



Declaratory Order (“Petition”) that requested the Commission to (1) provide general conceptual approval for its proposed financing mechanism regarding location constrained resources as an independent entity variation or regional differences variation from the pricing of generation interconnections under Order No. 2003, and to (2) provide additional guidance regarding the eligibility criteria that should apply for the financing mechanism.

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, the CAISO is entitled to answer the motions to intervene and comment. Although Rule 213(a) normally prohibits answers to protests, the Commission will permit answers that aid the Commission in understanding the issues in this proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case.<sup>5</sup> The CAISO believes that the information provided in this Answer will help to clarify the many issues of first impression that are raised by the Petition for Declaratory Order and will thus be useful to the Commission.

Because of the importance of the issues raised by the Petition, the CAISO believed that it was important that the appropriate CAISO personnel review the final version of this Answer prior to its filing. Those persons, however, were out of the office on the days preceding and immediately after the due date for this filing. In addition, the CAISO needed additional time to review late filed comments. Accordingly, the CAISO concluded that the better course of action was to delay the filing and seek leave to file three days out of time, which the CAISO now requests.

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<sup>5</sup> See, e.g., *Me. Pub. Serv. Co.*, 112 FERC ¶ 61,246, at P 9 (2005); *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002).

## **I. BACKGROUND**

As the CAISO explained in the Petition, its proposal is motivated by the existing potential for the development of significant quantities of location constrained resources (such as wind, geothermal and solar resources) in regions of California that are not readily accessible to the CAISO transmission grid (“Energy Resource Areas”). There is an urgent need to develop these resources because of the combination of the growing demand in California and the exigencies of California’s Renewable Energy Portfolio Standard. The fact that these resources rely upon immobile fuel sources that are remote from the transmission grid, however, presents significant barriers to their development. These obstacles are compounded by the pattern of resource development in Energy Resource Areas, under which (1) multiple individual generation projects will be developed by multiple competing developers, (2) the individual generation resources generally will be smaller than typical fossil fuel projects, and (3) the generation resources will come on-line in relatively small increments over a period spanning many years.

Currently, generation developers are required to pay for the cost of generation tie (“gen-tie”) lines. Because of the disparity between the size of individual renewable resource projects and the necessary transmission investment, as well as the fact that renewable resources in a given region are typically developed over a span of many years, transmission lines to access location constrained resources have not been built – and are not being built – even though the potential power supplies that could come from such resources are significant.

To this end, the CAISO proposes in its Petition to create a new mechanism that will facilitate the financing and development of transmission facilities designed primarily to connect multiple location constrained resources in an Energy Resource Area to the CAISO-Controlled Grid (referred to hereinafter as “Multi-User Resource Trunklines”). Specifically, the CAISO proposes the following rate treatment for Multi-User Resource Trunklines constructed by existing or new Participating Transmission Owners (“PTOs”):

- (1) PTOs that construct Multi-User Resource Trunklines will be permitted to reflect in their Transmission Revenue Requirement (“TRR”) and in the CAISO’s Transmission Access Charge (“TAC”) the costs of trunkline facilities which are not being directly recovered from generation resources.
- (2) As new generation resources are constructed and interconnected to a Multi-User Resource Trunkline, the costs of the capacity required by those resources will be directly recovered from such resources, thereby reducing the impact on transmission ratepayers by reducing the costs of the Multi-User Resource Trunkline included in the PTOs’ TRR and the TAC.
- (3) When all of the capacity of the Multi-User Resource Trunkline is utilized and paid for by generators, transmission ratepayers would no longer face any cost responsibility for these facilities.

The CAISO proposes the following eligibility criteria for the proposed rate treatment for Multi-User Resource Trunklines:

- (1) The costs of the Multi-User Resource Trunkline – which is a non-Network facility – would not otherwise be eligible for inclusion in the CAISO’s TAC;
- (2) The transmission project must provide access to an Energy Resource Area in which the potential exists for the development of a significant amount of location constrained energy resources;
- (3) The transmission project must be turned over to the CAISO’s Operational Control;
- (4) The transmission project must be a high-voltage transmission facility designed primarily to serve multiple location constrained resources that will be developed over a period of time;

