

146 FERC ¶ 61,237  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Acting Chairman;  
Philip D. Moeller, John R. Norris,  
and Tony Clark.

California Independent System  
Operator Corporation

Docket No. ER14-1206-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued March 31, 2014)

1. On January 30, 2014, California Independent System Operator Corporation (CAISO) submitted proposed tariff revisions to the phase 3 competitive solicitation procedures of its transmission planning process in order to clarify the process, implement improvements and respond to issues raised by stakeholders. The Commission conditionally accepts the proposed revisions, subject to a compliance filing, as discussed below.

**I. Background**

2. In response to Order No. 1000,<sup>1</sup> CAISO states that it has revised its tariff to make its transmission planning process more open to nonincumbent transmission developers.<sup>2</sup> Among these proposed tariff revisions is the introduction of a third phase of the transmission planning process during which CAISO would open a bid window for project sponsors to submit applications for each transmission solution eligible for competitive solicitation.

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<sup>1</sup> See e.g., *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), (Order No. 1000) *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012).

<sup>2</sup> See *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010), *order on reh'g*, 137 FERC ¶ 61,062 (2011) (opening competitive opportunities for both participating transmission owners and nonincumbent transmission developers); *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,057 (2013) (revisions to its tariff to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000), *order on clarification and compliance* 146 FERC ¶ 61,198 (2014).

3. CAISO conducted its first competitive solicitation process for transmission in the 2012-2013 planning cycle. CAISO states that based on experience gained during the process and discussions with stakeholders, it has identified additional improvements to clarify the process for participating transmission owners and other transmission developers.

4. First, CAISO states that the inability to recover Commission-approved pre-operational costs could present a barrier to participation in the competitive solicitation process for nonincumbent transmission developers<sup>3</sup> that do not already have a transmission owner tariff and therefore are unable to recover pre-operational costs. Second, CAISO reports that the general tariff and transmission control agreement obligations, which require participating transmission owners<sup>4</sup> to turn over all transmission facilities to CAISO operational control, could be interpreted as applying to a nonincumbent transmission developer that is not a participating transmission owner but has existing transmission facilities. CAISO states that this may discourage nonincumbent transmission developers from submitting proposals in the competitive solicitation process.

5. CAISO initiated a stakeholder process to consider tariff modifications to address these two competitive solicitation issues. In addition, as part of this stakeholder process, CAISO proposed an application fee and related true-up mechanism to reflect the time and resources needed to conduct a robust solicitation process. Finally, CAISO and the stakeholders developed other tariff modifications, included in this filing, to respond to matters raised by stakeholders, which are intended to add clarity to the competitive solicitation process.

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<sup>3</sup> A nonincumbent transmission developer refers to (1) a transmission developer that does not have a retail distribution service territory or footprint or (2) a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint where it is not the incumbent for purposes of that project. *See* Order No. 1000 at P 225.

<sup>4</sup> The CAISO Tariff defines a participating transmission owner as a party to the Transmission Control Agreement, whose application has been accepted and whose transmission assets and entitlements have been placed under the CAISO's operational control. CAISO Transmittal Letter at 6.

## II. CAISO's Filing

### A. Recovery of Commission Approved Pre-Operational Costs

6. CAISO's first proposed revision addresses the need for a mechanism through which a nonincumbent transmission developer that is an approved project sponsor<sup>5</sup> may recover Commission-authorized transmission revenue requirements associated with projects under construction prior to the time the facilities are turned over to CAISO operational control.

7. The Commission has established incentives to support the development of transmission infrastructure.<sup>6</sup> CAISO explains that most of the rate incentives contemplated under Order No. 679 are not included in the transmission revenue requirement of the transmission owner until the new transmission facilities are turned over to the operational control of CAISO upon completion, and incorporated in the transmission revenue requirement that is approved by the Commission. However, two of these incentives—inclusion of construction work in progress in rate base and recovery of abandoned plant costs—are unique in that they may be recovered prior to completion of the new transmission project or after abandonment of the project. However, the current CAISO tariff does not provide a mechanism by which an approved project sponsor that is not a participating transmission owner may recover these costs through the CAISO access charge until such time as the transmission facilities are energized and are turned over to CAISO operational control.<sup>7</sup>

8. CAISO, therefore, proposes to revise its tariff to incorporate new definitions for Approved Project Sponsor Tariff and Approved Project Sponsor Agreement, and to revise the existing definition of Local Transmission Revenue Requirement to include an approved project sponsor. In addition, CAISO proposes to revise section 26.1 of its tariff, which addresses access charges, to clarify that the access charge is designed to

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<sup>5</sup> An approved project sponsor is the person or entity designated under the CAISO tariff to construct, finance and own transmission additions or upgrades. *See* CAISO Tariff, Appendix A – Definitions.

