Stakeholder Comments Template

Transmission Access Charge Options

December 6, 2016 Draft Regional Framework Proposal

Submitted by	Company	Date Submitted
Colin Rizzo, Esq. *(415-703-1784)*	*California Public Utilities Commission*	*January 11, 2017*

The ISO provides this template for submission of stakeholder comments on the December 6, 2016 draft regional framework proposal and the discussion at the December 13 stakeholder meeting. The proposal, presentations and other information related to this initiative may be found at:
http://www.caiso.com/informed/Pages/StakeholderProcesses/TransmissionAccessChargeOptions.aspx

Upon completion of this template please submit it to initiativecomments@caiso.com. Submissions are requested by close of business on **January 11, 2017.**

NOTE: Items highlighted in yellow below refer to elements of the present proposal that have not changed from the prior proposal, the second revised straw proposal posted on September 28. If your organization's position on one of these elements has not changed from the comments you submitted on the September 28 proposal, you may simply refer to your prior comments in response to that item and the CAISO will take your prior comments as reflecting your current position.

I. Overview

The Staff of the California Public Utilities Commission (CPUC Staff) appreciates the opportunity to comment on the California Independent System Operator Corporation's (CAISO) Transmission Access Charge Options for integrating new Participating Transmission Owners (PTOs), *Draft Regional Framework Proposal,* dated December 6, 2016 (Proposal).

CPUC Staff opposes the Proposal's: (1) inequitable allocation of the costs of existing facilities on a sub-regional, rather than regional basis, despite the significant regional benefits provided by many of these facilities; (2) foreclosure of the competitive solicitation process for projects like PacifiCorp's (PAC) Gateway through the invocation of existing CAISO Tariff provisions, such as section 24.5.1; and (3) creation of a deficit of wheeling revenue to California utilities and ratepayers due to market distortions caused by rate differences among the proposed sub-regions.

In addition, CPUC Staff continues to have significant concerns about the role of the Western States Committee (WSC) and the structure and power of the regional ISO Board. CPUC Staff has expressed concerns regarding the ongoing uncertainty of the composition and mandate of these two entities.

These concerns, coupled with the cost allocation issues raised by transmission access charge (TAC) reform – and especially the proposals for the allocation of costs related to public policy projects- leave CPUC Staff unable to support the Proposal.

CPUC Staff approaches the Proposal with the following observations in mind:

- Regional disparities in transmission investment lead, in turn, to unhealthy imbalances in the collection and distribution of the TAC. The Proposal creates a structure that will collect more in costs from California ratepayers and less from PAC and other states, while socializing PAC and other states' costs to California once a regional ISO is in effect. This structure is lopsided without any calibration to acknowledge the investments made in the existing CAISO system by California ratepayers;
- The CAISO's existing system has benefited greatly from California ratepayers and is fundamental to a majority of benefits PAC or any other joining entity will receive as a result of more efficient over-generation management and renewable procurement savings;
- For 12 months CPUC Staff, and more recently other stakeholders, have asked the CAISO to clarify whether or not PAC's Gateway projects would be considered "existing" or "new." The CAISO has declined to provide this clarification. The CAISO's lack of transparency on such a crucial question forecloses full disclosure of stakeholder review of costs that could impact California.
- CPUC Staff opposes the CAISO's foreclosure of competitive solicitation through the Proposal's unfair and unduly preferential application of CAISO Tariff section 24.5.1 to projects like PAC's Gateway;
- If costs of existing facilities are not shared regionally, then spreading new facility costs regionally should be limited to compelling circumstances; and
- Given stakeholder interest in review and potential modifications to the Transmission Economic Assessment Methodology (TEAM) for regional application, the CAISO's unilateral refusal to consider review or modification of TEAM as part of the regionalization discussions is inappropriate.

CPUC Staff summarizes its concerns, and recommendations below.

II. Draft Regional Framework Proposal

1. The proposal defines “new facilities” as facilities that are planned and approved under an integrated TPP that will plan new transmission infrastructure for the entire expanded BAA and will commence upon integration of the first new PTO. Please comment on the CAISO’s proposal for the definition of “new facilities.”