- (5) To be eligible for the financing treatment proposed herein, a transmission project would have to be evaluated and approved by the CAISO in the context of a prudent CAISO transmission planning process, thereby ensuring that the project will result in a cost-effective and efficient interconnection of resources to the grid;
- (6) To limit the cost impact of the proposal on ratepayers, there would be an aggregate cap on the total dollars associated with Multi-User Resource Trunklines that could be included in TAC rates. Specifically, the total investment in Multi-User Resource Trunklines that can be included in TRRs and the TAC cannot exceed 15 percent of the sum total of the net high-voltage transmission plant of all PTOs, as reflected in their TRRs and in the TAC; and
- (7) To limit the risk of stranded costs due to abandoned investment, the transmission project must demonstrate adequate commercial interest by satisfying the following two-prong test before actual construction can commence: (a) a minimum percentage of the capacity of the new Multi-User Resource Trunkline – an order of magnitude of 25 to 30 percent – must be subscribed pursuant to Large Generator Interconnection Agreements (“LGIAs”); and (b) there must be a tangible demonstration of additional interest in/support for the project – an order of magnitude of 25 to 35 percent – above and beyond the capacity covered by LGIAs.<sup>6</sup>

In the Petition, the CAISO seeks a determination that, upon the satisfaction of these criteria or other criteria that the Commission may adopt, the proposed rate treatment of the costs of Multi-User Resource Trunklines would constitute an appropriate independent entity variation or regional differences variation from the Commission’s default generator interconnection policies as authorized by Order No. 2003<sup>7</sup> or that the proposed rate treatment would otherwise be just and reasonable.

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<sup>6</sup> The specific percentages that the CAISO would propose in item (7) would be developed through the stakeholder process that will precede the tariff filing, but the CAISO anticipates that these percentages should be in the range specified above.

<sup>7</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), order on reh’g, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004), order on reh’g, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171, order on reh’g, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), affirmed sub nom. Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC, No. 04-1148, 2007 U.S. App. LEXIS 626 (D.C. Cir. Jan. 12, 2007).

## **II. ANSWER**

The CAISO does not object to any of the Motions to Intervene. The CAISO also notes the numerous supportive comments and the limited nature of many of the protests. The positive support for the Petition demonstrates a growing awareness of the difficulties faced by renewable resource generators under current interconnection procedures and provides the Commission with valuable additional information in support of the CAISO's proposal. To the extent that some of the supportive commenters raised issues regarding specific details of the proposal, the CAISO reiterates its intent to work with stakeholders to resolve issues concerning development of the tariff language and implementation of the procedures.

### **A. THE NEED FOR MULTI-USER RESOURCE TRUNKLINES IS WELL-ESTABLISHED.**

Only four protesters challenge the need for Multi-User Resource Trunklines. TANC, whose protest is adopted by Santa Clara and M-S-R, wrongly asserts that the costs cannot be rolled in because the CAISO has neither asserted nor proven that Multi-User Resource Trunklines would provide benefits to the grid. Contrary to TANC's claims, in the summary of the Petition, the CAISO identified the expected benefits of its proposal, stating:

First, it will remove the barriers that currently exist to connecting location constrained resources, in particular renewable resources, to the grid. This will promote supply diversity and competition in the marketplace, as well as provide access to new sources of supply that will be available to all load-serving entities ("LSEs"). The Commission has recognized on numerous occasions that additional generation is needed in California, and approval of this proposal will facilitate access to such resources. Second, the proposal will provide access to renewable supplies that LSEs need in order to comply with State-mandated RPS requirements. Third, the proposal will promote the efficient, cost effective development of transmission infrastructure. Fourth, the proposal will ensure that transmission lines intended to connect location constrained resources become part of and are effectively integrated into the CAISO Controlled Grid.

(Petition at pp. 5-6). Much of the Petition was devoted to explaining and documenting these benefits,<sup>8</sup> and the comments favoring the Petition are replete with further support. TANC fails to acknowledge these stated benefits or to rebut such specific benefits. TANC's blanket, unsupported assertions that Multi-User Resource Trunklines do not provide benefits to the grid do not cast doubt on the importance of the proposal.

