the least cost, the CAISO should consider generation scenarios that include economical renewable resources from outside of California. This issue was raised at the February 28, 2012 stakeholder meeting where it was highlighted that out-of-state generation is frequently more economical. For example, the CAISO should consider increased capacity from the Eldorado Valley delivered to southern California⁴ and out-of-state wind resources, such as wind resources from southeastern Wyoming delivered to California via HVDC transmission.

A. The CPUC, the CTPG and the WECC Transmission Plans Have All Independently Demonstrated the Value of Out-of-State Imports for California and the West

In developing its 2012-2013 Transmission Plan, the CAISO should consider carefully, and, absent compelling reason, seek to be consistent with, the planning efforts of the CPUC, the California Transmission Planning Group ("CTPG") and the Western Electricity Coordination Council ("WECC"). All three of these entities have identified in their planning substantial benefits from enabling increased out-of-state imports into California.

⁴ There are many resources, proponents and competitive opportunities presented from the Eldorado Valley with step increases in transmission capacity of 1,500, 3,000 and 6,000 MW between the Eldorado Valley and the LA area.

The CPUC 2010 LTPP System Analysis Preliminary Results Study indicates a potential incremental need of between approximately 10-25 terawatt hours (“TWh”) from out-of-state resources out of a total of approximately 54 TWh in 2020.⁵

The CTPG issued its 2011 Final Statewide Transmission Plan (“2011 Plan”) on February 24, 2012.⁶ The 2011 Plan is intended to identify transmission needs, such as the need to mitigate thermal overloads on the existing transmission system between two substations. The 2011 Plan concludes:

Based upon study results in Phase 3 and Phase 4 of CTPG’s 2010 study work, the Pacific Northwest Corridor the Northwest Nevada Corridor and the Southwest Corridor have been selected as high potential transmission corridors. These corridors are recognized as *potential options for the state of California to import power, including renewable energy to meet the state’s RPS goals*. Based on further review in 2011, the CTPG has again selected these corridors as high potential transmission corridors. The corridors were selected for the following reasons:

- The recognition by other sub-regional planning groups for study as potential WECC transmission system improvements
- The potential for geographic, weather, and resource diversity for California’s renewable resource portfolio beyond that provided by renewable developed primarily in southern California,
- The strong support by federal and state governments required for the completion of the renewable resource projects and transmission improvements that would provide renewable energy throughout the western United States.

⁵ 2010 Long-Term Procurement Plan System Analysis Preliminary Results Study, p. 26, available at http://www.cpuc.ca.gov/NR/rdonlyres/DC4E126B-B8D0-41C5-9CB5-081CCF98689E/0/LTPP_Apr29_Filing_E3_final_5911.pdf. Hopefully, the scenarios provided to the CAISO by the CPUC will be consistent with this analysis—but that is among the reasons that stakeholders need an opportunity to review the scenarios.

⁶ The CTPG 2011 Plan is available at http://www.ctpg.us/images/stories/ctpg-plan-development/2012/2012-03-05_2011finalstatewidetransmissionplan.pdf.

- Potential access to entities that are currently planning for the development or renewable energy resources well beyond their own needs for potential import into California.⁷

Additionally, the 2011 Plan provides:

Similar to 2010, the CTPG identified “high potential” transmission corridors that may provide the State with options going forward. The identification of these transmission corridors is intended to provide transmission planning information *to assist the California load serving entities’ efforts in identifying viable out-of-state renewable resource projects*. By providing high potential transmission corridor options, CTPG intends *to facilitate a competitive renewable resource development and procurement environment*.⁸

The 2011 Plan clearly recognizes the importance of evaluating out-of-state renewable generation options, as such options are important to provide competitive pricing and to ensure that load serving entities can meet renewable procurement goals.

The WECC Transmission Expansion Planning Policy Committee (“TEPPC”) made similar findings in its 10-Year Regional Transmission Plan – 2020 Study Report (“2020 Study Report”).⁹ Among the scenarios considered in the 2020 Study Report were two involving 25,000 GWh increases in Montana and Wyoming wind production and associated transmission to convey the energy to California. The WECC conclusion on the impact of increasing wind production was:

Based on the capital cost estimates prepared for the aggressive wind cases as shown below in Table 4, all of the aggressive wind cases have a cost benefit compared to the PC1 SPSC reference case. The savings are mostly related to the estimated capital costs of the resources.