Please see CPUC Staff Comments from October 28, 2016.

Regional disparities in transmission investment lead, in turn, to unhealthy imbalances in the collection and distribution of the TAC. The CAISO Proposal’s definition of “new” and “existing” facilities creates a structure that will collect more in costs from California ratepayers and less from PAC and other states, while socializing PAC and other states’ costs to California once a regional ISO is in effect. This structure is lopsided without any calibration to acknowledge the investments made in the existing CAISO system by California ratepayers.

CPUC Staff continues to recommend that if existing facility costs will not be shared regionally, then spreading new facility costs regionally should be limited to compelling circumstances. CAISO’s existing system has benefited greatly from aggressive California ratepayer investment in the existing system to make it more reliable to facilitate access to renewable resources. The benefits are fundamental to the majority of benefits PAC or any other entity will enjoy, including more efficient over-generation management and renewable procurement savings. While CPUC Staff understands that requiring new PTOs to bear some costs of existing facilities may be an impediment to new PTOs joining the regional ISO, CPUC Staff opposes the Proposal’s attempt to shift significant costs onto California ratepayers to the benefit of PAC and other new PTOs.

Finally, CPUC Staff has asked the CAISO over the last 12 months to clarify whether or not PAC’s Gateway projects would be considered “existing” or “new.” The CAISO has declined to provide this clarification. In their October 28, 2016 comments, other stakeholders such as the Western Resource Advocates, NW Energy Coalition, Western Grid Group, Utah Clean Energy, and the Natural Resources Defense Council asked for the same clarification, which the CAISO has also declined to provide. The CAISO’s lack of transparency on such a crucial question forecloses full disclosure of stakeholder review of costs that could impact California ratepayers.

CPUC Staff requests that the CAISO explain how the principles it proposes in defining “new facilities,” as well as “existing facilities” will apply to the remaining planned Gateway segments to illustrate how the proposal would work. Absent this clarification, CPUC Staff opposes the Proposal’s definition of both “new” and “existing” facilities.

2. The proposal previously defined “existing facilities” as transmission facilities that are in service or have been approved in separate planning processes for the current CAISO BAA and the new PTO’s area at the time the new PTO is fully integrated into the expanded BAA. Simply stated, all transmission facilities that are included in the controlled grid for the expanded BAA and are not “new” facilities will be considered “existing” facilities. Please comment on the CAISO’s proposal for the definition of “existing facilities.”

Please see CPUC Staff Comments from October 28, 2016 and response to #1 above.

3. The CAISO provided further details on the determination of whether a candidate PTO should be deemed "integrated" within an existing sub-region rather than designated a new sub-region. The CAISO proposed that the expanded ISO would work with the candidate PTO and other stakeholders to apply criteria specified in the tariff (listed in the December 6 proposal) for making this determination. The CAISO would then present its recommendation to the Board of Governors as part of the new PTO application process, and upon Board approval would file for FERC approval of the proposal to treat the new PTO as either a new sub-region or part of an existing sub-region. Please comment on this element of the proposal.

CPUC Staff believes that an embedded or electrically integrated PTO should become part of the relevant sub-region and not have a choice to become a separate sub-region. Presently, the CAISO proposes to work with stakeholders and the candidate PTO to apply certain criteria specified in the tariff for making a determination of whether a candidate PTO should be deemed "integrated" or is designated as a new sub-region. This proposal presents several concerns. First, allowing a candidate PTO to elect to create its own sub-region – or not – potentially allows a candidate PTO to avoid cost allocation for existing projects in its existing sub-region for which they have the same benefits as existing PTOs. Similarly, new PTOs and new sub-regions should share in the cost of all new facilities approved under an expanded ISO. This will avoid incentivizing a candidate PTO to delay joining the ISO to avoid cost allocation but then having full "free" access to those facilities.

Second, it is difficult to analyze any proposal which is case-specific based on unidentified criteria to be determined later by an organization that is yet to be created. The potential for undue discrimination is simply too great.

