

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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California Independent System Operator)	Docket Nos. ER10-1401-001
Corporation)	
)	

MOTION FOR CLARIFICATION

The California Independent System Operator Corporation (“ISO”) respectfully submits this motion for clarification¹ of the Commission’s December 16, 2010, order in this proceeding.² The ISO seeks clarification regarding certain Commission statements and compliance directives concerning the relationship among reliability-driven projects, projects to ensure the feasibility of long-term Congestion Revenue Rights (“CRRs”), economically driven transmission elements, and policy-driven transmission elements under the ISO’s revised transmission planning process (“RTTP”), as approved in the RTTP Order. Specifically, the ISO requests that the Commission clarify that (1) a transmission element that is approved as an economically driven or policy-driven transmission element approved in the transmission planning process that also eliminates an identified reliability need, in accordance with applicable reliability criteria or the ISO Grid Planning Standards, or ensures the feasibility of long-term CRRs does

¹ The ISO submits this motion pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212.

² *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010) (“RTTP Order”).

not, because of that fact, lose its character as an economically driven or policy-driven transmission element, and (2) a reliability-driven project or project to ensure the feasibility of long-term CRRs that has incidental economic or policy benefits, but does not meet the criteria to be approved as an economically driven or policy-driven transmission element, does not lose its character as a reliability-driven project or project to ensure the long-term feasibility of CRRs.

I. Background

On June 4, 2010, the ISO filed with the Commission a tariff amendment in this docket to implement the RTTP. The RTTP was the product of an extensive stakeholder process. On July 26, 2010, the Commission accepted and suspended the RTTP tariff filing to become effective on the earlier of January 3, 2011, or a date set in a further Commission order, and directed Commission staff to convene a technical conference to obtain additional information to evaluate the issues raised in this proceeding.³ The technical conference was held on August 24, 2010, and parties submitted two rounds of post technical conference comments. On December 16, 2010, the Commission issued an order accepting the RTTP Tariff Filing, subject to a compliance filing, with a December 20, 2010, effective date.⁴ The Commission directed the ISO to make a compliance filing in 30 days. The ISO is submitting that compliance filing concurrently with this motion.

Under the revised transmission planning process, as part of the comprehensive transmission plan, the ISO identifies all needed additions and

³ *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,067 (2010).

⁴ RTTP Order.

upgrades (e.g., to meet needs for reliability, to maintain the feasibility of long-term CRRs, for policy goals, etc.) and defines them as either transmission “projects” or “elements.” “Projects” refer to transmission needs or additions to be built by the applicable participating transmission owner (“Participating TO”): reliability-driven projects; location constrained resource interconnection facilities, projects to maintain the feasibility of long-term CRRs; and Large Generator Interconnection Procedure network upgrades considered as part of the RTPP. On the other hand, transmission “elements” identified in the comprehensive transmission plan will be either policy-driven or economically driven and are subject to the Phase 3 Transmission Planning Process tariff provisions, which include, where applicable, an open solicitation process for project sponsors to build such elements.

During the stakeholder process and the technical conference, one area of uncertainty and some controversy was the nature of the distinctions between the categories of projects. In response, the ISO stated in its Initial Post Technical Conference Comments:

As the ISO indicated at the technical conference, reliability driven projects are limited to projects intended to mitigate specifically identified reliability issues on existing participating transmission owner facilities. Under the tariff, the scope of reliability driven projects cannot be expanded to cover public policy needs or projects to provide economic benefits. Reliability projects are limited solely to projects that meet identified reliability needs in a cost-effective manner. If an upgrade solves a reliability problem and also provides additional non-reliability driven benefits such as accessing renewables or mitigating congestion costs, the ISO anticipates that additional project cost would have to be incurred to

realize such additional benefits, and the project would no longer fit the narrow definition of a reliability project.⁵

The ISO made a similar statement with regard to projects to ensure the feasibility of long-term CRRs.⁶

The Commission addressed this issue in the RTTP Order:

[ISO] further clarifies in its pleadings that if a transmission upgrade solves a reliability problem while simultaneously providing additional benefits, the project would no longer fall within the narrow definition of a reliability project for which a PTO would have the exclusive right to build. We note that such language is not included in section 24.1.2 of [ISO's] existing tariff or RTTP proposed tariff section 24.4.6.2. Because this is an important distinction, we direct [ISO] to make a compliance filing within 30 days of issuance of this order. Consistent with [ISO's] pleadings, the compliance filing should include language to clarify that if a transmission upgrade solves a reliability problem while simultaneously providing additional benefits, the project would no longer fall within the narrow definition of a reliability project. Additionally, the compliance filing should include tariff language addressing how [ISO] will identify the existence of such additional benefits.