<sup>6</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007); *see also Policy Statement*, 141 FERC ¶ 61,129 (2012).

<sup>7</sup> All market participants withdrawing energy (i.e. loads and exports) from CAISO controlled grid pay access charges, either the transmission access charge or the wheeling access charge.

recover each participating transmission owner's or approved project sponsor's transmission revenue requirement and to recover the revenue requirement of transmission facilities that are not yet in operation, but are approved under CAISO's transmission planning process. CAISO also proposes corresponding revisions requiring each participating transmission owner or approved project sponsor to include in its transmission owner tariff or approved project sponsor tariff an appendix that states the regional revenue requirement, its local transmission revenue requirement and its gross load used in developing the rate.

9. Moreover, CAISO also proposes revising its tariff to ensure that an approved project sponsor who has been assigned responsibility to construct and own a local transmission facility may also include any pre-operational cost recovery approved by the Commission for the local facility in its local transmission revenue requirement.<sup>8</sup> CAISO states that in revising section 26.1, it also incorporated subject headings, removed some language no longer needed in the tariff and added language describing the construct for approved project sponsors to recover pre-operational revenues approved by the Commission.

10. Finally, CAISO states that it agrees with stakeholder comments that the approved project sponsor agreement should contain a provision that requires it to return funds collected through the access charge if the Commission subsequently denies recovery of abandoned plant costs. CAISO states that an approved project sponsor agreement is currently being negotiated and that agreement will be used as a template for a *pro forma* agreement.

#### **B. Non-Participating Transmission Owners with Existing Facilities**

11. CAISO's second set of proposed modifications clarify that under the tariff, nonincumbent transmission developer (with existing assets) that is selected as an approved project sponsor and who is not a participating transmission owner will be required to turn over to CAISO control only the facilities it was selected to build in the regional transmission planning process. Specifically, CAISO has revised the tariff to state that any approved project sponsor that was not a participating transmission owner as of April 1, 2014, will be required to turn over to CAISO operational control only its

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<sup>8</sup> CAISO Tariff § 26.1(b). By definition, local transmission facilities are financed, constructed and owned by participating transmission owners and are not subject to the competitive solicitation process, except as described in CAISO eTariff § 24.4.10, Transmission Plan Approval Process (2.0.0).

rights and interests in the regional transmission facilities that it was selected to finance, construct and own in the competitive solicitation process.<sup>9</sup>

### C. Project Sponsor Application Deposit and Fee

12. The next set of proposed revisions involve the implementation of an application fee, capped at \$150,000, designed to enable CAISO to recover costs of: (1) evaluating whether a project sponsor meets certain qualification criteria, (2) determining whether a project sponsor's proposal meets certain proposal qualification criteria, and (3) selecting an approved project sponsor.<sup>10</sup> CAISO states that these tasks represent a significant undertaking that requires an extensive commitment of internal resources. In addition, CAISO states that the tariff requires it to retain a consultant to assist it in the selection of an approved project sponsor, at substantial additional cost.

13. CAISO states that project sponsors should bear the costs incurred in qualifying applicants and selecting an approved project sponsor from among competing applicants to build and own specific transmission solutions. CAISO states that its proposed application fees are analogous to those fees imposed in the generator interconnection process, i.e., where resources seeking to interconnect to the CAISO grid via the generator interconnection process pay fees to support processing their applications and conducting the necessary studies. CAISO also refers to similar application deposits and fees proposed by the Midcontinent Independent System Operator (MISO),<sup>11</sup> the public utility transmission providers in the Florida Reliability Coordinating Council transmission planning region,<sup>12</sup> and the Southwest Power Pool (SPP)<sup>13</sup> that the Commission has previously accepted for filing.