IID recognizes the importance of assisting the development of renewable generators, but asserts that the Petition is too vague to accurately evaluate the costs and benefits of the proposal.<sup>9</sup> IID appears to believe that each project must first be evaluated individually on a cost-benefit basis, with all efforts for merchant funding exhausted, and all siting, permitting, and environmental issues resolved, before any proposal for ratepayer support can be offered.<sup>10</sup> This is precisely the formula for paralysis that the CAISO's Market Surveillance Committee outlined<sup>11</sup> and for the perpetuation of the lack of necessary transmission development that many supporting commenters seek to avoid. Contrary to IID's suggestions,<sup>12</sup> the proposal does not provide a blank check to large generators that can afford to pay the costs of interconnection and it does not ignore existing tie lines and those in queue. The development of eligibility criteria for Multi-User Resource Trunklines and procedures for the identification of Energy Resource Areas in conjunction with the CPUC and the CEC, as well as the requirement that Multi-User Resource Trunklines be planned through the CAISO's transmission planning process, ensure that such issues will be addressed.

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<sup>8</sup> See Petition at 43-45.

<sup>9</sup> IID Protest at 9, 12.

<sup>10</sup> *Id.* at 10.

<sup>11</sup> See MSC Opinion (provided as Attachment B to Petition), at 3.

<sup>12</sup> IID Protest at 11-12.

**B. THE PETITION APPROPRIATELY ALLOCATES THE COSTS OF MULTI-USER RESOURCE TRUNKLINES.**

TANC, GSW, and IID believe that the proposal set forth in the Petition is contrary to cost-causation principles. TANC contends that the cost of the facilities must be collected from the entities that use them – the interconnecting Generators – rather than from the users of the transmission grid. Yet that is what the proposal accomplishes. Any Generator that interconnects to a Multi-User Resource Trunkline will immediately accept responsibility for the capacity it uses. The *only* costs that are charged on an interim basis through the TAC are for capacity that is *not* being used by any Generator. As discussed above and in the Petition, it is appropriate to charge the costs of capacity that are not being recovered directly from Generators to all transmission users because all transmission users benefit from Multi-User Resource Trunklines.

GSW complains that the CAISO proposal would unjustly charge GSW for the costs of non-network transmission facilities over which GSW currently does not receive service and which GSW does not have the right to use.<sup>13</sup> The first part of GSW's description does not distinguish it from any other LSE, and the second part is not accurate. Every LSE, including GSW, has the right to contract with a resource developer that wishes to interconnect using the capacity of a Multi-User Resource Trunkline and serve the LSE's Load. The capacity of Multi-User Resource Trunklines will be part of the CAISO Controlled Grid and, as such, will be available to all potential users of the grid on an open access basis. GSW acknowledges that it has an obligation to obtain renewable resources. The interim

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<sup>13</sup> See GSW Protest at 4.



increases to the TAC rates that LSEs pay for Multi-User Trunklines enhance the options available to GSW and other LSEs and their ability to meet that obligation.

GSW's alternative is incompatible with the CAISO service model. GSW would have the CAISO distribute "shares" to LSEs on a load-share ratio basis, which could then release, sell or trade the shares. As previously discussed, however, PTOs retain ownership of the lines, so the "shares" at most represent interconnection rights. However, the CAISO service model is not based on physical reservations of point-to-point capacity. In that regard, the CAISO does not offer point-to-point transmission service; it offers a daily transmission reservation service – that is, a network-type service – that is available to all transmission customers.<sup>14</sup> Users of the grid can obtain Firm Transmission Rights (under the current service model) or Congestion Revenue Rights (under MRTU) to hedge against congestion, but these financial rights do not convey physical reservation rights to specific segments of capacity. Adoption of GSW's proposal would require the CAISO to implement a complex scheme for reserving capacity on the grid in a manner that is inconsistent with its service model, as well as to regulate the sale of and track the ownership of interconnection rights, with all of the concomitant concerns of preventing monopoly control.

IID asserts that the CAISO's proposal would discriminate against traditional generators by making them bear the cost of trunkline capacity until all capacity is used.<sup>15</sup> IID forgets that Generators do not pay the TAC; Load does. Load will pay the same TAC whether it is purchasing Energy from a traditional Generator or from

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<sup>14</sup> With the exception of certain transactions scheduled pursuant to contracts that preceded the existence of the CAISO, all energy transmitted under the CAISO Tariff is treated as "new firm use" on a day-to-day basis. All users of the CAISO Controlled Grid must schedule their new use each day and cannot reserve available capacity beyond the Day-Ahead timeframe.