Third, the continuing uncertainty regarding the structure of the regional ISO Board and the authority of the WSC combined with the cost allocation issues discussed above, leaves CPUC Staff unable to support this part of the Proposal.

4. Consistent with the second revised straw proposal, the CAISO proposes to recover the costs of existing facilities through sub-regional "license plate" TAC rates. The CAISO has proposed that each sub-region's existing facilities would comprise "legacy" facilities for which subsequent new sub-regions have no cost responsibility. Please comment on this aspect of the proposal.

Please see CPUC Staff Comments from October 28, 2016.

The proposal lacks sufficient analysis and provides incomplete data on how many transactions would occur through the load-weighted average of the sub-regional TAC rate. CPUC Staff understands that the CAISO seeks to attract new PTOs, like PAC, to join the CAISO, and in that pursuit, is eliminating cost impediments for them. However, the CAISO's proposal shifts significant costs onto California ratepayers to attract entities like PAC, which is exacerbated if the remaining segments of Gateway are constructed. The CAISO must instead seek to mitigate the rate disparity between the existing system and the potential new PTOs. It should also seek to eliminate incentives for other entities to hold back on joining the regional ISO to avoid paying for any major construction projects until after they are built.

Without adjusting this proposal to be more equitable to California ratepayers and existing PTOs, CPUC Staff cannot support the proposal.

5. The CAISO proposes to use the Transmission Economic Assessment Methodology (TEAM) to determine economic benefits to the expanded ISO region as a whole and to each sub-region. Please comment on the use of the TEAM methodology to determine sub-regional shares of economic benefits.

Please see CPUC Staff Comments from October 28, 2016.

CPUC Staff believes that conceptually, the TEAM methodology offers a reasonable approach for an economic benefits assessment to the expanded ISO region as a whole and to each sub-region, so long as the analysis is subject to a level of transparency and accountability as described in Section IV, pages 20-25 of CPUC Decision (D.) 06-11-018. The excerpt from D.06-11-018 is attached hereto. CPUC Staff notes that the TEAM Methodology was designed to focus on benefits to the retail customers. This approach is appropriate because all customers pay the same high voltage rate within the CAISO territory.

However, in the context of regional expansion, and for cost allocation between regions, CPUC Staff recommends that CAISO consider necessary updates to the TEAM methodology, such as identification of benefits to producers and the regional economy, because transmission investment will bring benefits to both consumers and producers, which both impact a regional economy. The TEAM methodology needs to be re-evaluated, as CPUC Staff recommends, to ensure the methodology is robust for use for the expanded ISO. Unless the TEAM Methodology is updated, cost allocation will not be accurately based on benefits received.

6. The CAISO assumes that a new integrated TPP for the expanded ISO will retain today's TPP structure. Please comment on the structure of the current three phase TPP process.

CPUC Staff recommends that the CAISO assess the robustness of the TPP for the use in future, regional assessments and be prepared to make changes to the structure of the TPP if necessary. The energy industry has experienced, and is expected to continue to undergo, significant policy, economic and technology change. Impacts to market fundamentals can greatly impact the need, use and value of transmission and should be incorporated into the TPP. Additionally, the TPP has a significant impact on the TAC, as the cost of projects approved in the TPP and constructed are paid for through the TAC. TPP reforms that ensure coordinated transmission planning across regions, where only demonstrably necessary projects which take full advantage of any available efficiencies, should be actively developed.

7. The CAISO proposes to allocate the entire cost to a sub-region if a reliability project within that sub-region only addresses a reliability need of that sub-region or if a policy-driven project within that sub-region is approved only to support the policy mandates for that sub-region. Please comment on this element of the proposal.

Please see CPUC Staff Comments from October 28, 2016.

8. The CAISO proposes to allocate the cost of an economic project, for which the economic benefits must exceed its cost, to sub-regions in proportion to each sub-region's economic benefits. Please comment on this element of the proposal.

Please see CPUC Staff Comments from October 28, 2016. Provided there is a review of the TEAM methodology, with modifications made as necessary, CPUC Staff supports the TAC Proposal's cost allocation for economic projects that are solely justified on economic grounds.