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<sup>9</sup> CAISO Tariff § 4.3.1.3(b).

<sup>10</sup> Under phase 3 of its transmission planning process, once all project sponsor applications are received, CAISO reviews each project sponsor application for completeness and will verify that the application includes sufficient information for CAISO to determine whether the potential project sponsor qualifies as an approved project sponsor. Potential project sponsors are provided an opportunity to cure any deficiencies. After the cure period has ended, CAISO will post on its website, a list of qualified project sponsors whose applications contain sufficient information. See CAISO eTariff, § 24.5.3.1, Project Sponsor Qualification (2.0.0).

<sup>11</sup> *Midwest Indep. Transmission Sys. Operator*, 142 FERC ¶ 61,215, at PP 300-301 (2013).

<sup>12</sup> *Tampa Elec. Co., et. al.*, 143 FERC ¶ 61,254, at PP 147-149, 171-172 (2013).

14. CAISO proposes to revise its tariff to require each project sponsor proposal to include an application deposit of \$75,000.<sup>14</sup> The deposit will be applied as a pool of funds to pay for costs incurred by CAISO, or third parties at the direction of CAISO, to perform and administer the competitive solicitation process and to communicate with project sponsors regarding their project sponsor applications. If the *pro rata* amount required to pay actual costs of the validation, qualification and selection process for each proposed solution is determined to be greater than \$75,000 per application, then each project sponsor would be obligated to provide the additional amount up to a cap of \$150,000. Conversely, if the *pro rata* amount required to pay actual costs was determined to be less than \$75,000, then each project sponsor would be refunded the unused balance of its deposit, with interest.<sup>15</sup> CAISO proposes to refund interest that CAISO receives on the deposit. CAISO states that it will publicly post an accounting of the total costs incurred in determining the qualified project sponsors for each solution and in selecting the approved project sponsor from among the qualified project sponsors for each solution.

15. CAISO further states that the proposed application fee of \$75,000 (with a cap of \$150,000) is based on the internal and external expenditures incurred by CAISO for its recent competitive solicitations. CAISO estimates that expenditures for the Imperial Valley Policy Element competitive solicitation were slightly more than \$200,000, which included the evaluation of two project sponsor applicants (approximately \$100,000 per applicant). CAISO states that expenditures for the Gates-Gregg 230 kV Line competitive solicitation were approximately \$280,000, which included the evaluation of five project sponsors (approximately \$56,000 per proposal). Further, CAISO estimates that the expenditures for the evaluation of the Sycamore-Penasquitos 230 kV Line Element will

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<sup>13</sup> *Southwest Power Pool, Inc.*, 144 FERC ¶ 61,059, at PP 230, 242-244 (2013).

<sup>14</sup> A separate deposit is required for each project sponsor application submitted.

<sup>15</sup> CAISO proposes to determine each unqualified project sponsor's *pro rata* share that CAISO incurred in determining the qualified project sponsors for that solution and will refund to each project sponsor that CASIO did not include in the list of qualified project sponsors the difference between its *pro rata* costs, not to exceed \$150,000 per project sponsor, and its deposit. For qualified project sponsors, CAISO will determine each project sponsor's *pro rata* share of the costs that the CAISO incurred in selecting an approved project sponsor from among the qualified project sponsors for each solution and refund to or charge to each qualified project sponsor the difference between its *pro rata* costs, not to exceed \$150,000 per qualified project sponsor, and its deposit.

total approximately \$275,000 which includes the evaluation of four project sponsors (approximately \$68,700 per applicant).<sup>16</sup>

**D. Revisions Submitted in Response to Stakeholder Concerns**

**1. Requirement to Initiate Siting Approval within 120 Days**

16. CAISO also proposes tariff revisions to address certain stakeholder requests. Specifically, CAISO proposes to remove a requirement for an approved project sponsor to initiate the siting process within 120 days of selection, and instead to address permitting and siting in the approved project sponsor agreement. CAISO proposes that approved project sponsors would be required to enter into the agreement within 120 days of selection notification.<sup>17</sup> CAISO states that that this 120-day period for entering into an approved project sponsor agreement will ensure the project moves forward on a timely basis, which was the intent of the siting approval requirement, and it is therefore a reasonable substitute.