<sup>15</sup> IID Protest at 12.

a new Generator that is using the Multi-User Resource Trunkline. The rate impact of the interim roll-in of costs does not unduly discriminate among Generators. Indeed, no “traditional” Generators have protested the CAISO’s proposal or alleged that it is discriminatory.

Other parties expressed the concern that, unless all interconnecting generators are required to repay their entire *pro rata* share of the capital costs of the Multi-User Resource Trunklines (rather than the going-forward costs), incentives may develop for generators to game the market or to engage in intentional delay.<sup>16</sup> While the CAISO shares the desire to avoid opportunities for gaming, it believes that these concerns are unfounded. As the CAISO noted in the Petition, the Demand for renewable resources increases incrementally.<sup>17</sup> In addition, by definition, Energy Resource Areas can support the development of a significant quantity of renewable resources and multiple generation resources. Thus, when Demand is present and a generation developer is prepared to meet that Demand, the developer must move forward or a competitor is likely to seize the opportunity. The marginal cost savings of delaying the interconnection are not likely to outweigh the lost profits from waiting for the next increment of Demand, especially when there is no certainty that the developer would even be selected to serve the next increment of Demand. Economically speaking, “a bird in the hand is better than one in the bush.” In addition, a developer would not intentionally delay entering into a contract to serve Demand, since Generators earn revenues by generating and selling electricity, not by remaining idle.

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<sup>16</sup> See IID Protest at 14; MWD Protest at 10-12; SMUD Protest at 11; CMUA Protest at 9; TANC Protest at 13.

<sup>17</sup> See Petition at 16-17.

Further, Generators incur significant up-front costs in the project development process (e.g., land acquisition, study and interconnection related costs). Generators must finance these and other costs that are necessarily incurred early in the development process. To suggest that Generators will intentionally avoid executing a contract to serve Demand, delay construction and completion of their projects, and continue to “carry” such costs without any opportunity to earn offsetting revenues is not logical. Any delays in constructing the actual generation plant would also subject the developer to inflation and other risks that could drive costs up. Moreover, should a Generator delay commencing Commercial Operation for more than three years, its position in the CAISO interconnection queue would be lost.<sup>18</sup>

The CAISO believes the proposed allocation strikes an appropriate balance between the barriers to development that are created by current policies and the complete roll-in of costs that was proposed by Southern California Edison’s Petition for a Declaratory Order.<sup>19</sup> It is significant that Generators will not own the transmission capacity. Rather, they are only reimbursing the PTO for the construction costs. Thus, a Generator that connected in Year 5 would be picking up payment on Multi-User Resource Trunkline capacity that the PTO already has depreciated for five years. Requiring the Generator to pay the PTO for the full useful life of the Multi-User Resource Trunkline capacity, when in fact five years of the useful life have already elapsed, would violate cost causation principles. Moreover, it would cause the skewed result whereby a Generator that started using the trunkline in Year 1 paying the same amount as a Generator that started

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<sup>18</sup> See CAISO OATT, Large Generator Interconnection Procedures, at Sec. 4.4.5.

using the trunkline in Year 5. No one would expect a user of the grid with a 5-year transmission service agreement to pay the same total amount of transmission charges over the term of the agreement as a user of the grid with a 10-year transmission service agreement. Likewise, a generation resource coming on-line after the Multi-User Resource Trunkline has been in service for several years should not bear the same amount of trunkline costs as a resource that started using the line on Day 1.

Further, the CAISO could not reasonably be expected to revise and resettle its TAC rates retroactively every time a new Generator connected to a Multi-User Resource Trunkline. Thus, payment for the first five years would have to be reimbursed to transmission users prospectively through the PTOs' Transmission Revenue Balancing Account Adjustment. As a result, the transmission users that paid for the first five years of the Multi-User Resource Trunkline capacity would not be the same transmission users that would be reimbursed. Once again, the outcome would violate cost causation.

In sum, the CAISO submits that requiring project developers to reimburse PTOs for the full cost of Multi-User Resource Trunklines, regardless of when they interconnect, would significantly undermine the balance reflected in the Petition.

**C. THE MINIMUM CAPACITY THRESHOLD PERCENTAGE SHOULD BE NO GREATER THAN 35%.**

A number of commenters stated that the minimum capacity threshold percentage of participation should be greater than the proposed range of 25% -

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<sup>19</sup> Southern California Edison's Petition for Declaratory Order at 2-3, Docket No. EL05-80 (March 24, 2005).

