



California ISO
Shaping a Renewed Future

Competitive Transmission Improvements

Draft Final Proposal

October 17, 2013

Table of Contents

1	Executive summary	4
2	Introduction	4
3	Stakeholder process and next steps	5
4	Recovery of FERC authorized transmission revenue requirements prior to becoming a PTO.....	6
4.1	FERC transmission rate incentives	6
4.1.1	CWIP	7
4.1.2	Abandoned plant	8
4.2	Relationship between the ISO access charge and a PTO's transmission revenue requirement	8
4.3	September 10 straw proposal	9
4.4	Stakeholder comments	10
4.5	Draft final proposal	11
5	Non-PTO approved projects sponsors with existing transmission assets	12
5.1	September 10 straw proposal	12
5.2	Stakeholder comments	12
5.3	Draft final proposal	13
6	Project sponsor application deposit	13
6.1	September 10 straw proposal	14
6.2	Stakeholder comments	15
6.3	Applicable precedent	17
6.3.1	Midcontinent Independent System Operator	17
6.3.2	Tampa Electric Company, et al	17
6.3.3	Southwest Power Pool ("SPP")	18
6.4	Draft final proposal	19
7	Other issues raised by stakeholders	21
7.1	The requirement to initiate siting and other approvals	21
7.2	Requirements for the transferee of an approved project sponsor	21

7.3 Removing the collaboration tariff provisions 22

7.4 Efficiency enhancements in the competitive solicitation process..... 22

Competitive Transmission Improvements

Draft Final Proposal

1 Executive summary

The ISO launched this stakeholder process in September 2013 when it posted an issue paper and straw proposal on September 10 in which several improvements were proposed to further support competition in the ISO transmission planning process. One proposed change would create a mechanism by which approved project sponsors who are not a participating transmission owner can recover their FERC authorized transmission revenue requirement associated with projects under construction and prior to the time that the facilities are turned over to ISO operational control. A second proposed change would clarify that approved project sponsors who are not a participating transmission owner, but who have existing transmission assets, are only required to turn over to ISO operational control the project they were selected to build. Taken together, these two proposed changes are intended to help provide nondiscriminatory opportunities for incumbents and non-incumbents alike. A third change proposed in the September 10 paper would impose a project sponsor application deposit as a means to mitigate costs incurred by the ISO to perform and administer the competitive solicitation process and manage any potential agreements with approved project sponsors.

The ISO held a stakeholder web conference on September 20 to discuss the September 10 issue paper and straw proposal. The ISO received written comments from stakeholders on October 3. Stakeholder feedback indicates general support for the first two features of the ISO's proposal and the third feature raised the most discussion. Based on this feedback, the ISO is proposing to move forward with all three proposed changes while making some modification to its proposal regarding the third feature.

Following publication of this draft final proposal, the ISO will hold a stakeholder web conference on October 29. Written stakeholder comments are due November 12. The ISO intends to present this proposal to the ISO Board of Governors at its meeting scheduled for December 18-19.

2 Introduction

The ISO supports the FERC's stated goals of promoting competition in the transmission planning process.

Just a few years ago the ISO reformed its transmission planning process to explicitly consider public policy requirements as a potential driver for transmission facilities and afford both incumbent and non-incumbent transmission developers nondiscriminatory opportunities to compete to build transmission facilities that the ISO finds are needed for public policy or economic efficiency reasons.

More recently in its Order No. 1000 compliance filing, the ISO expanded on these changes and proposed tariff revisions to further promote competition in the transmission planning process. The ISO proposed to eliminate from the ISO tariff the remaining provisions that grant a federal “right of first refusal” for incumbent participating transmission owners to build and own certain transmission facilities whose costs will be allocated regionally. These changes reflect a significant “scaling-back” of participating transmission owners’ existing right of first refusal to build all transmission facilities needed for reliability or to maintain the simultaneous of long-term congestion revenue rights (“CRRs”). On April 18, 2013, the FERC approved these changes.

In this paper the ISO is proposing three changes to further promote competition in the transmission planning process. First, the ISO proposes to create a mechanism by which non-PTO approved project sponsors that have no existing rate recovery mechanism can recover their FERC authorized transmission revenue requirement (e.g., construction work-in-progress in rate-base and abandoned plant) associated with transmission projects under construction and prior to the time that the facilities are turned over to the operational control of the ISO. Second, the ISO proposes to clarify that non-PTO approved project sponsors with existing transmission assets are only required to turn over to ISO operational control the project they were selected to build. Third, to mitigate costs incurred by the ISO to perform and administer the competitive solicitation process, the ISO proposes to impose a project sponsor application deposit.

3 Stakeholder process and next steps

Following the release of this draft final proposal, the ISO will hold a stakeholder web conference on October 29 to discuss the draft final proposal and solicit final stakeholder comments. The ISO is requesting written stakeholder comments by November 12. The ISO’s proposal will be presented to the ISO Board of Governors at its December 18-19 meeting.

Table 1 provides a summary of this stakeholder process.