⁷ 2011 Plan, pp. 8-9; emphasis added.

⁸ 2011 Plan, p. 11; emphasis added.

⁹ The 2020 Study Report is available at <http://www.wecc.biz/library/StudyReport/Documents/2020%20Study%20Report.pdf>.

A closer review of the 2020 Study Report reveals the magnitude of the identified savings is substantial, in particular for the Wyoming high wind scenario – a scenario similar to Pathfinder’s proposal to deliver wind energy into California. For that scenario, the Report found a net reduction in regional production costs of \$1,556 million per year compared to the base case scenario—the lowest production cost of any of the scenarios studied.¹⁰

In the wake of these consistent conclusions reached by three other expert, objective planning organizations, the CAISO cannot credibly refuse to carefully consider one or more scenarios assessing the impact of a significant increase in renewable imports.

B. FERC Order 1000 and the Federal Commerce Clause Provide an Independent Basis for Considering Out-of-State Generation Imports

Another reason for the CAISO to include at least one scenario with significant increases in out-of-state imports (or, more specifically, wind from Wyoming per the WECC 2020 Study Report) is that it may be legally required. Both FERC’s Order No. 1000¹¹ and the Commerce Clause of the U.S. Constitution demand that California not restrict its electricity supply to in-state resources.

1. FERC Order 1000

FERC Order 1000 requires transmission planning efforts to look beyond a transmission provider’s borders and evaluate regional generation and transmission scenarios. The Order “requires each public utility transmission provider to participate in a regional transmission planning process that produces a regional transmission plan and complies with existing Order No. 890 transmission planning principles.”¹² The Order also ensures that:

¹⁰ 2020 Report at Table 25, p. 93.

¹¹ FERC Order No. 1000 is available at <http://www.ferc.gov/whats-new/comm-meet/2011/072111/E-6.pdf>.

¹² FERC Order No. 1000, ¶ 68.

...transmission needs driven by Public Policy Requirements are considered in local and regional transmission planning processes...to ensure that public utility transmission providers in every transmission planning region, in consultation with stakeholders, evaluate proposed alternative solutions at the regional level that may resolve the region's needs more efficiently or cost-effectively than solutions identified in the local transmission plans of individual public utility transmission providers.”¹³

Order 1000 concludes:

...that it is necessary to have an affirmative obligation in these transmission planning regions to evaluate alternatives that may meet the needs of the region more efficiently or cost-effectively.¹⁴

The Order continues that without such a regional approach:

...transmission providers may not adequately assess the potential benefits of alternative transmission solutions at the regional level that may meet the needs of a transmission planning region more efficiently or cost-effectively than solutions identified by individual public utility transmission providers in their local transmission planning process.¹⁵

Additionally, Order 1000 describes the importance of a regional plan for meeting renewable procurement requirements. The Order finds that regional transmission planning is vital to identify solutions to cost-effectively integrate “location-constrained renewable energy resources needed to fulfill...the renewable portfolio standards adopted by many states.”¹⁶ Order 1000 points out that “some transmission planning processes do not consider transmission needs driven by Public Policy Requirements,” resulting in a struggle to “address transmission expansion necessary to...comply with renewable portfolio standards.”¹⁷

¹³ FERC Order No. 1000, ¶ 68, emphasis added.

¹⁴ FERC Order No. 1000, ¶ 80.

¹⁵ FERC Order No. 1000, ¶ 81.

¹⁶ FERC Order No. 1000, ¶ 81.

¹⁷ FERC Order No. 1000, ¶ 82.

It is difficult to see how the CAISO's transmission planning process can be said to conform to the intent of Order 1000 if it does not study or consider generation scenarios with substantial increases of out-of-state renewable resources. Indeed, when the CAISO considers public policy objectives in its transmission planning, complying with Order 1000 should be on the list.

