



April 20, 2018

Via Email: initiativecomments@caiso.com

Re: CAISO Issue Paper—Storage as a Transmission Asset: Enabling transmission connected storage assets providing regulated cost-of-service-based transmission service to also access other market revenue streams

The Nevada Hydropower Company, Inc. (“Nevada Hydro”) is responding to the California Independent System Operator Corporation’s (“CAISO”) request for comments on the referenced Issue Paper published on March 30, 2018. The Issue Paper seeks to implement Federal Energy Regulatory Commission (“FERC”) policy on the treatment of energy storage as wholesale transmission facilities and associated rate treatments. *Utilization of Electric Storage Resources for Multiple Services When Receiving Cost-Based Rate Recovery*, 158 FERC ¶ 61,058 (2017) (“*Storage Policy Statement*”).

Nevada Hydro is developing the 500 MW Lake Elsinore Advanced Pumped Storage (“LEAPS”) hydroelectric facility in southern California. Nevada Hydro has filed a petition in FERC Docket No. EL18-131-000 requesting FERC to confirm certain ratemaking treatments for the LEAPS facility as provided under the *Storage Policy Statement*. Nevada Hydro, therefore, has a significant interest in the proposals presented in the Issue Paper.

The Issue Paper proposed to identify the purposes for which energy storage facilities may be used to meet electric transmission needs and to establish a cost recovery mechanism when storage facilities qualify for both cost-based and market-based rates to recover their revenue requirements.

Nevada Hydro has offered LEAPS into CAISO’s transmission planning process to address reliability and public policy-related transmission needs, but CAISO has not selected it for such purposes. CAISO’s recent protest to Nevada Hydro’s FERC petition states that CAISO’s findings in its 2016-2017 transmission plan that large scale pumped storage projects would contribute “significantly” to resolving CAISO’s reliability and public policy-related transmission needs were not the result of an actual transmission study.¹ Given CAISO’s contradictory findings in recent transmission plans that large scale pumped storage simultaneously (1) solves significant reliability and public policy transmission needs, and (2) does not meet such needs, Nevada Hydro is hopeful that the Issue Paper reflects a new perspective from the CAISO.

¹ Protest at pp. 22-24.

CAISO's recent protest to Nevada Hydro's FERC petition argued that "the *Storage Policy Statement* . . . provided guidance as to how applicants seeking cost-based recovery while providing separate market-based services could address concerns regarding double recovery of costs, adverse market impacts, and ISO/RTO independence."² CAISO went on to state that it "does not currently have a tariff process for offsetting transmission rates with market revenues," and claimed that CAISO and its stakeholders must resolve the double-recovery question.³ The Issue Paper purports to tackle that task.

CAISO proposes two options: (1) rate-based asset treatment with cost recovery through the transmission access charge ("TAC"), or (2) case-by-case contracts between the storage owner and the CAISO. CAISO envisions that under either approach the asset owner or operator could obtain full or partial cost recovery (*i.e.*, guaranteed revenues) under the methods established by CAISO. Under the partial cost recovery approach the asset owner or operator would bear the risk of recovering the non-guaranteed portion of its revenue requirement through the sale of market-based services.

The Issue Paper proceeds from the wrong premise. Under the clear terms of the *Storage Policy Statement*, to the extent a storage project is found by FERC to be a "wholesale transmission facility" it (not the CAISO) is entitled to choose between cost-based recovery, market-based rates or some combination. For example, the *Storage Policy Statement* states that "at the electric storage resource owner's or operator's discretion, [the] market-revenue offset can be used to reduce the amount of the revenue requirement to be used in the development of the cost-based rate."⁴ A regional transmission organization may not deprive a public utility of its statutory rate filing rights, regardless of the policy reasons it may have.⁵

Moreover, the Issue Paper asserts that CAISO is implementing FERC's precedent, but that precedent provides that storage asset owners or operators recover the revenue requirements that they establish at FERC through the TAC. That is precisely what FERC did in the *Western Grid* case cited in the Issue Paper.⁶ There is no cost recovery issue for CAISO to decide. Instead, CAISO has an obligation to implement this precedent.