Thus, the costs should be allocated to the sub-regions benefitting economically from the project in proportion to the economic benefits identified and relied upon to justify and approve the project.

9. For a reliability project that is enhanced or replaced by a more costly project that also provides economic benefits that exceed the incremental cost above the cost of the original reliability project, the avoided cost of the original project will be allocated to the sub-region with the original reliability need, and the incremental cost will be allocated to sub-regions in proportion to each sub-region's economic benefits. Please comment on this proposal.

Please see CPUC Staff Comments from October 28, 2016. CPUC Staff recommends that CAISO, despite its stated unwillingness, assess the robustness of the TEAM Methodology for use in a regional context so stakeholders can respond thoughtfully.

10. Given the quantification challenges raised by both the avoided cost, or total benefit approaches, CPUC Staff believe that the total benefits approach should be the first applied. However, for policy projects having additional economic benefits, the choice of cost allocation methodology may depend on the empirical question of which can be more credibly and reliably calculated: (i) the separate *cost* of the policy-only (no economic benefits) portion of a project, or (ii) the separate policy-related *benefits* (to a particular sub-region) of a project having both policy and economic benefits. For a policy-driven project that is enhanced or replaced by a more costly project that also provides economic benefits that exceed the incremental cost above the cost of the original policy-driven project, the avoided cost of the original project will be allocated to the sub-region with the original policy need, and the incremental cost will be allocated to sub-regions in proportion to each sub-region's economic benefits. Please comment on this proposal.

For the reasons set forth in the CPUC Staff response to Question 9 above, as well as the following, CPUC Staff does not support this portion of the Proposal. The Proposal has not adequately explained how the CAISO will granularly determine an appropriate cost allocation for policy driven projects that involve more than one sub-region.

Additionally, the Proposal fails to include criteria and procedures necessary to identify policy projects, or how policy projects could be enhanced or replaced to qualify for this specific cost allocation proposal.

CPUC Staff recommends that the state commissions, like the CPUC, rather than the CAISO, a regional ISO Board or the WSC, continue to be responsible for identifying projects needed to meet policy needs. While the Proposal appears to assume that transmission needs for policy projects will be determined in a manner similar to those relied upon currently, CPUC Staff is concerned that the current process will not transfer easily to an expanded ISO or its TPP. For these reasons, it is critical for the CAISO to consider revisions to the TPP (as discussed in CPUC Staff response to Question 6 above), so that state policy makers can have assurance that policy projects identified in the expanded TPP reflect the policy needs they have established.

11. <u>In the December 6 proposal the CAISO introduced an approach for allocating costs more granularly than just to sub-regions for certain policy-driven projects and for the policy-driven costs of projects that provide economic benefits in addition to meeting policy needs. The proposal is based on the following principles: If a project that meets policy needs is built within a different sub-region from the state or local regulatory authorities driving the policy need, the policy-related project cost will be allocated only to the load of those regulatory authorities driving the policy need. Alternatively, if a project that meets policy needs is built within the same sub-region as the state or local regulatory authorities driving the policy need, that project is deemed to provide benefits to the entire sub-region and therefore the policy-related costs will be allocated to the sub-region as a whole rather than on a more granular basis. Please comment on these principles.</u>

See CPUC Staff response to Questions 9 and 10 above.

12. <u>Continuing with the scenario of item 10 and applying the principles above, for a policy-driven project, if the new project is built outside the sub-region where the regulatory authorities driving the policy need are located, the ISO will allocate the policy-related avoided cost to the load served under the state or local regulatory authority or authorities whose policy mandates drove the need for the original project. Please comment on this proposal.</u>

See CPUC Staff response to Questions 9 and 10 above. Additionally, CPUC Staff recognizes that the regional ISO Board and the WSC will have some role to play in this cost allocation with the individual, state regulatory commissions. Therefore, CPUC Staff requests that CAISO consider procedures for how the WSC, the regional ISO Board, and the other state regulatory commissions will coordinate and collaborate together on cost approval and allocation.