Table 1 – Stakeholder process schedule

Date	Milestone
September 10	Post issue paper and straw proposal
September 20	Stakeholder web conference

Date	Milestone
October 3	Stakeholder comments due by 5:00pm
October 17	Post draft final proposal
October 29 (1:00-3:00)	Stakeholder web conference
November 12	Stakeholder comments due by 5:00pm
December 18-19	ISO Board meeting
Early 2014	FERC filing

4 Recovery of FERC authorized transmission revenue requirements prior to becoming a PTO

4.1 FERC transmission rate incentives

Section 1241 of the Energy Policy Act of 2005 (“EPAAct 2005”) added new section 219 to the Federal Power Act (“FPA”) directing the FERC to establish incentive-based rate treatments that promote capital investment in reliable and economically efficient transmission and generation of electricity by promoting capital investment. In 2006, FERC issued Order Nos. 679 and 679-A to establish incentives to support the development of transmission infrastructure.¹ These incentives include enhanced rate of return on equity (“ROE”), recovery of 100 percent of prudently-incurred costs associated with abandoned transmission projects due to factors beyond the control of the utility, use of hypothetical capital structures, incentives to join a transmission organization, and inclusion of 100 percent construction work-in-progress (“CWIP”) in rate base, accelerated depreciation used for rate recovery, and expensing pre-commercial operations costs associated with new transmission investment, among others.

Most of these rate incentives are not included in the transmission revenue requirement of the transmission owner until the new transmission facilities are turned over to the operational control of the ISO upon completion and incorporated in the transmission revenue requirement that is approved by FERC. However, two of these—inclusion of CWIP in rate base and recovery of abandoned plant—are unique in that they may be recovered prior to completion of the new transmission project or after abandonment of the project.

¹ For purposes of convenience in this paper, the ISO will generally use the term Order No. 679.

To be eligible for these incentives, the subject project must have been vetted and approved by the ISO in its transmission planning process.²

Typically an applicant will file a petition for declaratory order requesting FERC approval of certain incentive rate treatments for its proposed project under FPA section 219 and Order No. 679. FERC reviews such requests for incentives on a case-by-case basis. The ISO anticipates that approved project sponsors similarly may seek incentive rate authority once selected in the ISO's competitive solicitation process.

4.1.1 *CWIP*

In Order No. 679, FERC established a policy that allows utilities to include, where appropriate, 100 percent of prudently-incurred transmission-related CWIP in rate base. FERC stated that this rate treatment will further the goals of FPA section 219 by providing up-front regulatory certainty, rate stability, reduced interest expense, and improved cash flow, by reducing the pressures on an applicant's finances caused by investing in transmission projects. Order 679 allows inclusion of 100 percent CWIP in rate base and expensing pre-commercial operations costs associated with new transmission investment because of the long lead times required to plan and construct new transmission can negatively affect cash flow and the ability of the sponsor to attract capital at reasonable prices. Traditional rate recovery mechanisms would not allow a utility to recover the costs of construction until the project is placed into service. Without CWIP in rate base, all of an applicant's borrowing costs would be accrued over several years and then capitalized after the new project goes into service, along with a return of the investment cost through depreciation expense. Such a process would increase an applicants' customers' bills more significantly than if the FERC were to allow inclusion of CWIP in rate base. Permitting a utility to recover CWIP in rate base allows investors to receive a return on their investment before the project is placed into service thereby increasing the attractiveness of these investments. Further, recovery of CWIP in rate base may facilitate financing and improve coverage ratios used by rating agencies to determine credit quality and debt ratings.

Typically FERC may accept an applicant's proposal to recover 100 percent of CWIP in rate base conditioned upon the applicant fulfilling FERC's requirements for CWIP inclusion for the project in a subsequent section 205 filing.

² Order No. 679 states that each applicant must demonstrate that the facilities for which it seeks incentives satisfy the requirements of section 219 by either ensuring reliability or reducing the cost of delivered power by reducing congestion. The Order establishes a rebuttable presumption that a project is eligible for incentives under section 219 if it: (1) results from a fair and open regional planning process that considers and evaluates projects for reliability and/or congestion and is found to be acceptable to the FERC; or (2) has received construction approval from an appropriate state commission or state siting authority. FERC will consider incentive requests for projects that are still undergoing consideration in a regional planning process, but may make any requested incentive rate treatment contingent on the project being approved under the regional planning process.

4.1.2 *Abandoned plant*

Under Order No. 679, the FERC allows applicants to seek recovery of 100 percent of prudently-incurred costs associated with a transmission project that is cancelled or abandoned for reasons outside the applicant's control. The purpose of this incentive is to reduce the risk associated with potential upgrades or other improvements to the transmission system. The ability to recover the costs of abandoned plant is an important consideration when applicants evaluate investment opportunities with significant risk associated with factors beyond their control, such as generation developers' decisions to develop or terminate the development of the potential generation resources that drove the need for the line in the first place (e.g., it may be uncertain whether renewable generation resources connecting to a transmission project will ultimately be developed) or difficulty obtaining state or local siting approvals (e.g., some projects may require multiple approvals involving multiple regulatory jurisdictions which can increase the possibility that a project may be subject to forced abandonment). In Order No. 679 the FERC found that the abandonment incentive is an effective means of encouraging transmission development by reducing the risk of non-recovery of costs.

Typically, if the request is approved, FERC would conditionally grant an applicant's request for recovery of 100 percent of prudently-incurred transmission-related costs associated with abandonment of a project, provided that the abandonment is a result of factors beyond the control of the applicant, which must be demonstrated in a subsequent FPA section 205 filing for recovery of abandoned plant.

4.2 **Relationship between the ISO access charge and a PTO's transmission revenue requirement**

All market participants withdrawing energy (i.e. loads and exports) from the ISO controlled grid pay access charges, either the transmission access charge or the wheeling access charge.