35% in order to ensure that transmission would be built where ultimately used.<sup>20</sup>

The CAISO is concerned that any greater threshold would defeat the entire purpose of the Multi-User Resource Trunkline proposal by setting too high a hurdle for initial capacity subscription. As the CAISO indicated in its filing,<sup>21</sup> because location constrained resources in a region typically are developed and come on-line in small increments over a period of numerous years, requiring a high percentage of the capacity to be subscribed before construction of the trunkline commences would be unrealistic and would essentially result in a *de facto* continuation of the status quo.

Further, as described in the Petition, the proposal includes a number of other protections to ensure that the transmission will be built where it will be used and in a cost-effective manner. First, the CAISO will rely on state entities such as the California Energy Commission, which have the expertise and personnel to best avoid misdirected investments, to identify and assess areas where non-transportable energy resources present the best opportunities for practical development.

Second, the project would be evaluated and approved by the CAISO in the context of an integrated CAISO transmission planning process and would be required to receive CAISO Board approval, just as the CAISO evaluates and obtains approvals for Reliability and Economic projects as part of a transmission planning process. Stated differently, the analysis of Multi-User Resource Trunklines as part of an integrated transmission planning process – with the

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<sup>20</sup> See MWD Protest at 7-9; NCPA Protest at 9-10. CMUA recommended an increased capacity threshold as an alternative to requiring complete repayment, and SMUD joined those comments. See SMUD Protest at 4; CMUA Protest at 9. TANC mentioned this issue as a reason for rejection. See TANC Protest at 13-14.

<sup>21</sup> See Petition at 34 n.56.

associated economic tests, reliability evaluations, cost modeling and operational considerations – will act as a “gatekeeper” to ensure the proper use of the proposed financing mechanism.

Finally, in addition to proposing a committed capacity threshold requirement that reflects the percentage of capacity that is covered by executed LGIAs, the CAISO has also proposed a requirement that there be a showing of “additional interest” in the project above and beyond the requisite percentage of executed LGIPs.<sup>22</sup> The CAISO has committed to undertake a stakeholder process to determine not only the minimum percentage of capacity that should have executed LGIAs before construction commences, but also the minimum percentage of demonstrated “additional interest” that should be required and how it will be demonstrated. The combined requirement could well exceed 50 percent of the capacity and will be subject to Commission approval when the CAISO files implementing tariff language. This should effectively address any concerns about the construction of white elephants.

#### **D. IMPLEMENTATION WILL NOT IMPROPERLY STRAND INVESTMENT.**

IID and CMUA express concern that implementation of the CAISO’s proposal could strand current or future transmission investments.<sup>23</sup> IID expressed concern in particular about transmission lines that it has built or is planning in order to deliver thermal generation from the Salton Sea area to the CAISO Control Area and expressed dismay that the CAISO had “designated” Salton Sea as a

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<sup>22</sup> The CAISO noted examples of manners in which such a showing could be made: MW in the CAISO interconnection queue that could be served by the project, or responses to an open season or CEC studies showing the potential MW that could be developed in a region.

<sup>23</sup> See IID Protest at 7-8; CMUA Protest at 12.

location constrained resource.<sup>24</sup> IID, a non-FERC-jurisdictional entity, complained that the CAISO's proposal could strand IID's investments in transmission lines to bring renewable resources to the CAISO Control Area.<sup>25</sup>

Although the Petition identifies the Salton Sea as an area where renewable resources can be developed, the CAISO notes that the Petition does not attempt to specify the Salton Sea (or any other region) as an Energy Resource Area or seek approval for a specific Multi-User Resource Trunkline. The fact that IID, a non-FERC jurisdictional entity, is engaged in efforts to bring such generation to the grid simply demonstrates the accuracy of the CAISO's statement that the Salton Sea is an area rich with potential renewable resources. However, the Petition does not at this time "designate" anything as a location constrained resource eligible for interconnection by a Multi-User Resource Trunkline. As discussed above, the identification of Energy Resource Areas will only occur in conjunction with the CEC and the CPUC. Moreover, also as noted above, any Multi-User Resource Trunkline will be evaluated under the CAISO's transmission planning process which will include a cost-benefit analysis. The CAISO submits that its proposal properly promotes the development of location constrained resources while ensuring prudent transmission planning. Under such circumstances, the only "stranded" resources should be those that would have been stranded in the absence of the Multi-User Resource Trunklines.