13. <u>Similarly, if the policy driver of the project was a federal policy, then for sub-regions other than the sub-region in which the project is built the ISO will allocate the associated avoided cost to the load served in each state in proportion to the state's need for the project to comply with the federal policy mandate. Please comment on this proposal.</u>

Generally, CPUC Staff does not take issue with the proposal's recommendation to allocate associated costs to each state in proportion to the state's need to meet a federal policy objective. As a general principle, CPUC Staff do not support any proposal that would permit a regional transmission organization to require California ratepayers pay for transmission facilities that have no benefit to them.

14. <u>For a policy-driven project that supports policy mandates of more than one sub-region, or that is built in one sub-region to meet the policy mandates of another sub-region, the ISO will calculate the economic benefits of the project and allocate costs to each sub-region in proportion to the sub-region's benefits, but only up to the point where each sub-region's cost share equals the sub-region's benefits. Any additional cost of the project will be allocated to the load served under the state or local regulatory authorities within each sub-region, other than the sub-region in which the project is built, whose policy mandates drove the need for the project. Please comment on this proposal.</u>

See CPUC Staff response to Question 13 above. To reiterate CPUC Staff's prior position in its October 28, 2016 comments, the TEAM methodology needs to be re-evaluated to ensure that the methodology is robust enough for use in the expanded ISO. In its October 28, 2016 comments, CPUC Staff identified the following important issues that the CAISO needs to address in considering refinements to the TEAM methodology:

a. How would and should economic benefit studies account for the considerable *range* of plausible Western Interconnection futures impacting economic benefits, especially different futures as impacted by policy objectives (RPS, GHG, Clean Power Plan, coal retirements), and also by further penetration of distributed resources?

b. How would and should the economic benefits calculation and cost allocation methodology correspond to the analogous methodology used for interregional project evaluations pursuant to FERC Order 1000? It is conceivable that a project could face the prospect (or strategic choice) of being evaluated as (1) an interregional project, (2) a project within a regional ISO, or (3) both, at different times.

c. In recent economic studies of transmission projects ultimately approved by the CAISO,[1] calculated capacity benefits contributed significantly to favorable benefit-cost ratios, and yet the capacity benefit calculation methodology entailed uncertainties and approximations that were questioned. The CAISO's September 30 presentation on Transmission Access Charge Options states that (unlike energy cost benefits calculated and allocated based on production simulation results) "Capacity benefits can be manually derived based on capacity requirements [on a?] sub-region basis."

CPUC Staff recommends that CAISO address these concerns.

15. Continuing with the scenario of a policy-driven project that supports policy mandates of more than one sub-region, if the policy driver of the project was a federal policy, then for sub-regions other than the sub-region in which the project is built the ISO will allocate the project costs to the load served in each state in proportion to the state's need for the project to comply with the federal policy mandate. In such cases, if the project also supports policy mandates within the same sub-region in which the project is built, the ISO will allocate that sub-region's share of the policy-driven costs to the entire sub-region as part of the sub-regional TAC. Please comment on this proposal.

See CPUC Staff responses to Questions 9, 10, 12, 13, and 14 above.

16. Competitive solicitation to select the entity to build and own a new transmission project would apply to all new transmission projects rated 200 kV or greater, of any category, with exceptions only as stated in ISO tariff section 24.5.1 Please comment on this proposal.

Please see CPUC Staff Comments from October 28, 2016. For facilities rated over 200kV, CPUC Staff supports having as much new construction subject to competitive solicitation as possible. CPUC Staff is concerned that the definitions of "existing" and "new facilities currently in the TAC Proposal will not facilitate this goal.

[1] The Delaney-Colorado River project and the Harry Allen-Eldorado project.

For example, consider the PAC Gateway project. That project is partially constructed, but a significant portion remains unconstructed. The unfinished portion – which is referred to as Gateway West – is a separate "project" (or many separate projects) in its own right. If it is considered an "update" to the "existing" Gateway project, it will not be subject to competitive solicitation under this proposal. This is not a theoretical concern. The CAISO allows certain "existing projects" exemption from competitive solicitation through the invocation of CAISO Tariff section 24.5.1, which could be applied to the Gateway project. CPUC Staff opposes this exemption to the Gateway project.