In accordance with Section 26 and Schedule 3 of Appendix F of the ISO Tariff, the ISO access charge is designed to recover each Participating Transmission Owner's ("PTO") transmission revenue requirement. Only PTOs may recover their transmission revenue requirement through the ISO access charge. Under the ISO tariff, a PTO is defined as "a party to the Transmission Control Agreement whose application under section 2.2 of the Transmission Control Agreement has been accepted and who has placed its transmission assets and Entitlements under the CAISO's Operational Control in accordance with the Transmission Control Agreement."

Each PTO's transmission revenue requirement is the total annual FERC authorized revenue requirement associated with transmission facilities turned over to the operational control of the ISO by the PTO, including projects under construction that are to be turned over to the operational control of the ISO upon completion (this latter point is relevant in the case of CWIP and abandoned plant).

Simply put, the ISO tariff contains provisions to collect the necessary funds and provide revenue to a PTO for use of transmission assets. The ISO tariff contains no such provisions for non-PTOs. The ISO pays access charge revenues to PTOs on a monthly basis.

4.3 September 10 straw proposal

In phase 3 of the annual transmission planning process, the ISO evaluates proposals to construct, own, operate, and maintain regional transmission facilities identified in the comprehensive transmission plan and subject to competitive solicitation. The project sponsor selected may be a PTO or a non-PTO. Presumably the selected project sponsor would request FERC approval of incentive rate treatments for its proposed project under FPA section 219 and Order No. 679, including recovery of 100 percent of CWIP in rate base and recovery of 100 percent of prudently-incurred costs associated with project abandonment. If the approved project sponsor is a PTO, then the revenues associated with CWIP and abandoned plant could be recovered through the PTO's existing revenue requirement; however, a non-PTO approved project sponsor would have no such mechanism to recover the revenue requirement associated with CWIP and abandoned plant. As previously stated, the ISO tariff does not contain any provision to collect the necessary funds and provide revenue to a non-PTO for use of transmission assets.

Project sponsors that the ISO (or authorized governmental body) selects to build and own a needed transmission solution identified in the ISO's comprehensive transmission plan, whether a PTO or non-PTO, are similarly situated because they both face similar risks and financing pressures caused by investing in transmission projects. Recognizing these similarities and in order to provide a more level playing field and support a competitive transmission process, the ISO proposes to create a new mechanism by which non-PTO project sponsors that are selected to build and own an identified transmission solution in the ISO's competitive solicitation process can, through the ISO access charge, recover these components of their FERC authorized transmission revenue requirements prior to the completion of the project. This recovery would be limited to CWIP and abandoned plant.

In the case of CWIP, once the project is completed and turned over to the operational control of the ISO, and the project sponsor becomes a party to the TCA, the remaining portions of its FERC authorized transmission revenue requirement would be recoverable through the ISO access charge. An approved project sponsor of a project that is ultimately abandoned, for which FERC has authorized recovery of prudently incurred expenditures prior to the time that the project was discontinued, would continue to recover these costs for the remainder of the authorized amortization period.

To implement this new mechanism, the ISO stated in the September 10 issue paper and straw proposal that it is exploring the following options:

1. Add a new Section 4.17 to the ISO Tariff describing the relationship between the ISO and non-PTO approved project sponsors.
2. Amend Section 26 and Schedule 3 of Appendix F and Section 11 of the ISO Tariff to include recovery of a non-PTO approved project sponsor's FERC authorized transmission revenue requirement associated with transmission projects under construction that was approved by the ISO through the transmission planning process and is intended to be turned over to the operational control of the ISO upon completion or with abandoned facilities for reasons beyond the approved project sponsor's control.
3. Develop a pro-forma agreement for use between the ISO and each approved project sponsor to accomplish a number of purposes including:
 - a. Acknowledge acceptance of the selection of the project sponsor.
 - b. Establish the obligations, roles and responsibilities of the project sponsor including reporting requirements so that the ISO can proactively monitor the status of approved facilities and to take the necessary actions if projects are not on schedule. This agreement may overlap with the Transmission Control Agreement ("TCA") once the project sponsor enters into the TCA with respect to the facility that the project sponsor was selected to construct and own as a result of the competitive solicitation process, and the transmission facilities have achieved commercial operation.
 - c. Allow the project sponsor to file with FERC for CWIP and abandoned plant, if applicable, to be funded through the ISO's access charge.

The ISO invited stakeholders to comment on these potential changes and to identify other alternative (or additive) tariff options/revisions that would (i) enable non-PTOs to recover their transmission revenue requirement in rates before they become PTOs and (ii) ensure that transmission solutions are successfully completed in a timely manner.

4.4 Stakeholder comments

A review of the October 3 stakeholder comments indicates that there is general support for this feature of the straw proposal.

Several stakeholders commented that this should be accomplished through tariff changes and not a new contract mechanism, and that a contract is unnecessary.

PG&E sought the following conditions: (1) the non-PTO must file a petition for declaratory order and obtain FERC authorization to recover the costs; (2) the non-PTO must have a FERC approved transmission owner tariff rate filing setting forth its cost recovery prior to turning the project over to ISO operational control; (3) the non-PTO should enter into some transitional agreement with the ISO that requires it to refund monies collected through the access charge if FERC subsequently

denies recovery of abandoned plant costs and include provisions restricting the sale of the project unless the new entitlement holder becomes a PTO (see TCA sections 4.4.4, 4.4.5, and 4.4.6).

SCE's support is conditioned on assurances that non-PTOs will have to go through the same approval process and be held to the same standards for recovery as PTOs.

Some stakeholders stated that the proposed mechanism should allow for recovery of all types of costs that FERC may permit recovery of before a facility is turned over to ISO control and not just CWIP and abandoned plant. LS Power said the ISO should make it clear that if an applicant is not selected in the competitive solicitation, there is no cost recovery, citing paragraph 332 of Order No. 1000. LS Power also recommended a general catch all phrase like that proposed in PJM's Order No. 1000 docket.