**2. Requirements for Transferees of Approved Project Sponsors**

17. CAISO states that current tariff section 24.6 provides that approved project sponsors shall not “sell, assign or otherwise transfer” the project without CAISO’s written consent. In response to stakeholder concerns, CAISO has revised the tariff to clarify that a project transferee be required to: (1) meet the qualification criteria, (2) agree to honor any binding cost cap agreed to by the approved project sponsor, (3) agree to meet the selection factors relied upon by CAISO in selecting the approved project sponsor, and (4) assume all of the rights and responsibilities set forth in the approved project sponsor agreement.<sup>18</sup> In addition, CAISO proposed to revise the tariff to state that its project transfer approval “shall not be unreasonably withheld.”<sup>19</sup>

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<sup>16</sup> CAISO notes that the Gates-Gregg 230 kV Line and the Sycamore-Penasquitos elements involve construction of single transmission lines with no substations, so these solicitations do not reflect all of the comparative analyses that might occur with a more complex, multi-facility proposal (including substations). On the other hand, CAISO states that the Imperial Valley Policy Element included a 230 kV line and collector substation.

<sup>17</sup> CAISO Tariff §§ 24.5.3.4 and 24.5.3.5.

<sup>18</sup> CAISO eTariff § 24.6, Obligation to Construct Transmission Projects (4.0.0).

<sup>19</sup> *Id.*

18. CAISO requests an effective date of April 1, 2014 for the proposed modifications which will allow it to implement the revisions during phase 3 of the 2013-2014 transmission planning cycle.

### **III. Notice and Responsive Filings**

19. Notice of CAISO's tariff filing was published in the *Federal Register*, 79 Fed. Reg. 7445 (2014), with interventions and protests due on or before February 20, 2014. California Department of Water Resources State Water Project, the City of Santa Clara, California, and the M-S-R Public Power Agency, Exelon Corporation, Modesto Irrigation District, NextEra Energy Transmission, LLC, Northern California Power Agency, NRG Companies, Pacific Gas and Electric Company, Six Cities (the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California), Southern California Edison Company, Trans Bay Cable LLC, and the Transmission Agency of Northern California filed timely motions to intervene. Imperial Irrigation District, ITC Grid Development LLC (ITC Grid), and MidAmerican Transmission, LLC filed timely motions to intervene and comments. On March 5 and 7, 2014, CAISO and Six Cities respectively, filed answers to the comments of ITC Grid.

20. Imperial Irrigation District and MidAmerican Transmission, LLC fully support CAISO's proposed tariff revisions, stating that by placing non-participating transmission owners on an equal footing with current CAISO participating transmission owners, the revisions will foster more robust competition and facilitate greater participation in CAISO's competitive solicitation process.

### **ITC Grid Comments**

21. ITC Grid supports proposed revisions allowing non-participating transmission owners the ability to recover Commission approved pre-operational incentives including construction work in progress and abandoned plant. ITC Grid also supports incorporating a provision in the approved project sponsor agreement that the sponsor would be required to refund amounts collected through CAISO access charges if the Commission denies or limits abandoned plant recovery.<sup>20</sup> ITC Grid requests that such refund language be incorporated into the CAISO tariff to provide clarity and ensure that all approved project sponsors are treated on an equal basis. While ITC Grid asserts that CAISO has stated that it will include refund language in the approved project sponsor agreement, absent language in the tariff or a *pro forma* agreement incorporating refund

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<sup>20</sup> During the stakeholder process, stakeholders expressed concern regarding CAISO's ability to recover payments for pre-operational rate incentives, if they were subsequently rejected by the Commission. CAISO indicated that it would include a commitment to refund any disallowed costs in an approved project sponsor agreement.

language, ITC Grid is concerned that there is a risk that project sponsors could be treated in a discriminatory fashion. ITC Grid requests that the Commission direct CAISO to engage in a stakeholder process to develop a *pro forma* agreement, which should apply to all approved project sponsors, whether participating transmission owners or non-participating transmission owners, so that all project sponsors are held to the same obligations and requirements.