The FERC precedent does not foreclose a *pro forma* contract alternative such as that contemplated by the Issue Paper, provided that it does not deprive storage asset owners or operators of their statutory rate filing rights. Any such *pro forma* agreement will need to be filed with FERC for approval as part of the CAISO's open access transmission tariff and must reflect the *Storage Policy Statement*, the Federal Power Act and applicable court precedent like the *Atlantic City* case.

² Protest at pp. 3-4.

³ *Id.* at p. 15.

⁴ *Storage Policy Statement* at P 18.

⁵ *Atlantic City Elec. Co. v. FERC*, 295 F.3d 1, 11 (D.C. Cir. 2002).

⁶ 130 FERC ¶ 61,056, *reh'g denied*, 133 FERC ¶ 61,029 (2010).

The Issue Paper's "at risk" option, however, is not consistent with FERC's guidance.⁷ The rate options offered to the storage owner or operator by FERC do not require the owner or operator to be at risk for a portion of its revenue requirements as the Issue Paper proposes. It is unclear to us why an energy storage owner or operator would agree to such an at-risk alternative, or why lenders or investors would finance projects subject to this condition.

The Issue Paper also conflicts with the *Storage Policy Statement* and CAISO's tariff (which includes seven transmission categories) by proposing to limit the transmission purpose for which storage facilities can qualify:

The ISO acknowledges there may be instances where a dedicated solution is necessary to support local transmission needs with limited or no alternatives, in which case the ISO would consider the storage (as transmission only) option in its planning process. In these instances, the ISO may need to constrain or define narrowly the operation of the electric storage resource, for example, by requiring it to abstain from market participation and remain fully charged so that it is solely available to meet a transmission contingency need.⁸

This quotation from the Issue Paper comes *verbatim* from the CAISO's comments to FERC in docket no. AD16-25-000, the technical conference proceeding that culminated in the *Storage Policy Statement*.⁹ FERC did not agree with CAISO's argument that the services that energy storage devices provide "are not transmission services," that storage should be procured like a generating resource, or that storage has only a very limited transmission role.¹⁰ The *Storage Policy Statement* does not limit the transmission uses of storage "to support local transmission needs," or "define narrowly the operation of the electric storage resource" that can qualify for cost-based rate recovery through the TAC, and neither the policy statement, nor CAISO's tariff, allow CAISO to limit the uses of wholesale transmission facilities in such a fashion.

Moreover, by quoting extensively from the CAISO's technical conference comments that did not sway FERC, CAISO's Issue Paper can be viewed as an attempt to reinterpret the *Storage Policy Statement* to make it virtually meaningless. CAISO's protest, for example, insists that the *Storage Policy Statement* did not "substitute" cost-based rates for more robust market-based

⁷ Issue Paper at pp. 3, 11-12. Although the Issue Paper envisions that the "at risk" option provides additional upside by not crediting market revenues against the cost-based recovery portion (*id.* at 12), the paper does not explain how this is consistent with FERC's prohibition against cost "double recovery."

⁸ *Id.* at p. 7 (emphasis added). This quotation, provided in conjunction with the CAISO's identification of two small battery storage projects selected to address local reliability needs, implies that storage will be eligible for cost-based treatment only if it serves a local reliability need.

⁹ *Utilization In the Organized Markets of Electric Storage Resources as Transmission Assets Compensated Through Transmission Rates for Grid Support Services Compensated in Other Ways, and for Multiple Services*, "Technical Conference Comments of the California Independent System Operator Corp.," at p. 4, Docket No. AD16-25-000 (filed Dec. 14, 2016); *see id.* at p. 6 ("categorizing these assets as transmission assets is not an appropriate solution").