4.5 Draft final proposal

Based on stakeholder comments, the ISO proposes to retain all of the elements of the September 10 straw proposal and complements those with the following refinements:

- The tariff would state that approved project sponsors are permitted to recover all of FERC-approved, pre-PTO costs. This provision would only be reflected in the tariff not in any pro forma agreement between the ISO and an approved project sponsor.
- The tariff language will permit the recovery of all such FERC-approved costs and not single out CWIP or abandoned plant. This approach should be consistent with the language in the tariff regarding what PTO costs can be recovered through the transmission revenue requirement.
- Non-PTO approved project sponsors would have to go through the same rate approval process in the tariff that PTO's go through to establish a FERC approved transmission revenue requirement and a transmission owner tariff that is then reflected in the ISO's access charge. The intent is to make the ISO tariff provisions applicable to both PTOs and Non-PTOs selected as approved project sponsors.
- There is no basis to state in the tariff that the non-PTO must obtain a petition for declaratory order from FERC as a pre-condition. Such a provision is not present in the current tariff for PTOs selected as an approved project sponsor, and this is more of a FERC issue than an ISO tariff issue.
- Provisions similar to those found in sections 4.4.4, 4.4.5, and 4.4.6 of the TCA would serve as the model.
- A transitional pro-forma agreement would be used to (1) acknowledge acceptance of the selection of the approved project sponsor, (2) establish the obligations, roles and responsibilities of the project sponsor, including project specific milestones; and, (3) any binding cost control measures, including binding cost caps that the approved project sponsor agreed to in their application.

5 Non-PTO approved projects sponsors with existing transmission assets

5.1 September 10 straw proposal

In the September 10 straw proposal, the ISO stated its belief that this issue is already addressed in the current tariff. Under ISO tariff section 4.3.1, a new PTO is required to turn over operational control of all facilities and entitlements that (1) satisfy FERC's functional criteria for determining what transmission facilities should be placed under the ISO's operational control, (2) satisfy the criteria adopted by the ISO governing board identifying facilities for which the ISO should assume operational control, and (3) are the subject of mutual agreement between the ISO and the PTOs.

However, some stakeholders have indicated that these tariff provisions lack clarity with respect to the disposition of the existing transmission assets of a non-PTO approved project sponsor. Thus, under the scenario in which a non-PTO with existing transmission assets is selected as the approved project sponsor for a particular transmission solution, the issue has arisen whether that approved project sponsor will not only be required to turn over to the ISO's operational control the particular transmission solution but will also be required to turn over all of its existing transmission assets to ISO operational control.

To be clear, the ISO believes it important to maximize participation in the competitive solicitation process and recognizes that many different transmission developers with existing facilities located throughout the US, or elsewhere, may seek to compete in the competitive solicitation process.

Thus the ISO stated in the straw proposal that an approved project sponsor that is not an existing PTO should be required to turn over to the ISO's operational control *only* the facilities that it was awarded the right to build, not all of its transmission facilities. The ISO further indicated that it is evaluating what would be required to implement this change—a new agreement, changes to the transmission control agreement, and/or targeted tariff provisions (e.g., perhaps this could be addressed in a new section 4.17 to the ISO tariff as discussed in section 3.3 above).

The ISO invited stakeholders to comment on its proposal to address the issue of non-PTO approved project sponsors with existing transmission assets and discuss what specific changes they believe are necessary to effectuate the proposal.

5.2 Stakeholder comments

A review of the October 3 stakeholder comments indicates that there is strong support for this feature of the straw proposal.

SCE noted that the TCA already allows applicants to justify why certain transmission facilities should not be placed under ISO operational control and also provides the ISO discretion to reject taking operational control over facilities under certain circumstances. SCE also references section

4.3.1 of the ISO tariff. SCE thus believes that changes may be unnecessary. SCE conditions its support on fair application among PTOs and non-PTOs.

IID believes that further clarification is needed on this issue and supports ISO's efforts to do so.

DATC supports the proposal because it eliminates uncertainty that could be an obstacle to participation by some non-PTOs.

MidAmerican Transmission supports clarification, if determined to be needed by the ISO.

MidAmerican Transmission notes that historical approaches taken for projects such as Path 15 (with participation by the Western Area Power Administration) appear to already support the premise without the need for additional tariff changes.

Pinnacle West Capital believes that the ISO tariff already makes clear that non-PTOs are required to turn over operational control of only the specific project for which they were selected to build and not all transmission facilities. However, they believe that eliminating any actual or perceived uncertainty will benefit the process.

SMUD supports the ability of non-PTO project sponsors to place discrete ISO-approved projects under ISO operational control.

Critical Path Transmission, NV Energy, and Exelon support the ISO's efforts to explore options for additional clarity on this issue.

5.3 Draft final proposal

The ISO proposes to proceed with this feature of the straw proposal. The ISO proposes to make any necessary changes to section 4 of the tariff and to the TCA to implement this feature of the proposal.