In any event, IID's argument that the CAISO's proposal will result in stranded costs is pure speculation. It appears that what IID is really seeking from the Commission is protection from the construction of lines that might serve certain

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<sup>24</sup> IID Protest at 8-9.

<sup>25</sup> IID Protest at 7.

Energy Resource Areas more efficiently than IID facilities. This attempt at protectionism should not be countenanced for the same reasons the Commission has (1) found that bypass is a risk from which a Local Distribution Company should not be shielded,<sup>26</sup> and (2) rejected stranded cost recovery where a retail-turned-wholesale customer uses another utility's transmission system to reach a new supplier.<sup>27</sup> In the same vein, the Commission should not permit IID to establish obstacles to the development of location constrained resources by asserting that Multi-User Resource Trunklines that facilitate the interconnection of those resources will strand IID's investment in facilities.

#### **E. THE AGGREGATE CAP LEVEL IS APPROPRIATE.**

A few protesters argue that the aggregate cap level on the amount of trunkline costs is too high.<sup>28</sup> The cap was developed following the stakeholder process and is intended to strike a balance between the need to encourage development of resources and the need to limit increases in the TAC. No empirical means exist to establish the appropriate cap. The CAISO would note that 15% is below the percentage range of the \$72 million cost-shift cap that was instituted in 2001 when the CAISO began the transition to a grid-wide TAC and the original PTOs began to pay a TAC that included the costs of the more expensive high voltage facilities of the new PTOs.<sup>29</sup> At that time, certain of the current protesters argued for removal of the cap as an incentive for greater participation in

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<sup>26</sup> See *Texas Gas Transmission Corporation*, 65 FERC ¶ 61,275 at 62,264 (Nov. 29, 1993) (“in a competitive environment there simply is no guarantee that any customer will always remain a customer”)

<sup>27</sup> *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), at 30,406 and n.682.

<sup>28</sup> See CMUA Protest at 8; TANC Protest at 14.



the CAISO. The CAISO believes that the current level of the cap is similarly appropriate for the important goal of encouraging the development of location constrained resources. In any event, no protester has identified a specific cap level as an alternative to the CAISO's proposal.

**F. ALL LSES HAVE EQUAL ACCESS TO THE BENEFITS OF MULTI-USER RESOURCE TRUNKLINES.**

Certain parties expressed concern that all Load Serving Entities ("LSEs") be allowed to benefit from the CAISO Petition.<sup>30</sup> NCPA states that the CAISO must take the steps necessary to ensure that LSEs bearing the costs of trunkline facilities will have equal access to the new renewable generation that would become available under this proposal. The CAISO does not believe that the proposal raises any significant issues in this regard. For example, NCPA expressed concern that entities serving load in transmission-constrained areas would bear the costs of the proposal without the ability to access the new generation. According to NCPA, because of these constraints, LSEs financing their own renewable projects would be left paying for their own gen-tie costs as well as for Multi-User Resource Trunklines.<sup>31</sup> As the Commission is well aware, there are indeed locational constraints on the CAISO Controlled Grid. These constraints, however, do not prevent any LSE from contracting with any generating resource or prevent any LSE that wishes to act as a generation developer to

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<sup>29</sup> *California Indep. Sys. Operator Corp.*, Opinion No. 478, 109 FERC ¶ 61,301 at P 68 (Dec. 21, 2004).

<sup>30</sup> See GSW Protest at 5; NCPA Protest at 5-9; SMUD Protest at 9-11.

<sup>31</sup> NCPA Protest at 6-7.

interconnect with a Multi-User Resource Trunkline in order to serve its Load, regardless of the Load's location in a transmission-constrained area.<sup>32</sup>

Rather, the only function of the transmission constraint is to require the CAISO to incur costs to address the constraint. These include Reliability Must Run costs, Must Offer Minimum Load costs, and associated dispatch costs. More recently, some of the capacity costs may be picked up by the CPUC's or a Local Regulatory Authority's local Resource Adequacy requirements. None of these costs for addressing local transmission constraints, however, are associated with or would prevent an LSE from contracting with a renewable resource.

Although NCPA asks that the Commission condition approval of the CAISO's proposal on the CAISO's working aggressively to remove local transmission constraints that hinder access to Multi-User Resource Trunkline projects, there is no more logical connection between that request and the CAISO's proposal than there would be if new network facilities were involved. The costs of new network facilities that provide access to additional resources are rolled in regardless of whether they relieve local constraints.