CPUC Staff is aware of at least three other proposed transmission projects that could competitively compete with Gateway West to deliver energy from Wyoming to meet California's RPS goals. Those projects are: (1) TransWest Express; (2) Zephyr; and (3) SWIP North. However, those competitor projects will not have the ability to compete against Gateway West if PAC successfully invokes this exemption – or any other – under the CAISO Tariff so that its Gateway project is considered an existing facility.

CPUC Staff opposes any CAISO proposal to foreclose competitive solicitation as unfair and unduly preferential.

17. The proposal indicated that the ISO would establish a formula for a single export rate (export access charge or "EAC") for the expanded region, and under the proposal, non-PTO entities would pay the same sub-regional TAC rate paid by other loads in the same sub-region. Please comment on this proposal.

Please see CPUC Staff Comments from October 28, 2016. CPUC Staff supports a single region-wide export rate. However, an EAC calculated as the load-weighted average of the sub-regional license plate rates may result in lower EAC revenues for PTOs with higher sub-regional TAC/WAC rates than would exist prior to the blending of access charge rates. Additionally, such an EAC may incentivize non-PTOs to change their own balancing authority or to join another non-ISO balancing authority to take advantage of an EAC rate that is lower than the otherwise applicable TAC rate if they join the Regional ISO. CPUC Staff would not support a single EAC that could have such impacts.

CPUC Staff supports non-PTOs entities within a sub-region paying TAC.

18. The EAC would be calculated as the sum of all high-voltage transmission revenue requirements (TRRs) of all PTOs within the expanded BAA divided by the sum of the projected internal load for the entire expanded BAA. Please comment on this element of the proposal.

Please see CPUC Staff Comments from October 28, 2016. See also CPUC Staff response to Question 19, below.

19. The CAISO proposes to allocate shares of the EAC revenues to each sub-region in proportion to their total high-voltage TRR. Please comment.

Please see CPUC Staff Comments from October 28, 2016. CPUC Staff supports allocating total EAC revenues based upon a sub-regions' transmission revenue requirement because it is reflective of how the rate was designed and for the service for which it pays. It is consistent with rate design, which is based on the costs of all sub-regions, which wheel-through users potentially use. Sub-regions with a more substantial transmission system will likely be used for the wheeling transaction, have a higher TRR, and should receive a larger proportion of the EAC revenue to support their system. Additionally, this avoids a scenario in which a sub-region that has a lower TAC rate, but a higher EAC, receives a windfall in revenues without incurring the related expense for which EAC is meant to be a revenue credit.

20. <u>The CAISO proposes to break down each sub-region's share of the EAC revenues into portions to be allocated to the sub-regional TAC and each state or local regulatory authority whose load is paying a share of the high-voltage TRR for policy-driven transmission whose costs are not included in the sub-regional TAC. These shares of the sub-region's EAC revenue would be in the same proportion as the corresponding shares of the sub-regional high-voltage TRR. This element of the proposal would not affect the allocation of EAC revenues between sub-regions. Please comment on this proposal.</u>

As a general principle, CPUC Staff opposes any act by CAISO, the regional ISO, or the WSC to have California ratepayers pay for upgrades that don't benefit them but rather, benefit an entity outside of California.

21. <u>Please provide any additional comments on topics that were not covered in the questions above.</u>

CPUC Staff has no further comment at this time.

Exhibit I

Excerpt from CPUC Decision 06-11-018, pages 20-25, Methodology for Economic Assessment of Transmission Projects

I. Consideration of Economic Benefits in Transmission Project CPCN Proceedings

A. The Need for General Principles and Guidance

In Decision (D.) 01-10-070 issued in I.00-11-001, the Commission recognized that, in a restructured electricity market, traditional methods are inadequate for assessing the economic benefits of proposed transmission projects. At the Commission's request, the CAISO began to develop a generic methodology and analytical tools for economic evaluations of proposed transmission projects in dynamic market conditions. In developing its TEAM approach, the CAISO has made substantial contributions to advancing the art of transmission economic analysis.