22. ITC Grid further states that while it does not oppose the application deposit *per se*, and fully supports a cap to the fees a project sponsor could incur, it requests the Commission provide clarification regarding the ability to recover application fees in rates. ITC Grid asserts that the efficiencies and innovation that the competitive process can offer will be limited if the Commission creates a new barrier to entry for nonincumbents by not allowing application fees to be recovered in rates. Moreover, ITC Grid argues that because all customers will benefit from a competitive solicitation process with multiple participants, it is inappropriate for the competitive process in the CAISO region to be financed solely by the shareholders of companies from outside that region. ITC Grid asserts that customers should bear the burden of the costs of a process under which they will be the ultimate beneficiaries.

23. Next, ITC Grid states that should the Commission decide that application fees can be recovered in rates, such ability to recover should apply equally to participating transmission owners and non-participating transmission owners; otherwise non-participating transmission owners would be placed at a significant disadvantage in the competitive bidding process. Further, ITC Grid suggests that changes to the CAISO tariff would be required to allow non-participating transmission owners to recover application fees for losing competitive solicitations. Alternatively, ITC Grid states that the Commission should clarify that any entity, whether participating transmission owner or non-participating transmission owner, must receive Commission approval before seeking to include application fees for losing bids in its rates.

24. While ITC Grid supports the proposal regarding transfers of approved project sponsors, it seeks clarification regarding the proposed tariff provision in section 24.6 which reads:

The Approved Project Sponsor shall not sell, assign or otherwise transfer its rights to finance, construct and own the needed transmission solution, or any element thereof, before the facilities have been energized and, if applicable, turned over to the CAISO's Operational Control unless the CAISO has *not* approved such proposed transfer, which approval shall not be unreasonably withheld. (Emphasis added).

ITC Grid requests that the Commission order CAISO to delete the italicized “not” in the above sentence to ensure clarity in the tariff.

### **CAISO and Six Cities’ Answers**

26. CAISO and Six Cities state in their answers that they are opposed to ITC Grid’s proposal to provide for recovery of application fees in rates, as it would mean that project sponsors would bear no cost responsibility for participating in the competitive solicitation process and for developing their proposals. They state that such a result would be inconsistent with prior orders where the Commission has found it appropriate for project sponsors to bear the costs of the competitive solicitation process; and that in any case, it is not CAISO’s role to single-out specific costs that should be recovered in rates.<sup>21</sup>

27. In its answer, CAISO concurs with ITC Grid that the superfluous “not” should be removed from tariff section 24.6.<sup>22</sup> CAISO also notes an additional typographical error found in its proposed tariff language. CAISO states that the word “be” should be inserted between “shall” and “consistent” in Appendix F, Schedule 3, section 5.2.<sup>23</sup> CAISO states that it will correct these errors in a compliance filing.

## **IV. Discussion**

### **A. Procedural Matters**

28. Pursuant to Rule 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2013), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

29. Rule 213(a)(2) of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2013), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers of CAISO and Six Cities because they have provided information that assisted us in our decision-making process.

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<sup>21</sup> CAISO March 5, 2014 Answer (CAISO Answer) at 5; Six Cities March 7, 2014 Answer at 4.

<sup>22</sup> CAISO Answer at 6.

<sup>23</sup> *Id.* CAISO states that CAISO eTariff, Appendix F, Rate Schedules (14.0.0), Schedule 3, Regional Access Charge and Wheeling Access Charge, § 5.2 should read, “[t]he divisions of the total revenue requirement associated with the facility between Regional and Local Transmission Revenue Requirements shall *be* consistent with Appendix F, Schedule 3, Sections 11 and 12.” (Emphasis added).

**B. Commission Determination**

30. We accept CAISO's proposal with respect to recovery of Commission approved pre-operational costs. CAISO has recognized its tariff creates ambiguity with regard to how a nonincumbent transmission developer that is not a participating transmission owner, which is selected in the competitive solicitation process as an approved project sponsor would recover its pre-operational revenue requirements through the CAISO access charge. This ambiguity is highlighted in the case of an approved project sponsor who seeks and is granted construction work in progress and/or abandoned plant transmission rate incentives by the Commission. CAISO's proposal provides a tariff mechanism for nonincumbent transmission developers that are not participating transmission owners to recover these Commission-approved incentives through the CAISO access charge. We find that CAISO's proposal is just and reasonable and not unduly discriminatory or preferential.