Thus, NCPA's request far exceeds the scope of the instant proposal. The CAISO is fully committed to working with PTOs and non-participating transmission owners to eliminate local transmission constraints, but those constraints do not preclude any LSE from contracting with resources attached to Multi-User Resource Trunkline projects and there is no reason to address those constraints in this proceeding.

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<sup>32</sup> Further, contrary to NCPA's contention, nothing prevents the export of the renewable generation delivered via the Multi-User Resource Trunkline.

SMUD also asserts that if Multi-User Resource Trunkline costs are to be spread to all CAISO load, there must be commensurate benefits. As explained above, all users of the CAISO Controlled Grid will have an equal opportunity to take advantage of Multi-User Resource Trunklines. SMUD wishes the Commission to go further, though, and impose changes to the CAISO tariff that SMUD contends discourage the use by California LSEs of renewable resources developed either outside California, or within California but outside the CAISO grid. SMUD's assertions, with which the CAISO does not agree, are outside the scope of this proceeding and are matters pending before the Commission in proceedings related to MRTU, such as the CAISO long-term Firm Transmission Rights filing. The Commission should not allow SMUD to divert attention from the needs to be addressed by this Petition by raising extraneous matters. The CAISO Petition outlines other benefits as well, none of which SMUD specifically challenges.

**G. REMAINING ISSUES SHOULD BE RESOLVED THROUGH THE CAISO'S STAKEHOLDER PROCESS**

Some protesters believe that certain portions of the proposal need further development and elaboration, such as the procedure and criteria for the identification of Energy Resources Areas. They recommend that, rather than ruling on the Petition at this time, the Commission order settlement procedures to address such issues.<sup>33</sup>

The CAISO appreciates CMUA's and CMUA members' extensive efforts during the stakeholder process to narrow the number of issues in dispute in this proceeding. Their input led to certain important modifications to the CAISO's

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<sup>33</sup> CMUA Protest at 6, 13-14; MWD Protest at 7-8, 12-13; Six Cities Protest at 5.

original proposal, such as the use of an aggregated cap (as opposed to a per project cap). However, the CAISO does not believe that formal settlement discussions are necessary or appropriate. This is a Declaratory Order proceeding, in which the CAISO is only seeking conceptual guidance on issues and which will lead to a CAISO Section 205 filing separate and apart from the instant proceeding. The Commission should not be using the instant declaratory order proceeding to be ordering formal settlement procedures regarding matters that will be at issue in a docket that has yet to be established.<sup>34</sup>

The CAISO believes that it would be more efficient to obtain guidance from the Commission and then move forward with the CAISO stakeholder process in order to resolve issues rather than to prolong proceedings before the Commission. Following the Commission's ruling in this proceeding, the CAISO will undertake a stakeholder process to flesh out the remaining details of its proposal, including some of the issues for which CMUA and others request settlement proceedings. The CAISO is committed to working diligently with all concerned parties to resolve outstanding issues in the hope that, following the stakeholder process, the CAISO can present the tariff amendment to the Commission in the form of a settlement.

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<sup>34</sup> *Avista Corp. et al.*, 96 FERC ¶ 61,265, at 62,018 (2001) (holding it would be premature to order a compliance filing in response to a petition for declaratory order).

## H. MISCELLANEOUS

A few protesters have noted that the proposal should be limited to wires-only charges.<sup>35</sup> The CAISO has not proposed that anything but the cost of transmission facilities be included in this proposal and does not intend to do so.<sup>36</sup>

Several commenters ask that the Commission rule that PTOs that construct Multi-User Resource Trunklines should not be eligible for additional incentive rate treatment.<sup>37</sup> The CAISO's proposal only addresses the inclusion of the costs of Multi-User Resource Trunklines, on an interim basis, in a PTO's TRR. Whether PTOs should receive incentive rate treatment in connection with such costs is beyond the scope of this proceeding and should be addressed if and when a PTO revises its TRR to seek such treatment. The Commission does not have before it evidence or argument regarding the pros or cons of such treatment, and a resolution of the issue would be premature.