Nevertheless, as discussed below in Section V, substantial concerns remain regarding the ability to model aspects of the increasingly complex inter-regional transmission and generation system that serves far-flung geographic areas with different market structures. We are confident that continued developments in system modeling capabilities will allow more accurate estimates of production costs, and that computer advances will reduce processing times and thus allow more refined uncertainty analyses. Any detailed requirements and criteria that we could adopt at this time would need to be revisited and updated as the state of the art in economic assessment progresses.

Transmission projects may be proposed in various configurations and sizes and for various economic purposes, such as inter-regional bulk power transfers, congestion relief, or to meet other intra-regional needs. The wide range of transmission projects that may be proposed for economic reasons would further complicate any efforts to adopt detailed study requirements applicable to them all.

As long as the adopted principles and minimum requirements for economic evaluations are met, there may be value in having economic analyses in CPCN proceedings undertaken using multiple approaches. As an example, both network models and transportation models have strengths and weaknesses, as we discuss in Section V.B.1. Analyses using both approaches may be complementary in some respects and thus provide stronger underpinnings for our need determinations.

For these reasons, we focus on general principles rather than overly prescriptive directives to reduce the need for continuing reassessment of the guidance we adopt today. The minimum requirements will help ensure that economic evaluations are undertaken consistent with the general principles and guidance provided in today's decision. A common goal of many of the minimum requirements is that each party should explain and justify its study design and should report results in a manner that facilitates understanding of its economic evaluation and comparison with evaluations that may be submitted by other parties.

B. The Role of CAISO Economic Evaluations in Commission CPCN Proceedings

The CAISO, PG&E, and SDG&E assert that the CAISO has primary jurisdiction over need determinations. The Commission has considered similar arguments previously, and has repeatedly affirmed our jurisdiction and statutory responsibility to assess need in a certificate proceeding. (See D.03-05-038; see also D.02-10-065, D.02-10-066, D.01-05-059, and D.01-10-029. See also D.99-09-028 regarding the general issue of transmission jurisdiction.) We see no need to revisit this issue at this time. As we summarized previously:

> [D]eference that consists of adopting the [CA]ISO's need assessment without conducting an independent review cannot substitute for our mandate to consider need for the project under Section 1001. (D.03-05-038, *mimeo*. at 12.)

The CAISO's proposal that its economic evaluations be granted a rebuttable presumption of reasonableness arguably does not reach the level of deference rejected in D.03-05-038. Under the procedures recommended by the CAISO, parties would have the opportunity to challenge the CAISO's findings in the Commission's CPCN proceeding and to introduce evidence to attempt to persuade the Commission that it should not adopt a CAISO need determination.

The Commission has long held that the applicant carries the burden of proof in a certification proceeding, and we reiterate those determinations today. At the same time, we recognize the CAISO's work in the area of economic evaluations and its role in transmission planning.[2] Consequently, provided certain safeguards to protect the public interest and our statutory mandates are met, we conclude it is appropriate to establish a rebuttable presumption regarding economic value in CPCN proceedings in favor of an economic evaluation approved by the CAISO Board and submitted in a CPCN proceeding. This rebuttable presumption in favor of a CAISO Board-approved economic evaluation shall be such that parties opposing the proposed project in a CPCN proceeding will bear the burden of demonstrating either (1) that the CAISO Board-approved economic evaluation does not comply with the principles and minimum requirements of this decision or (2) that the project is not cost-effective.