2. Commerce Clause

Similarly, the refusal to consider such scenarios and the resulting planning of a transmission system that unduly favors in-state resources would violate the Commerce Clause of the U.S. Constitution. The Commerce Clause¹⁸ reserves to Congress the authority to regulate commerce among the states. Although it does not expressly prohibit states from enacting laws impacting interstate commerce, courts have traditionally held that the Commerce Clause implicitly includes such a prohibition. This is commonly referred to as the “negative Commerce Clause” or “dormant Commerce Clause” and is often used to overturn attempts by states to favor in-state interests over out-of-state interests and also to prohibit “economic protectionism – that is, regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors.”¹⁹ Accordingly, the Supreme Court has “interpreted the Commerce Clause to invalidate local laws that impose commercial barriers or discriminate against an article of commerce by reason of its origin or destination out of State.”²⁰

As the Commerce Clause is used to attack laws and regulations favoring in-state products or services, the CAISO's transmission planning process should not unreasonably ignore renewable generation options from out-of-state. The Supreme Court has found that “it is

¹⁸ U.S. Constitution, Art. I, § 8, cl. 3.

¹⁹ *New Energy Co. v. Limbach*, 486 U.S. 269, 273 (1988).

²⁰ *C & A Carbone, Inc. v. Town of Clarkstown, New York*, 511 U.S. 383, 390 (1994).

difficult to conceive of a more basic element of interstate commerce than electric energy, a product used in virtually every home and every commercial or manufacturing facility. No State relies solely on its own resources in this respect.”²¹ This is particularly true given that the electric system in most of the United States and portions of Canada and Mexico is an interconnected grid that must be operated in a coordinated manner. Accordingly, the Draft Study Plan must include scenarios for out-of-state imports or risk violating the Commerce Clause.

V. Additional Issues to Consider in the Draft Study Plan

It appears that the CAISO’s transmission planning process could result in giving preference to projects that provide reliability benefits that are subject to a right of first refusal for the incumbent utilities. By first performing the reliability studies using a different set of assumptions and solving for different timeframes it is difficult, at best, to design a project that would satisfy the reliability issue identified and provide economic and/or policy benefits as well. The CAISO’s approach limits the available solutions for the transmission system which ultimately limits the overall usefulness of the system in serving various load and generation combinations. Such limitation affects out-of-state generation options by limiting the ways in which transmission needed to deliver supply to load can be planned and paid for. Essentially, if there is not a need to solve a reliability issue, then transmission will not be planned and built. This ignores important economic and environmental benefits of transmission expansion.

VI. Additional Studies and Inputs Should Also be Conducted

In addition to considering out-of-state generation resources, the CAISO should conduct additional studies as part of its transmission planning process. For example, the CAISO should

²¹ *FERC v. Mississippi*, 456 U.S. 742, 757 (1982).

consider analyzing the extension of an HVDC line into southern California that would otherwise target the Eldorado Valley. This study should examine whether such an extension would effectively replace the need for additional Eldorado Valley to southern California transmission lines at a lower cost.

Similarly, along with its consideration of coincident loss of California's two nuclear facilities, the CAISO should examine the loss of the two Palo Verde nuclear facilities and identify the remedial action schemes ("RASs") and special protection systems ("SPSs") that would be used to manage such outages within WECC and CAISO performance criteria.

Finally, as some potential HVDC transmission lines would have a similar capacity as a nuclear facility, when examining HVDC transmission lines delivering into the CAISO BAA, the CAISO should consider the RASs and SPSs coordinated with other BAAs that would be needed in the event of loss of such an HVDC line.

VII. Request for Economic Planning Study

Pursuant to Section 24.3.4 of the CAISO Tariff, Pathfinder is submitting a request for an Economic Planning Study.

Requester Name: Zephyr Power Transmission, LLC

Address: Duke-American Transmission Company, LLC
c/o Duke Energy Corporation
5555 San Felipe
Houston, TX 77056

Contact Information: Chris D. Jones
(713) 375-0704
cjones@datcllc.com

The CAISO recently initiated its stakeholder process for the 2012/2013 Transmission Planning Process ("TPP"). During the initial stakeholder meeting, the CAISO discussed the

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Draft Unified Planning Assumptions and Study Plan and outlined its schedule and milestones for the upcoming planning cycle activities, which included an opportunity for interested parties to submit Economic Planning Study Requests to the CAISO. According to 2012/2013 TPP schedule and milestones provided at the initial stakeholder meeting, Economic Planning Study Requests are to be submitted to the CAISO no later than March 13, 2013.