¹⁰ *Id.* at p. 2.

mechanisms,”¹¹ a position that CAISO took in its pre-*Storage Policy Statement* technical conference comments. But, the *Storage Policy Statement* unambiguously gave asset owners and operators the option to obtain full cost-based rate recovery for their storage facilities. For example, FERC stated that: “if the electric storage resource indicates that it will seek to recover its full, unadjusted costs through cost-based rates, it may be reasonable for the electric storage resource owner or operator to credit all projected market revenues earned by the electric storage resource over a reasonable period of time (e.g., the expected useful life of the asset or the term of the cost-based rate service if it differs from the useful asset life).¹² The very next paragraph of the policy statement speaks of “the electric storage resource owner’s or operator’s discretion” to choose its cost recovery method.¹³

CAISO’s treatment of storage projects in the transmission planning process give more reasons for concern. CAISO’s technical conference comments explained that at that time it had studied 17 storage proposals in its transmission planning process, but never found one that fit its transmission service vision.¹⁴ The Issue Paper and CAISO’s protest to Nevada Hydro’s FERC petition continue this theme, updating it to reflect additional transmission studies that included 10 more storage projects. But while CAISO has highlighted all of the storage projects that it included in its transmission plan, it inconsistently has discounted the “significant” reliability and public policy benefits that it has found by claiming these did not result from an actual “transmission study.”¹⁵

The CAISO’s public pronouncements and actions thus convey the impression that the Issue Paper does not reflect a sincere interest in implementing the *Storage Policy Statement*. The CAISO’s repetition of arguments it made in its unsuccessful pre-technical conference comments cast further doubt on its sincerity.

CAISO’s FERC protest give further cause for concern about CAISO’s motivations. The protest claimed that it “has not taken a position that storage resources, including pumped storage projects such as LEAPS, are ineligible to be evaluated in its transmission planning process as potential transmission assets.”¹⁶ Had CAISO left it at that, there would be reason to believe it has turned over a new leaf. However, the CAISO’s encouraging comment contrasts with its arguments that storage resources should rely on market revenues, as noted above, and its argument that storage has only a “limited role” as functional transmission.¹⁷ In fact, the only two storage projects that CAISO has ever approved for transmission purposes are small battery

¹¹ Protest at pp. 26-27.

¹² *Storage Policy Statement* at P 17 (emphasis added).

¹³ *Id.* at P 18.

¹⁴ Technical Conference Comments at p. 4.

¹⁵ Protest at p. 23; CAISO 2016-2017 Final Transmission Plan at pp. 115, 185. CAISO deferred these storage projects to a separate “supplemental analysis.”

¹⁶ Protest at p. 3.

¹⁷ *Id.* at p. 10.

storage facilities to serve a local reliability function—one of which CAISO did not approve for cost recovery through the TAC.¹⁸

Limiting transmission-type cost recovery to small batteries or localized reliability would be inappropriate and unduly discriminatory because the *Storage Policy Statement* contains no such limitations. CAISO's tariff specifies seven reasons for selecting transmission in the transmission planning process, and CAISO should clarify that storage projects—regardless of size—that serve any of those transmission purposes are eligible.¹⁹ CAISO should clarify that any storage project that is providing transmission services is entitled to be studied in the CAISO transmission planning process as a potential solution to any and all transmission needs, and if selected to meet any such need the storage project owner or operator would have the rate options set forth in the *Storage Policy Statement*.

Respectfully submitted,



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¹⁸ The cost recovery mechanism for the second battery is ambiguous. Although the CAISO specifically directed the first battery project to seek cost recovery from the California Public Utilities Commission, the CAISO's discussion of the second project does not specify the cost recovery mechanism. Nor did the CAISO explain how the second project satisfied FERC's eligibility criteria in the *Storage Policy Statement*.

¹⁹ California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff, § 24.4.6.