Such a project may instead be categorized as a policy-driven or economically-driven element, for which . . . all transmission developers would have an opportunity to compete for the right to build.⁷

⁵ Initial Post Technical Conference Comments of the California Independent System Operator Corporation, Docket No. ER10-1401 at 10, filed September 8, 2010. For simplification of the discussion this motion frequently mentions only reliability projects, but the arguments made herein are intended and should be read to apply comparably to long-term CRR feasibility projects.

⁶ *Id.* at 10-11 (“Section 24.4.6.4 projects are limited to transmission upgrades or additions needed to maintain the feasibility of previously-released Long-Term CRRs. Under the existing tariff provisions, the scope of these projects cannot be expanded to cover public policy needs or projects to provide economic benefits. If an upgrade is necessary to maintain the feasibility of long-term CRRs and also provides additional benefits such as accessing renewables or mitigating congestion costs, the ISO anticipates that additional project cost would have to be incurred to realize such additional benefits, and the project would no longer fit the narrow definition of this category, *i.e.*, the most cost-effective means of maintaining the feasibility of long-term CRRs.”).

⁷ RTTP Order at PP 60-61.

The Commission made the same directive regarding projects to ensure the feasibility of long-term CRRs.⁸ It is this directive for which the ISO seeks clarification.

II. Discussion

In paragraphs 60, 61, and 71 of the RTTP Order, the Commission endorsed the ISO's position regarding the relationship of reliability-driven projects, projects to ensure the feasibility of long-term CRRs, economically driven transmission elements, and policy-driven transmission elements and directed the ISO to revise the RTTP tariff provisions "[c]onsistent with the [ISO's] pleadings." The Commission's summary description of the ISO's position, however, could be read to vary from the ISO's original statements in its Initial Post Technical Conference Comments. The ISO is therefore seeking clarification of the Commission's intent.

The Commission's statement of the ISO's position in paragraph 60, quoted above, could be read to suggest that any time a reliability-driven project also provides any additional economic or policy benefits – no matter how small or insignificant those benefits may be – even if the ISO did not deliberately expand the scope of the project to obtain those benefits, and even if there is no additional project cost incurred to obtain the additional benefits – the project could not be categorized as a reliability-driven project. Such a reading of the Commission's order would not be consistent with what the ISO actually stated in its Initial Post Technical Conference Comments, as quoted above.

⁸ *Id.* at P 71.

As explained in the ISO's comments, under the RTTP, the ISO cannot deliberately expand the scope of a potential reliability-driven project to address economic or policy needs and still deem it a reliability project. Reliability-driven projects are limited to those transmission additions or upgrades that are "required to ensure System Reliability consistent with all Applicable Reliability Criteria and CAISO Planning Standards."⁹ As the ISO stated elsewhere in its Initial Post Technical Conference Comments in this proceeding, "[R]eliability projects are limited to projects that meet reliability needs; they cannot be expanded to cover economic or public policy elements."¹⁰ Thus, transmission additions or upgrades that are not required for this purpose, but rather serve other purposes, cannot be a part of a reliability-driven project. Moreover, any deliberate expansion of scope of a reliability-driven project by the ISO to address other needs would probably entail additional cost. This would run afoul of section 4.2.1 of the ISO's Transmission Planning Business Practice Manual, which requires that an approved reliability-driven project be "an economically efficient approach to resolve criteria violations."

The situation described in the ISO's comments concerns a proposed project which has some transmission additions or upgrades that resolve criteria violations but also includes other additions, upgrades, or costs which are determined under the transmission planning process to be needed for economic or policy reasons. This situation is quite different from the concept that a reliability-driven project that incidentally provides economic or policy benefits, but

⁹ ISO tariff § 24.4.6.2 (emphasis added).

¹⁰ Initial Post Technical Conference Comments at 32.

is no broader or more costly than is necessary to meet the reliability need, automatically becomes an economically driven or policy-driven transmission element, which the Commission's language would imply. As the ISO also stated in its Initial Post Technical Conference Comments:

The mere fact that a transmission element provides economic benefits does not establish a need for the element or make it an economically driven element; rather, the economic benefits of a transmission element must exceed the costs to be eligible for approval as an economic transmission element. . . . If the ISO determines that a modification to that element is needed for economically-driven reasons, such modification must be justified based on the criteria applicable to economically driven projects.¹¹

It is likely that some incidental economic or policy benefit could be identified for many reliability-driven projects. However, to transform all reliability-driven projects into economically driven or policy-driven transmission elements on that basis would undercut entirely the current ISO tariff provisions designating PTOs with PTO Service Territories as the only entities to build reliability-driven projects, provisions that the Commission properly recognized was not altered by the RTTP.¹² A reading of the Commission's directives in paragraphs 60, 61 and 71 of the RTTP Order to suggest that any time a reliability-driven project incidentally provides any additional economic or policy benefits it should be reclassified, would be inconsistent with the ISO's pleadings and with long-standing terms of the ISO tariff as well as with other portions of the RTTP Order

¹¹ Initial Post Technical Conference Comments at 31-32.