6 Project sponsor application deposit

Over the last several years the ISO has made a number of significant tariff revisions in order to promote competition in the transmission planning process. As a direct result, the ISO now administers a competitive solicitation process providing an opportunity for project sponsors to submit proposals to finance, own, and construct facilities subject to competitive solicitation identified in the comprehensive transmission plan. Under this process the ISO carries out several significant tasks including (1) determining whether a project sponsor meets certain qualification criteria, (2) determining whether a project sponsor's proposal meets certain proposal qualification criteria, and (3) selecting an approved project sponsor. In addition, once the project sponsor is selected, the ISO may also devote a significant amount of time ensuring that the project is on-track for completion including (1) negotiating a contract with the project sponsor to provide obligations, roles and responsibilities of the parties; (2) monthly project status review; (3) change management,

if applicable; (4) coordination of commissioning activities; (5) recovery of CWIP and abandoned plant, and any other FERC authorized pre-PTO costs, ; (6) coordination with existing PTOs; and (7) any binding cost control measures, including binding cost caps that the approved project sponsor agreed to in their application.

The ISO views these tasks as a significant undertaking that requires an extensive commitment of resources and the need to bring in outside contractors to support internal ISO staff, at significant additional cost. Also, the ISO tariff requires that ISO to retain a consultant to assist it in the selection of an approved project sponsor. This workload is likely to increase with each successive annual transmission planning process cycle because more transmission solutions will be subject to competitive solicitation under the ISO's Order No. 1000 transmission planning framework than under the process in effect for the 2012-2013 process.

Thus far the ISO has been funding this significant incremental workload and cost without a corresponding increase in its operations budget (i.e., through the Board approved grid management charge paid by scheduling coordinators). This raises the question whether it is appropriate for ISO ratepayers to fund the costs of individual applicants competing to build and own specific transmission solutions. For example, the ISO notes that resources seeking to interconnect to the ISO grid via the generator interconnection process pay fees to support processing their applications and conducting the necessary studies, and shortly will pay fees to process modifications for their projects. The ISO also notes that FERC authorized the Midcontinent Independent System Operator ("MISO") to charge transmission developers participating in the competitive solicitation process a deposit.³ Similarly, FERC authorized the Southwest Power Pool ("SPP") to charge an application fee for purposes of the qualification determination and a deposit for applicants submitting project proposals.⁴

6.1 September 10 straw proposal

To mitigate the aforementioned impacts, the ISO believes that all project sponsors should bear the costs of the competitive solicitation process. To accomplish this, the ISO proposed in the September 10 paper that project sponsors be required to provide an application deposit in the amount of \$100,000 to be applied as a pool of funds to pay for actual costs incurred by the ISO to perform and administer the competitive solicitation process. If the amount required to pay actual costs is determined to be greater than \$100,000 per application, then each project sponsor would be obligated to provide the additional amount. Conversely, if the amount required to pay actual

³ *Midwest Independent Transmission System Operator*, 142 FERC ¶61,215 at PP 300-01 (2013).

⁴ *Southwest Power Pool*, 144 FERC ¶61,059 at PP 230 242-44 (2013).

costs was determined to be less than \$100,000, then each project sponsor would be refunded the unused balance of its deposit, with interest.⁵

The ISO also indicated that it was considering whether approved project sponsors should bear the actual costs incurred by the ISO to ensure that the project is on-track for completion (e.g., negotiating an agreement with the approved project sponsor, monthly project status review, change management, if applicable; coordination of commissioning activities, and coordination with existing PTOs).

The ISO invited stakeholders to provide comment on the ISO's proposal on a project sponsor application deposit. Stakeholders were also asked to comment on whether approved project sponsors should bear the actual costs incurred by the ISO to manage any potential agreements with approved project sponsors.

6.2 Stakeholder comments

This feature of the straw proposal raised the most discussion, with a broad range of perspectives expressed.

Two stakeholders – Critical Path Transmission and Duke American Transmission Company (DATC) – completely opposed it. Critical Path Transmission claimed that the proposal would be discriminatory toward non-incumbents. DATC argued that: (1) all ratepayers benefit from the competitive solicitation and thus the ISO's administrative costs incurred to run the competitive solicitation benefit ratepayers; (2) unlike the costs of interconnection studies, the costs incurred to manage the competitive solicitation process do not directly benefit the participants, they benefit the ISO and ratepayers; (3) the ISO has not demonstrated any actual cost basis for the \$100,000 and shown that it is reasonably based on the competitive solicitations the ISO has conducted; (4) the fee favors incumbents because there is no showing that they cannot recover these costs in their rates; (5) the cost responsibility obligation is open ended; and, (6) an application fee might be supportable to deter participation by unqualified applicants or large numbers of applications that do not meet the ISO's requirements, but that does not appear to be the case here.

Imperial Irrigation District (IID) and Pinnacle West Capital conceptually support charging an application fee to perform and administer the competitive solicitation process with respect to external consultant charges but not to cover internal ISO costs.

SCE and CPUC staff also conceptually support charging an application fee, and SCE goes further in its comments and supports charging the approved project sponsor for costs associated with negotiating and administering a contract. CPUC staff believes that such deposits should be trued-up after the winning bidder is selected.

⁵ Interest is based on the interest that the ISO receives on the deposit, not based on the federal rate in 18 CFR 35.19(a).

MidAmerican Transmission supports imposition of an application fee for the competitive solicitation, but argues that the ISO needs to provide some clarity regarding how it will calculate costs associated with evaluating bid proposals (e.g., will these funds be used to pay for external consultants or to offset internal ISO staff time) and that the fee should be supported by enough detail to show its cost basis. MidAmerican Transmission, as well as numerous other stakeholders (e.g., CPUC staff, Pinnacle West Capital) opposes any type of fee for monitoring whether a project is on track and meeting milestones.

A large number of stakeholders (e.g., Pinnacle West Capital, Pattern Transmission, PG&E, and CPUC staff) encourage the ISO to evaluate its solicitations on an ongoing basis to ensure that the initial application fee remains appropriate.