The CAISO interconnection queue in the Eldorado Valley area currently includes 8,389 MW of proposed generation, including 5,170 MW of generation in the most current Cluster 4 Request Window, as well as 3,219 MW of interconnection requests in prior Cluster groups. The Eldorado Valley area interconnection queue includes projects in both Clark and Nye Counties in Nevada, and San Bernardino and Inyo Counties in California. These projects have interconnection points at the Eldorado Substation or with facilities which are interconnected with the Eldorado Substation, including the Ivanpah, Baker, Mountain Pass, Mohave, Merchant, and Nipton Substations.

The transmission facilities extending from Southern Nevada into Southern California are included within the “Northern System” of WECC’s Path 46 (the “West-of-River Path”) and include facilities located both within the CAISO’s BAA and within the BAA of the Los Angeles Department of Water and Power (“LADWP”). According to the “WECC 2011 Path Rating Catalog” (January 2011):

- The Accepted Rating of all of the Path 46 facilities is 10,623 MW;
- The Northern System’s allocation of the Accepted Rating is 6,637 MW;
- The share of the Accepted Rating allocated to the CAISO BAA facilities within the Northern System is 2,754 MW.

Based on the above it is clear that the CAISO BAA's allocation of existing Path 46 capacity over the Northern System is significantly lower than the amounts of queued generation in the Southern Nevada area or proposed for interconnection with the CAISO grid in this area. This means that significant system additions will be required to accommodate both existing uses of these facilities as well as the queued generation. This is borne out by information presented in the CAISO's "Queue Cluster 4 Phase I Interconnection Study Report – Group Report in SCE's East of Pisgah Area" (January 2012) which notes that approximately 450 miles of new 500-kV AC lines (with an estimated cost of approximately \$4.8 billion) would be required to mitigate congestion and maintain system reliability if the above noted queued generation is on-line.

Based on the above, Pathfinder and Zephyr Power Transmission, LLC hereby request the CAISO to conduct an Economic Planning Study to identify the most cost effective method of relieving the congestion between Southern Nevada and the major load centers in Southern California so that queued generation located in the Southern Nevada area or interconnected with the CAISO grid in the Area can be cost-effectively delivered to markets in Southern California.

This Economic Planning Study request is intended to address the following items:

- The expected increases in transmission congestion over Path 46 (with a particular focus on the Northern System as discussed above) during the planning horizon used in the CAISO TPP;
- The transmission upgrades required to most cost effectively integrate new generation resources currently in the CAISO's interconnection queue and facilitate that delivery of such to load centers in Southern California; and
- A potential reduction in the need for Local Capacity Resources in the eastern portion of the Los Angeles Basin.

VIII. Conclusion

Pathfinder and Zephyr Power Transmission, LLC appreciate the opportunity to submit these comments on the CAISO's 2012/2013 transmission planning process and the Draft Study Plan. For the reasons articulated herein, it is crucial that the CAISO provide for a meaningful opportunity and timeframe for stakeholders to review and provide input on data assumptions and generation scenarios used by the CAISO in its transmission planning process. The CAISO must also be sure to focus on overall costs to ratepayers, taking into account generation costs and different generation options and portfolios. In accordance with CPUC, CTPG and WECC studies, as well as pursuant to FERC Order 1000 and the Commerce Clause, the CAISO must consider generation options and scenarios from out-of-state resources. Additional issues, inputs, and studies should also be considered by the CAISO in its transmission planning process. Finally, for the reasons described above, the CAISO should perform an Economic Planning Study to identify the most cost effective method of relieving the congestion between Southern Nevada and the major load centers in Southern California.

Dated: March 13, 2012

Respectfully submitted,



Christopher T. Ellison
Jedediah J. Gibson
Ellison, Schneider & Harris, LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: cte@eslawfirm.com

On behalf of Pathfinder Renewable Wind
Energy, LLC and Zephyr Power
Transmission, LLC