¹² RTTP Order at PP 59-62.

affirming those existing tariff provisions. It would also be problematic and unworkable.¹³

The same principle applies to the reverse situation. As the ISO also said in its Initial Post Technical Conference Comments, “It is possible that a needed public policy element could provide some incidental reliability benefits, but that does not make the project a reliability project. Reliability projects are limited to projects that meet reliability needs as determined through the defined procedure for determining those needs in the transmission planning process.”¹⁴

Under the RTPP, projects approved to meet reliability needs are reliability-driven projects and transmission elements approved to meet economic or policy needs are economically driven or policy-driven transmission elements. The classification must depend upon whether a project satisfies the criteria for approval as a policy-driven, economically driven, or reliability-driven upgrade or addition, not upon the mere incidental benefits that the upgrade or addition provides. The ISO intended by its post technical comments cited by the Commission to refer to economically driven or policy-driven elements, as identified and approved by the ISO in the plan, that also would eliminate an

¹³ Among other things, such an interpretation, *i.e.*, that a reliability project automatically becomes an economic project if it provides any type of economic benefits, no matter how small or insignificant, could theoretically interfere with the ISO’s ability to approve transmission upgrades or additions to meet an identified NERC reliability criteria violation in circumstance that the economic benefits are not sufficient to meet the criteria for economically driven projects. The ISO could not approve the project as a reliability project because the project also provided some miniscule economic benefit. Yet the project could not be approved as an economically driven project because the economic benefits of the project do not exceed the costs of the project. Additionally, the same interpretation would appear to require the ISO to assess every reliability or long-term CRR feasibility project for incidental public policy or economic benefits and, if any such benefits are found, to reclassify the project as one of those types of elements. This requirement would impose a huge burden on ISO planners and would thus undermine much of the efficiency of the RTPP design.

¹⁴ Initial Post Technical Conference Comments at 18-19.

identified NERC reliability performance concern (or ensure the feasibility of long-term CRRs). In such a case, as a result of approval of an economically driven or policy-driven transmission element (for which, as the Commission noted, “all transmission developers would have an opportunity to compete for the right to build”¹⁵) the ISO would not need to approve a reliability-driven project because there no longer would exist any NERC reliability performance or long-term CRR feasibility concern.

The ISO believes that the interpretation discussed above and the tariff revisions submitted concurrently with this motion effectively address the concern raised by some parties and acknowledged by the Commission that the RTPP should not use the reliability or long-term CRR feasibility categories as a way to remove from the policy-driven and economic categories transmission elements that meet the criteria for those categories, and thereby preserve for Participating TOs rights to build and own those elements that should be open to other parties through the open solicitation process of the RTPP. Analogously, the ISO believes that the incidental provision of public policy or economic benefits by a reliability or long-term CRR feasibility project without any expansion of its scope or cost should not remove it from those categories.

The ISO therefore asks the Commission to clarify that (1) economically driven and policy-driven transmission elements approved in the transmission planning process that also eliminate a reliability need or ensure the feasibility of long-term CRRs do not, because of that fact, lose their character as economically

¹⁵ RTPP Order at P 61.

driven or policy-driven transmission elements, and (2) reliability-driven projects and projects to ensure the feasibility of long-term CRRs that have incidental economic or policy benefits, but are not deliberately expanded in scope to obtain such benefits or approved as economically driven and policy-driven transmission elements, do not lose their character as reliability-driven projects or projects to ensure the feasibility of long-term CRRs.

III. Conclusion

For the foregoing reasons, the ISO respectfully request that the Commission clarify that, by paragraphs 60-61 and 71 of the RTPP Order, it intended that, consistent with the ISO's pleadings in this proceeding and specifically the ISO's Initial Post Technical Conference Comments (1) economically driven and policy-driven transmission elements approved in the transmission planning process that also eliminate a reliability need or ensure the feasibility of long-term CRRs do not, because of that fact, lose their character as economically driven or policy-driven transmission elements, and (2) reliability-driven projects and projects to ensure the feasibility of long-term CRRs that have incidental economic or policy benefits, but are not approved as economically driven or policy-driven transmission elements, do not lose their character as reliability-driven projects or projects to ensure the feasibility of long-term CRRs.

Respectfully submitted,

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Dated: January 18, 2011

CERTIFICATE OF SERVICE

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

Dated at Washington, D.C. this 18th day of January, 2011.

/s/ Michael E. Ward

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