Two stakeholders (Pinnacle West Capital and Pattern Transmission) suggest capping the costs that the ISO can recover in connection with running the competitive solicitation or setting a fixed fee, in order to reduce uncertainty.

LS Power suggests a tiered application fee with a clear 45-day refund mechanism: \$25,000 for non-transmission line proposals and transmission lines less than 10 miles in length; and, \$75,000 for solicitations involving lines greater than 10 miles.

Pattern Transmission argues that \$100,000 is an inappropriate amount because project sponsors can't control the process and will be reliant on the ISO to develop an efficient process, and that ratepayers should bear some of the costs because they benefit from competition. Pattern Transmission suggests an annual \$20,000 qualification fee reduced to \$10,000 in future years for any qualification process that occurs two or more years after the previous qualification, and a fixed competitive solicitation fee of \$50,000.

PG&E argues that the ISO has not shown that a \$100,000 fee is just and reasonable or cost-justified. PG&E also wants the ISO to eliminate the collaboration step in the process, claiming that it results in duplicative qualification cost incurrence. PG&E wants the ISO to report to the ISO Board of Governors 90 days after each competitive solicitation stating the costs incurred for outside consultants and discussing the efficiency and effectiveness of the process.

Exelon states that the proposed application fee disadvantages independent developers because it is a hurdle to market participation. Exelon contends that incumbent PTO's will be permitted to recover the cost of the application fee as a prudent expenditure because FERC will have found the imposition of such a fee and the amount of the fee to be just and reasonable. Exelon also states that incumbent utilities will be able to recover this cost even if they are not selected as the approved project sponsor in the competitive solicitation. Finally, Exelon recommends that if ISO retains the application fee, the costs be shared between ratepayers and project sponsors.

6.3 Applicable precedent

In the September 10 straw proposal, the ISO noted that FERC authorized MISO and SPP to charge deposits and fees related to competitive solicitation processes. In this section the ISO provides further information on the applicable precedent.

6.3.1 *Midcontinent Independent System Operator*

For purposes of evaluating project sponsors and selecting a designated project sponsor in the competitive solicitation, the Midcontinent Independent System Operator (MISO) proposed a fee equal to 1% of the estimated cost of the project not to exceed \$500,000. At the end of the process there would be a true up with interest paid on any deposit amounts to be refunded. FERC approved the application fee in concept, but found that MISO had failed to provide sufficient information justifying the level of the deposit fee. MISO cited generation interconnection deposits of \$250,000 but provided no evidence that the costs required to evaluate a generator interconnection were comparable to those necessary to conduct a competitive solicitation.

FERC found MISO's fee level as proposed could therefore constitute a barrier to entry. FERC required interest to be paid on the refunded amount consistent with FERC's policy. FERC also directed MISO to (1) clarify how it would calculate the cost it will incur to evaluate bid for purposes of refunding a bidder's deposit; and (2) clarify whether or not disqualified applicants must wait until after the selection of a project sponsor before they get their refund, because these factors could lead to uncertainty as to whether a transmission developer should submit a bid. Based on discussions with stakeholders, in its 120-day compliance filing, MISO revised the application fee to \$100,000 with a true up of any shortfall at the end of the process and interest paid on any refunded amounts.

6.3.2 *Tampa Electric Company, et al*

Tampa Electric Co. *et al.* proposed a one-time \$50,000 fee for outside consultants to review a non-incumbent transmission developer's qualifications. This is a one-time event for each transmission developer. Unexpended amounts would be refunded. For transmission developers proposing a CEERTS project (one where the transmission line is subject to the Florida Transmission Line Siting Act, or a sub-station flexible AC transmission system such as series of series compensation or static VAR compensators developed to operate above 200 kV), a separate deposit of \$100,000 for each \$10 million of project cost is required, to be capped at a maximum deposit of \$500,000, which is used to cover both internal cost and out-of-pocket costs incurred by the regional planner to evaluate the project sponsor's project. The costs would be trued up at the end of the process.

FERC approved the one time qualification fee with the requirements that (1) interest be paid on refunded amounts, (2) the filing parties provide a description of which costs the deposit will be

applied to, how they will be calculated, and an accounting of the actual costs to which the deposit is applied.

FERC approved the separate CEERT project study fee in concept but found that the filing parties has failed to provide justification of the level of the fee and the step function aspect of the proposal. FERC, *inter alia*, directed Tampa Electric Co. *et al.* to: (1) clarify why the full deposit is required at the initial stages of the project review process rather than once a project is selected in the regional plan; (2) provide an accounting of to each transmission developer describing the costs the deposit would be applied to, how those costs will be calculated, and an accounting of the actual costs incurred to which the deposit is applied; and, (3) pay interest on refunded amounts.

6.3.3 *Southwest Power Pool (“SPP”)*

Southwest Power Pool (SPP) proposed a separate qualifications application fee to be applied only to non-incumbents. The application fee was equal to the amount of the SPP annual membership fee. SPP proposed to post the amount of the qualifications application fee on its website as part of the application form. The fee is intended to offset SPP’s costs of process such qualification applications.

FERC found the fee might be unduly discriminatory because both incumbents and non-incumbent submit qualifications applications. FERC directed that SPP must either impose the charge on both incumbents and non-incumbents or explain why it is not unduly discriminatory to charge non-incumbents this fee, but not incumbents.