TANC complains that transmission costs are increasing rapidly – citing a 113% increase in PG&E's TRR since 1998 – and argues that adding the costs of Multi-User Resource Trunklines will only increase the burden on transmission users. The mere fact that transmission costs are increasing does not, by itself, constitute a legitimate basis for rejecting the CAISO's proposal. Increases in transmission costs, are only an issue if they are not justified. However, as shown by the CAISO, the proposed interim roll-in of the costs of capacity on Multi-User Resource Trunklines is just and reasonable because Multi-User Resource Trunklines provide significant benefits and will promote the construction of needed transmission facilities. TANC fails to make a showing otherwise. TANC also baldly

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<sup>35</sup> See NCPA Protest at 9; CMUA Protest at 12-13.

<sup>36</sup> See Petition at 30 n.48.

asserts without any support that “[a]llowing non-network transmission projects’ costs to be rolled into all [CAISO] customers’ rates may result in unexpected problems, such as market inefficiencies caused by the exploitation of differences.”<sup>38</sup> TANC does not state what the purported market inefficiencies are or what unexpected problems may arise. The Commission should disregard TANC’s vague, speculative and unsupported claims.

AReM expresses concerns that LSEs that are PTOs might be able to gain a competitive advantage over other LSEs, and asks for an additional criterion that a project must allow for open access and be sized larger than the current and planned renewable contracts held by the sponsoring PTO.<sup>39</sup> Such an additional criterion is unnecessary. First, because the Multi-User Resource Trunkline will be under the CAISO’s Operational Control, the CAISO is already under an obligation to provide open access on the facility. Second, no PTO will be able to tailor a project to fit its own needs. The project must go through the CAISO’s transmission planning process, and will be sized to accommodate the Energy Resource Area, not the particular planned contracts of any particular entity.

GSW states that, without actual tariff language, the Commission should not approve the concept of a pro rata allocation of transmission line capacity in exchange for a pro rata allocation of the line’s cost as potentially not being reasonable in certain (unstated) situations.<sup>40</sup> The Commission will have the opportunity to review all of the final details of the Multi-User Resource Trunkline financing when the CAISO files the necessary tariff language. The California

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<sup>37</sup> See MWD Protest at 12; GSW Protest at 6; NCPA Protest at 8.

<sup>38</sup> See TANC Protest at 11.

<sup>39</sup> See AReM Comments at 4-5.

<sup>40</sup> See GSW Protest at 5.

Market Participants should not be required to devote major resources to stakeholder processes and the development of detailed tariff language unless the Commission believes that the proposal has merit. The CAISO has provided a detailed explanation and urges the Commission to act on the merits at this time.

Finally, TANC asserts that the Petition raises significant policy issues that cannot properly be considered in a petition for a declaratory order. TANC provides little real explanation other than the fact that the resolution of the issue may have implications for the industry as a whole, and that the circumstances that give rise to the petition are not unique to California. These are exactly the type of issues, however, that are appropriate for a declaratory order proceeding. For example, the Commission recently addressed questions regarding roll-over rights and queuing in *Duke Power Company LLC*.<sup>41</sup> Having determined that the issues were moot, the Commission dismissed the pending motion for clarification. It noted, however, the utility's concern that a clarification of Commission policy would benefit the utility, transmission providers, and transmission customers generally. Because the utility was in essence, seeking a generic policy determination, the Commission stated, "[t]he more appropriate vehicle to seek such a determination is a petition for declaratory order."<sup>42</sup>

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<sup>41</sup> *Duke Power Company LLC d/b/a Duke Energy Carolinas, LLC*, 117 FERC ¶ 61,283 (2006).

<sup>42</sup> *Id.* at P 3; See also *USGen New England, Inc.*, 118 FERC ¶ 61,172 at P 18 (2007) (noting that declaratory orders are appropriate to provide "uniform interpretation of ... matters that fall within the Commission's expertise," and that, in response to a petition for a declaratory order, "it is reasonable for the Commission to clarify its position by addressing ... policy-related arguments.")

### III. CONCLUSION

The CAISO respectfully requests that the Commission accept the foregoing Answer out of time as part of its consideration of all parties' responses, and furthermore requests that the Commission determine that the CAISO's proposal or some variant thereof, is an appropriate independent entity variation or regional differences variation from the pricing of generation interconnections under Order No. 2003.

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Dated: March 14, 2007



## Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 14<sup>th</sup> day of March, 2007 at Folsom in the State of California.

/s/ Anthony J. Ivancovich

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