31. We note that the proposal also requires that an approved project sponsor enter into an approved project sponsor agreement with CAISO that will establish the terms and conditions under which the approved project sponsor will complete the siting and construction of the transmission facilities it was selected to construct and own. CAISO has indicated that it intends to develop a *pro forma* agreement through a stakeholder process at a future date. ITC Grid supports the inclusion of a provision in that agreement that would require an approved project sponsor to return funds collected through the CAISO access charge if the Commission subsequently denies recovery of abandoned plant costs. ITC Grid also requests that such a provision also be included in the tariff.

32. We deny ITC Grid's request to include a tariff provision requiring that an approved project sponsor must agree to refund disallowed costs. ITC Grid has not explained why such provision is necessary in the tariff given the fact that only Commission-approved revenue requirements can be included in participating transmission owners' and approved project sponsors' tariffs and recovered through the CAISO access charge. To the extent that CAISO proposes such language in a *pro forma* approved project sponsor agreement or as a tariff provision in the future, we will evaluate the merits of the proposal at that time. With regard to developing a *pro forma* approved project sponsor agreement, we encourage CAISO to continue working with stakeholders to develop such an agreement, which can help reduce the amount of time necessary for CAISO and the approved project sponsor to negotiate and reach agreement.

33. We accept CAISO's tariff revisions clarifying that any approved project sponsor that was not a participating transmission owner as of April 1, 2014, will be required to turn over to CAISO operational control only its rights and interests in the regional transmission facility it was selected to construct and own in the competitive solicitation process. This clarification should help increase participation in the competitive solicitation process by assuring nonincumbent transmission developers that if they are

selected as an approved project sponsor, they are only required to become a participating transmission owner with respect to, and turn over to CAISO operational control, the transmission project for which they bid.<sup>24</sup>

34. The Commission has approved a variety of project study costs deposits or fees to off-set the costs necessary to review, process, and evaluate proposals.<sup>25</sup> We find that the proposed project sponsor application fee and deposit requirements, which will recover the costs incurred by CAISO to qualify and select an approved project sponsor as part of the competitive solicitation process, are just and reasonable and not unduly discriminatory. The proposed application fee of \$75,000, with a cap of \$150,000, is based on CAISO's expenditures incurred in conducting recent competitive solicitations – those expenditures ranging between \$56,000 and \$100,000 per applicant. Thus, we conclude that the proposed application fee provides a reasonable range for CAISO to conduct a comparative analysis of project sponsors for transmission solutions that range from single lines with no substations to more complex, multi-facility proposals, while also providing certainty to prospective project sponsors that the fee assessed will not exceed \$150,000.

35. In addition, in accepting these tariff revisions we note that CAISO will allocate costs on a *pro rata* basis to all prospective project sponsors and will refund the difference between the *pro rata* costs and the deposit. Consistent with Commission policy, CAISO will post an accounting of the costs incurred in qualifying and selecting the approved project sponsor and how the deposit reconciliation for each project was calculated.<sup>26</sup>

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<sup>24</sup> Although we are accepting the proposed tariff revisions in this regard, we remind CAISO that in Order No. 1000-A, the Commission found that it would be unfair to allow a transmission developer, including a non-public utility transmission developer, to seek regional cost allocation for a proposed transmission project in a transmission planning region in which it or an affiliate has load, but where neither it (nor that affiliate) has enrolled in the region where its load is located. Order No. 1000-A, 139 FERC ¶ 61,132 at P 418.

<sup>25</sup> See, e.g., *South Carolina Electric & Gas Co.*, 143 FERC ¶ 61,058, at P 173 (2013).