SPP also proposed a separate deposit for both incumbents and non-incumbents participating in the competitive solicitation to compensate SPP for the costs of the solicitation. SPP proposed that the level of the fee would be set at the level of SPP’s estimate of what participation in the competitive solicitation would cost. At the end of the process each participant would receive an invoice for additional payments or receive a refund based on the reconciliation of the deposits collected and the actual costs incurred.

FERC found that Order No. 1000 expressly permit transmission planning regions to require additional procedural protections such as the posting of deposits and agreed with SPP that a deposit would prevent flooding the process with duplicative proposals. However, FERC found that SPP had not provided enough information to justify the proposed fee, had not specified a precise dollar amount or a formula for determining the amount of the fee, and therefore a transmission developer did not have sufficient information to assess whether or not to submit a bid. FERC also imposed all of the information, calculation, accounting, and interest requirements it had imposed on MISO and the Florida parties.

6.4 Draft final proposal

Based on a review of stakeholder feedback and applicable precedent, the ISO presents its draft final proposal in this section.

The ISO proposes to retain the application fee concept as described in the September 10 straw proposal. Each proposal will be required to include an application deposit in the amount of \$75,000. The application fee amount is based on the internal and external expenditures incurred by the ISO for the Imperial Valley Policy Element competitive solicitation (slightly more than a total of \$200,000 for two project sponsors) and an estimate of the final cost of the Gates-Gregg 230 kV Line competitive solicitation (approximately \$250,000 total for five project sponsors). There are still a number of consultant invoices pending and there are ongoing internal and consultant costs yet to be incurred before the final selection is made and report posted. Internal costs will be based on the amount of time each ISO employee charged to the specific competitive solicitation analysis, multiplied by the imputed hourly rate of such employee. Also, the Gates-Gregg 230 kV Line only involves construction of a single line with no substations, so it does not reflect all of the comparative analysis that might occur with a more complex, multi-facility proposal (including substations). On the other hand, the Imperial Valley Policy Element included a collector substation. The deposit will be applied as a pool of funds to pay for costs incurred by the ISO, or third parties at the direction of the ISO, as applicable, to perform and administer the competitive solicitation process and to communicate with applicants with respect to their proposal applications. If the amount required to pay actual costs is determined to be greater than \$75,000 per application, then each project sponsor would be obligated to provide the additional amount up to a cap of \$150,000. Conversely, if the amount required to pay actual costs was determined to be less than \$75,000, then each project sponsor would be refunded the unused balance of its deposit, with interest.⁶ The ISO would make refunds as follows: (1) following the ISO's qualification decisions, to the extent the ISO finds a project sponsor to be unqualified for the project, the ISO will make its refund within 75 days after the qualification decision; and (2) for qualified project sponsors, the ISO will make refunds within 75 days after the approved project sponsor is named.

The ISO's tariff provisions will (1) clarify what costs the deposit will apply to and how it will calculate the costs it will incur for purposes of refunding a bidder's deposit and how the deposit is to be applied, and (2) provide an accounting, to be made public, of the actual costs incurred to which the deposit applied.

The ISO is not proposing a separate fee for qualification and selection, but rather one deposit to cover costs incurred to perform and administer all aspects of the competitive solicitation process. The ISO developed its competitive solicitation process to be as efficient as possible. This enabled

⁶ Interest is based on the interest that the ISO receives on the deposit, not based on the federal rate in 18 CFR 35.19(a).

the ISO to open up all regional transmission solutions to competitive solicitation, including near-term reliability projects (unlike some of the other ISOs that maintained a ROFR for such projects). Adding a two-step invoicing/payment process would add delay to the process. In that regard, after the qualification process the ISO would need to send out separate invoices to all project sponsors who were qualified, allow sufficient time for payment, and then re-start the comparative selection analysis only after all of the project sponsors had remitted their fees. The ISO has attempted to bridge the gap by proposing a separate refund opportunity after the qualification process is completed.

At this time there is no basis to support a tiered application fee based on the mileage of the line. The Imperial Valley Policy Element was significantly shorter than the Gates-Gregg 230 kV Line, but the costs incurred for that solicitation were higher. As indicated above, that also required a comparative analysis regarding a new substation in addition to a transmission line. The ISO will monitor future competitive solicitations to see whether any trends become discernible. To the extent they are, the ISO will be prepared to convene a stakeholder process to reassess the application fee structure.

The ISO disagrees with those stakeholders that argue that the application fee process is unduly discriminatory or that ratepayers should bear the costs of the competitive solicitation because it is ratepayers, not project sponsors that benefit. As discussed above, FERC approved the imposition of application fees on project sponsors in MISO, SPP, and Tampa Electric *et al.* FERC did not find the imposition of such a fee to be unduly discriminatory or require that all or a portion of the costs of the selection process be borne by ratepayers. In particular, MISO and SPP had ROFRs in place prior to Order No. 1000 and did not charge an application fee for incumbent transmission owners to propose new projects. That fact did not prevent FERC from finding that it is just and reasonable to charge an application fee to all project sponsors participating in a competitive solicitation. The suggestion that only ratepayers benefit from the competitive solicitation is not sustainable. Project sponsors benefit because if they are selected they will earn a return on equity for their shareholders. The suggestion that incumbent participating transmission owners that lose a competitive solicitation will automatically be permitted by FERC to recover their application fee in rates is speculative at this time. This would be an issue of first impression at FERC. It is uncertain whether FERC would require such costs to be borne by shareholders (such as other promotional, lobbying, and advertising costs that benefit shareholders) or would allow such costs to be recovered from ratepayers. In any event, this is a FERC issue not an ISO tariff issue because the ISO cannot dictate to FERC what it must, or must not, include in rates.

