

**Comments of the California Department of Water Resources  
State Water Project on the California Independent System Operator's White Paper  
concerning a Proposal for a Third Category or Alternative Treatment of New  
Transmission Facilities for Renewable Generators  
July 14, 2006**

On June 28, 2006, the California Independent System Operator, Inc. (CAISO) issued a White Paper entitled "Proposal for a Third Category or Alternative Treatment of New Transmission Facilities for Renewable Generators."<sup>1</sup> This proposal was developed by the CAISO as a result of the Federal Energy Regulatory Commission's (FERC) Order, dated July 1, 2005, that rejected Southern California Edison Company's (SCE) petition for a declaratory order for recovery of costs of transmission facilities for renewable wind generators at Tehachapi (FERC Docket No. EL05-80-000) and the California Public Utilities Commission's recent Initial Opinion and Order regarding policies necessary to implement cost recovery provisions for transmission facilities for renewable generation of Public Utilities Code § 399.25 (CPUC Decision 06-06-034).<sup>2</sup>

On July 7, 2006, the CAISO held a stakeholder meeting to provide an overview of the White Paper and host a panel discussion of its proposal. At this meeting, the CAISO stated its intention to file a petition before the FERC seeking a declaratory order granting approval of the following:

- General principles for identifying a new category of transmission facilities for renewable generation that the CAISO can order to be constructed and control; and
- An alternative cost recovery mechanism for these transmission facilities that, at least initially, allows recovery of the costs of these facilities in the Transmission Access Charge (TAC).

The California Department of Water Resources - State Water Project (SWP) recognizes the public policy benefits of increased access to reasonably priced renewable resources within California. However, SWP has concerns regarding potential precedential aspects of the process proposed by the CAISO to seek an advisory opinion from FERC through a declaratory order in order to allow the CAISO to deviate from established FERC precedent and long-standing transmission planning rules. Essentially, the CAISO is proposing to ask FERC for an exception to how the costs of certain transmission facilities

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<sup>1</sup> The CAISO's White Paper seeks to identify transmission facilities, which are distinguishable from network facilities under CAISO operational control and subject to rate recovery through a participating transmission owner's transmission revenue requirement, and generation interconnection facilities, which are owned and paid for by a generator interconnecting to the grid.

<sup>2</sup> Section 399.25 was enacted on September 12, 2002, as part of Senate Bill (SB) 1078, and provides a "backstop" cost recovery mechanism allowing CPUC jurisdictional utilities to recover through retail rates any costs of transmission facilities for renewable generation that are not approved by FERC. Section 399.25 also directs the CPUC to instruct its jurisdictional utilities to seek recovery of these costs at FERC and requires the CPUC to assert positions before FERC that these costs should be recovered in FERC authorized rates.

are funded or the costs thereof allocated. Although the CAISO may believe it has good reasons for requesting an exception from FERC rules in the immediate instance, the CAISO should fully consider the potential future consequences of such an exception. For these reasons, SWP echoes the opinion expressed by several parties at the July 14, 2006 stakeholder meeting that the CAISO should develop a proposal that is both more thorough and more specific in advance of requesting the relief it seeks. Specifically, SWP is concerned that such a declaratory order could be applied in a much broader context than what it believes is intended, including extensive transmission expansions to out-of-state or even out-of-country regions and non-wires services or facilities. Further, the CAISO's proposal also may raise anti-competitive issues regarding discounted transmission access for some types of generation but not for other types of generation.

At the end of its July 7, 2006 stakeholder meeting, the CAISO posed a number of "discussion questions" concerning the CAISO's proposal. The CAISO's own answers to these discussion questions are fundamental to stakeholders' understanding of the CAISO proposal, *e.g.* what criteria should a transmission facility meet in order to qualify for alternative rate treatment? Consequently, these answers should be reviewed by stakeholders in advance of the CAISO seeking an advisory opinion from FERC and included in the CAISO's filing to FERC. Absent such efforts to clarify, the CAISO is likely to receive varying responses and possible opposition from different parties to any petition for a declaratory order and consequently, a greater risk of delay in connecting renewable generators to the grid.

In addition to developing answers to the CAISO's own discussion questions, SWP recommends that the CAISO provide written responses to the questions set forth below by SWP, as well as any additional questions asked by other stakeholders, in advance of proceeding with a formal request before FERC:

- A. In light of FERC's Order rejecting a similar petition for a declaratory order filed by SCE in Docket No. EL05-80-000 what new legal justification now exists for the relief CAISO proposes to request?
- B. In light of Order 06-06-034 of the CPUC, which adopted a funding mechanism for new transmission facilities for renewable generation necessary for the jurisdictional utilities to meet their renewable energy requirements, is it necessary for the CAISO to expend the effort and incur litigation before FERC in order to develop a second funding mechanism for the new transmission facilities?
- C. Would these new transmission facilities be under CAISO Control similar to the transmission facilities of the PTOs? If so, what operational criteria would make these facilities different from other generation tie facilities that are not under CAISO control?
- D. Would the renewable generators that own the new transmission facilities be required to become Participating Transmission Owners (PTOs) similar to all other

owners of transmission in the CAISO whose costs are recovered through the CAISO's TAC?

- E. What are the specific details of the CAISO's cost recovery mechanism for the new transmission facilities? Since the TAC is paid by entities delivering energy for the supply of gross load in PTO Service Areas of the CAISO controlled grid and the Wheeling Access Charge (WAC) is paid by entities that are either not directly connected to the CAISO controlled grid, but use the CAISO controlled grid, or are directly connected but do not use the CAISO controlled grid for their entire gross load; would the CAISO attempt to allocate a portion of the costs of the new transmission facilities to the entities that pay the WAC? If so, under what justification?
- F. What specific criteria would be applied for an economic analysis to support a CAISO determination of the size of new transmission facilities necessary for the renewable energy resources? What time horizon would be used in the analysis? Could such an analysis result in a determination that a proposed project is not necessary for the efficient development of renewable energy resources?
- G. How would renewable generators repay the "carrying" costs of financing the new transmission facilities? What rate of interest would apply to any repayments? How long would a repayment plan last? What are the mechanisms the CAISO would use to return the repayments to those that "loaned" the monies such that they recover the actual "loaned" amounts?
- H. Would non renewable generators be allowed to connect to these new transmission facilities? If so, what would be the criteria and cost allocation for such? In the event such non renewable generator is allowed and does connect, what happens when a renewable generator subsequently needs to connect and there is insufficient capacity due to non renewable generator connections?