<sup>26</sup> See *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 220 (2003) (Commission requires Transmission Provider to provide “detailed and itemized accounting” of interconnection study costs), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

CAISO also proposes to include the interest accrued on any unused balance, as part of any refunded portion of the deposit that a potential project sponsor submitted with its bid,<sup>27</sup> and such interest would be based on the interest that CAISO receives. However, consistent with our policy for refunds of deposits associated with requests for generator interconnections that are withdrawn,<sup>28</sup> we will require CAISO to refund to the project sponsor the difference between the deposit and the study costs, including interest calculated in accordance with section 35.19a(a)(2) of the Commission's Rules and Regulations.<sup>29</sup> CAISO is directed to amend the tariff language accordingly in its compliance filing directed below.

36. We disagree with ITC Grid's assertion that assessing an application fee creates a barrier to entry for nonincumbents by not allowing application fees to be recovered in rates. The Commission has affirmed the appropriateness of assessing fees for transmission studies initiated by a developer or customer.<sup>30</sup> CAISO's proposal to assess a fee to prospective project sponsors is consistent with this practice, and we, thus, find that the proposal is just and reasonable and not unduly discriminatory or preferential.

37. We accept CAISO's further revisions that were filed in response to stakeholder concerns. CAISO's proposal to remove the requirement for the approved project sponsor

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<sup>27</sup> Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 123 (if Interconnection Customer withdraws request for studies, Transmission Provider must refund Interconnection Customer any portion of Interconnection Customer's deposits or study costs that exceeds the costs that Transmission Provider has incurred, including interest); *see also Midwest Indep. Transmission Sys. Operator, Inc.*, 138 FERC ¶ 61,233, at PP 166-168 (2012) (rejecting MISO's proposal to eliminate the payment of interest on refunded portions of generator interconnection study deposits).

<sup>28</sup> *See* Order No. 2003, *pro forma* OATT LGIA section 3.6.

<sup>29</sup> 18 C.F.R. § 35.19a(a)(2) (2013).

<sup>30</sup> *See, e.g., pro forma* OATT § 19.2 (requiring that a Facilities Study Agreement for a long-term firm point-to-point transmission service request require the transmission customer to agree to reimburse the Transmission Provider for the cost of performing the facilities study); Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 292 (2003) (establishing *pro forma* study deposits for generator interconnection requests of \$10,000, \$50,000, and \$100,000 for feasibility, system impact, and facilities studies, respectively); *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,027, at P 144 (2004) (affirming that a Transmission Provider is not obligated to perform or continue to perform any interconnection studies unless the interconnection customer has paid all undisputed amounts for the studies).

to initiate the siting process within 120 days of notification, and instead require the approved project sponsor to enter into an approved project sponsor agreement within 120 days of selection notification serves CAISO's intended purpose. The approved project sponsor agreement will set forth the terms and conditions under which the sponsor will complete the siting and construction of the transmission facilities that it was selected to finance, own and construct and will inform both parties to the siting and construction schedule.

38. We also conclude that CAISO's proposed revisions to address the requirements applicable to a transferee in the event of sale, assignment or transfer provide additional clarity with regard to CAISO's approval of such transactions, which will not be unreasonably withheld. In order to preserve the integrity of CAISO's selection of an approved project sponsor, we find that it is appropriate for CAISO to apply criteria that it relied upon in selecting the approved project sponsor to the proposed transferee. Thus, we find it is reasonable and appropriate that a transferee be required to meet and honor the requirements that applied to the approved project sponsor as CAISO proposes. We also accept CAISO's proposed revisions set forth in section 24.6, including the requirement that CAISO's "approval [of such transaction] shall not be unreasonably withheld[.]"

39. Finally, we direct CAISO to submit a compliance filing to correct the typographical error discussed in P 26 and footnote 23 *supra* and to modify the interest calculation for refunds consistent with section 35.19a(a)(2) of the Commission's Rules and Regulations as discussed in P 34 *supra* within 30 days of the date of issuance of this order.<sup>31</sup>

The Commission orders:

(A) CAISO's proposed tariff revisions are conditionally approved, effective April 1, 2014, as discussed in the body of this order.

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<sup>31</sup> We note that the Commission recently directed CAISO to delete the extraneous "not" from CAISO Tariff, § 24.6, in *Cal. Indep. Sys. Operator Corp.*, 146 FERC ¶ 61,198, at PP 144, 147 (2014), therefore the request for the CAISO to correct this typographic error in this proceeding is moot.

(B) CAISO is directed submit a compliance filing within 30 days, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.