The ISO does not propose in this draft final proposal to retain the concept of charging approved project sponsors for costs incurred by the ISO to ensure that the project is on-track for completion (e.g., negotiating an agreement with the approved project sponsor, monthly project status review,

change management if applicable, coordination of commissioning activities, and coordination with existing PTOs).

7 Other issues raised by stakeholders

7.1 The requirement to initiate siting and other approvals

SCE and PG&E argue that the 120-day window (sections 24.5.2.2 and 24.5.2.3) to initiate siting approval is unnecessary and unworkable. SCE says it is unrealistic to complete the environmental work within 120 days, and the tariff should be revised to tie the requirement to the operating date of the project. PG&E suggests using the wording in sections 5.5.1 and 5.5.2.1 of the BPM that “the Project Sponsor must provide the ISO with documentation that it has commenced the process to seek siting approval and other necessary approvals.”

There is no basis for these concerns. The tariff literally does not require the filing of a CPCN/CEQA application or any other application within 120 days. Both the tariff and BPM merely require that the approved project sponsor take steps to initiate the process with regulators. As the ISO stated at page 49, footnote 121 of its October 11, 2012 Order No. 1000 compliance filing:

However, to ease the up-front workload burdens on project sponsors, the ISO is clarifying the existing provisions in section 24.5.2.3 which require a project sponsor to seek siting approval within 120 days of the ISO’s qualification determination or selection of an approved project sponsor. Specifically, the ISO is making it clear that project sponsors are not required to submit a complete siting application within 120 days; they are only required to demonstrate that they have taken steps to initiate the siting approval process. This should reduce the upfront burdens on project sponsors.

This conclusion applies to “other approvals” as well. The cited tariff language does not establish separate standards with respect to siting approvals and other approvals. Rather, they are both addressed in a single sentence with the same requirement applying to both. Thus, the clarification cited above applies with equal force both to the requirements for siting approvals and for “other approvals.” The ISO also recognizes that many of the other approvals are intimately tied to the siting process and siting approvals and cannot be pursued until that process is completed. To the extent stakeholders still require additional clarification, the ISO can add these specific clarifications to the BPM when it makes its BPM changes related to Order No. 1000 compliance.

7.2 Requirements for the transferee of an approved project sponsor

SCE argues that transferee of an approved project sponsor must be held to the same standards needed to be an approved project sponsor, namely the criteria specified in tariff section 24.5.2.1. The ISO notes that tariff section 24.6 already provides that an approved project sponsor may not

sell, assign, or otherwise transfer its rights to finance, construct, and own a transmission solution or any element thereof before the project has been energized and turned over to the ISO's operational control unless the ISO approves such transfer. There must be a reasonable basis for the ISO's decision, which would include taking into account the results of the competitive solicitation. In addition, the ISO is willing to add language to this section requiring any transferee to (1) satisfy the provisions of section 24.5.3.1 (formerly 24.5.2.1), and (2) agree to honor any binding cost containment measures or cost caps that remain applicable at the time of the proposed transfer and reflected in the agreement between the ISO and the approved project sponsor.

7.3 Removing the collaboration tariff provisions

PG&E recommends eliminating the collaboration phase of the competitive solicitation process. The ISO declines to eliminate the collaboration step from the competitive solicitation process. Collaboration was a key component of the RTPP tariff amendment and the Order No. 1000 compliance filing. FERC has approved the provision twice and has been very supportive of it. Other stakeholders that participated in the Order No. 1000 compliance effort, such as the Public Interest Groups, strongly supported it. There are no material changed circumstances since the collaboration step was re-approved in FERC's April 18, 2013 Order on the ISO's Order No. 1000 compliance filing that would require us to revisit the issue.

7.4 Efficiency enhancements in the competitive solicitation process

PG&E suggests that the ISO: (1) eliminate certain questions from the project sponsor application as not adding value or being too much detail; (2) create a virtual/digital data room in which each bidder would populate its proposal documents; (3) reference all relevant market notices regarding the competitive solicitation on the ISO's transmission planning process webpage; and, (4) submit an annual report to the ISO Board regarding the efficiency and effectiveness of the ISO's transmission planning process Phase 3 procedures and a disclosure of the costs of outside consultants, total ISO costs incurred for each competitive solicitation, and the amount of time that was needed to complete each project selection process.

The ISO does not believe that these are really tariff issues to be addressed in this stakeholder process, but pertain more to ISO process and administration of the competitive solicitation process. The ISO appreciates the points made by PG&E, and as a part of this proposal, the ISO will commit to ongoing monitoring of its efficiency and effectiveness in performing and administering the solicitation and pursuing possible enhancements that will improve efficiency and reduce costs. As indicated above, the ISO will be providing a full accounting of the costs and time associated with each competitive solicitation. The ISO will make this public. With respect to the amount of time associated with each competitive solicitation, that is readily discernible from the ISO's website. Under the BPM, there are specified dates for the submission of project sponsor applications, and the ISO will post its selection decisions and reports (which will reflect the dates when the process

ends). Also, prior to the start of the competitive solicitation process for any regional transmission solutions identified in the 2013-2014 transmission plan, the ISO intends to hold a meeting with all interested parties to discuss what changes to the project sponsor application might be appropriate. This discussion can also address the other efficiency recommendations made by PG&E. Finally, as indicated above, to the extent the ISO can identify any trends in the competitive solicitation process or durable efficiency gains, the ISO is willing to open a new stakeholder process to address whether any changes in the application fee structure are appropriate.