The safeguards are as follows:

First, in order to be accorded a rebuttable presumption, the CAISO Board must make the following findings with regard to the economic evaluation:

1. That the CAISO process has met the following public participation requirements:

[2] *See, e.g.,* AB 974 (2006) (An act to add Chapter 3 (commencing with Section 3260) to Part 4 of Division 1 of the Public Utilities Code, relating to electricity).

a. The CAISO has sponsored at least two meetings open to the public with opportunity for public comment both at the meeting and following the meeting, including: (1) an initial meeting, which occurs sufficiently early in the CAISO's assessment process to provide an opportunity to discuss the scope of the proposed economic assessment, including identification of the base case and other relevant assumptions, as well as resource alternatives and (2) a second meeting to take public comment on the draft economic evaluation prior to its submission to the CAISO Board.

b. The final economic evaluation ("Final Evaluation") that is submitted to the CAISO Board includes reasoned responses to all public comments by explaining how the comment was addressed in the Final Evaluation, either through incorporation in full, modification, or rejection, and the reasons therefore.

c. The public participation process has provided interested parties with sufficient time and opportunity (including sufficient access to information) to adequately review and comment on the Draft Evaluation.

2. That the Final Evaluation meets all of the requirements of this decision, as it may be amended by future Commission decisions, including the Principles and Minimum Requirements for the Economic Evaluation of Proposed Transmission Projects set forth as Attachment A to this decision.

3. That the Final Evaluation determines that the proposed project promotes economic efficiency in that it constitutes a cost effective upgrade to the CAISO Controlled Grid based on clearly defined information, assumptions, and weighting or combination of the relevant benefit-cost ratios and other economic criteria, including (but not limited to) difficult to quantify economic benefits, such as system operational benefits.

Second, in order to ensure that the parties to the CPCN proceeding have adequate notice of the role of the CAISO Board-approved economic evaluation and adequate time to prepare any case challenging it, and to avoid delays in the proceeding, the CAISO Board-approved evaluation must be submitted to the Commission within sufficient time to include it in the scope of the proceeding.

Third, to the extent that material facts relied upon in the CAISO Board-approved economic evaluation are inaccurate or become outdated, the applicant shall submit additional information and shall provide an explanation of the additional information's impact on the assumptions and conclusions contained in the evaluation.

Fourth, to facilitate discovery and to ensure that expert witnesses are available for cross-examination, the CAISO shall be a party to any proceeding in which a rebuttable presumption is to be granted to a CAISO Board-approved economic evaluation. This approach is consistent with recent experience. For example, the CAISO has been a party in recent transmission CPCN proceedings, and we believe its party status in those matters has been beneficial to the overall development of the evidentiary record. That said, we will continue to encourage and welcome the CAISO's collaborative efforts in working with us and other state agencies in policy making dockets where a cooperative approach, rather than a litigation model, is a more appropriate way to further statewide policymaking efforts.

Notwithstanding the foregoing, a CAISO determination of economic value is not a prerequisite to obtaining a CPCN and an applicant retains the right to rely upon its own economic evaluation. However, a rebuttable presumption will not apply to an evaluation not approved by the CAISO Board, and any alternative economic evaluation submitted in a CPCN proceeding shall comply with the principles and minimum requirements of this decision. Further, an applicant shall submit any CAISO economic evaluation of the proposed project into the record of the proceeding.

This grant of a rebuttable presumption goes only to the economic evaluation of a proposed project and will have no impact on the Commission's environmental analysis or other factors that the Commission must consider in evaluating a request for a CPCN. Pursuant to its statutory obligations, the Commission will continue to consider and weigh all relevant factors in reaching a decision on a CPCN application. Thus, for example, a rebuttable presumption regarding project economics will not shift the burden of proof on environmental issues, nor require or mandate the Commission to make any finding of overriding considerations pursuant to Section 15093 of the Guidelines for the Implementation of the California Environmental Quality Act[3] in favor of the project (or in favor of any alternatives identified in the environmental impact report) if the project (or any environmentally preferred alternative) would have unavoidable adverse environmental impacts. Additionally, as the CAISO's comments recognized, factors addressed in §§ 1001 and 1002 may compel denial of a CPCN, notwithstanding a project's economic benefits.

Finally, to prevent delays and/or confusion with regard to pending CPCN proceedings, the rebuttable presumption granted in this decision will not apply to CPCN applications filed with the Commission prior to the effective date of this decision unless the economic analysis complies with the safeguards and requirements of this decision and the assigned commissioner of a pending transmission proceeding issues a ruling that explicitly elects to apply it to that application.

[3] See, Title 14, Chapter 3 of the Code of California Regulations.