

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Green Energy Express, LLC        )        Docket No. EL09-74-000

**MOTION FOR LEAVE TO INTERVENE AND COMMENTS OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.214 (2008) and the Notice of Filing issued in this proceeding on September 11, 2009, the California Independent System Operator Corporation ("ISO") submits this motion to intervene and comments in the captioned proceeding.

On September 9, 2009, Green Energy Express, LLC filed a Petition for Declaratory Order requesting the Commission's approval of certain rate incentives for the proposed Green Energy Express Transmission Line Project (the "GEET Project"). The GEET Project was submitted in the ISO's request window, and the ISO treated it as a request for an "Economic Planning Study" under the ISO tariff. It is not currently being evaluated as an economic transmission project.

The petition raises certain general issues concerning the relationship between incentive requests for proposed transmission projects and the planning processes administered by independent system operators and regional transmission organizations. For the reasons discussed below, the ISO requests that the Commission either wait to act on the petition until after the ISO has completed all applicable actions

under its Commission-approved transmission planning process or confirm that the Commission's grant of some or all of the incentives requested in the petition does not, in any way, pre-judge the outcomes of the ISO planning process. Any determination of need for a proposed project can only be made after the ISO completes its comprehensive planning process. The Commission also should clarify that the costs to develop proposed transmission projects that are not constructed because they are not approved in the ISO planning process should not be entitled to "abandoned plant" cost recovery if the reason the project is not constructed is because the ISO found the project is not needed. At a minimum, the Commission should confirm that abandoned plant costs for a project which the ISO finds is not needed should not be recoverable in the ISO's transmission rates. Such abandoned plant cost recovery would be inconsistent with the terms of the ISO tariff and the Transmission Control Agreement between the ISO and its participating transmission owners ("Participating TOs").

## **I. BACKGROUND**

As described in the petition, the proposed project includes a 70 mile, 500 kV alternating current transmission line, a new 500 kV/230 kV substation, and an advanced technology fast-acting phase shifter to transport up to 2,000 megawatts of power from location-constrained renewable generation resources near and around the Eagle Mountain Substation in Riverside County, California to load centers in Southern California. In December 2008, Green Energy Express submitted the

GEET Project as an economic project through the ISO's transmission planning process request window. Green Energy Express' September 9 filing states that the GEET Project is currently under study as part of the ISO's 2010 transmission plan. The ISO notes that the ISO's 2009 transmission plan does not state that the ISO is studying the GEET Project as an economic project. Rather, the 2009 transmission plan states that the GEET Project (and other projects) would be treated as a request for an Economic Planning Study because congestion studies were not available in 2008 to permit the ISO to determine the need for a new transmission project in the area of the grid where the GEET Project would be located.<sup>1</sup> Likewise, in its "2010 ISO Transmission Plan Final Study Plan" issued in May 2009, the ISO reiterated that it had not found a need for any of the economic projects submitted through the request window, including the GEET project, and that it was going to evaluate all of them as requests for Economic Planning Studies.<sup>2</sup> In other words, the ISO is not currently studying the GEET Project or these other projects individually as economic transmission projects. The ISO stated that its Economic Planning Studies would determine whether the proposed projects addressed an identified need. If not, there would be no further evaluation of these projects. On the other hand, if the study result reflected that a need for mitigation of congestion coincided with a proposed economic project, the proponent could resubmit the project through the 2009 request window or request that the ISO evaluate the project as an alternative to

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<sup>1</sup> 2009 Transmission Plan at 17-18.

<sup>2</sup> 2010 Final Study Plan at 41.

address an identified economic need. The ISO also notes that it has commenced a new stakeholder initiative to develop a comprehensive, integrated and coordinated process for evaluating projects designed to enable the state to meet a 33% Renewable Portfolio Standard goal.

In the petition, Green Energy Express seeks transmission rate incentives pursuant to Section 219 of the Federal Power Act (“FPA”) and the Commission’s Order No. 679.<sup>3</sup> The petition requests that the Commission issue a declaratory order granting Green Energy Express five categories of rate incentives for the proposed GEET Project. Among other incentives, Green Energy Express asked for the recovery of “prudently-incurred pre-commercial start-up, development, and construction costs” in the event the project is abandoned for reasons beyond the control of Green Energy Express or its affiliates.

## **II. COMMENTS**

These comments are intended to address general policy issues raised by the Green Energy Express petition and similar incentive requests submitted to the Commission. These comments do not reflect any particular concern the ISO has with the GEET Project proposal, which is being evaluated as a request for an Economic Planning Study. However, whenever a developer seeks incentives for a proposed transmission project before that project has been fully considered through a system operator’s transmission planning process, there is a question as

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<sup>3</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 (2006), *order on reh’g*, 119 FERC ¶ 61,062 (2007).

to how the incentive request affects the planning process, if at all. Commission orders to date addressing similar circumstances have left considerable uncertainty on this question, which in turn introduces uncertainty into the transmission planning process. Such uncertainty undermines the Commission's objectives of promoting needed transmission investment through an open, transparent, and coordinated transmission planning process itself. As such, the ISO urges the Commission to clarify certain issues when acting on the petition consistent with the comments below.

**A. The Commission's Action on the Petition Should Not Pre-Judge the ISO's Determination of the Need for the Project in the ISO Planning Process**

When faced with a request for incentives for a proposed transmission project still undergoing review in a regional planning process and that has not yet found to be needed by the regional planning authority, the Commission has a number of options. One option would be for the Commission to defer action on the incentive request until the applicable independent system operator or regional transmission organization determines if the project is needed. Although the Commission declined in Order No. 679 to make participation in a regional planning process a prerequisite to obtaining transmission incentives, nothing prevents the Commission from waiting for the results of a regional planning process before acting on an incentive request.<sup>4</sup> Such deferred action would be

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<sup>4</sup> There is no statutory deadline for acting on a petition for declaratory order. To the extent incentives are requested in a filing pursuant to Section 205 of the FPA, in most

consistent with the Commission's recognition in Order No. 679 that "[r]egional planning processes can help determine whether a given project is needed, whether it is the better solution, and whether it is the most cost-effective option in light of other alternatives (e.g., generation, transmission and demand response)."<sup>5</sup>

Alternatively, the Commission could make the grant of any incentives for a project under consideration in an independent system operator or regional transmission organization planning process contingent on the independent system operator's or regional transmission organization's finding of need for the project.

The ISO recognizes that Green Energy Express has requested action on the petition by early December,<sup>6</sup> *i.e.*, before the ISO planning process for the 2010 transmission plan will be completed. Moreover, the ISO acknowledges that, in a number of orders, the Commission has granted incentives for a proposed transmission project before the project has been fully evaluated in a regional transmission planning process.<sup>7</sup> The Commission's grant of these incentives has not been conditioned upon approval of the project in a regional transmission plan.

To the extent the Commission grants the Green Energy Express petition before the ISO completes its Economic Planning Study, and any applicable review of the proposed GEET Project as an economic project in

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circumstances incentives would not become effective earlier than 120 days after the relevant regional plan is finalized.

<sup>5</sup> Order No. 679 at P 58.

<sup>6</sup> Petition at 3-4 (requesting Commission action within 90 days of the filing).

<sup>7</sup> See, e.g., *Green Power Express LP*, 127 FERC ¶ 61,031 (2009) ("*Green Power Express*"); *Pioneer Transmission, LLC*, 126 FERC ¶ 61,281 (2009) ("*Pioneer*"); and *Pacific Gas and Elec. Co.*, 123 FERC ¶ 61,067 (2008) ("*PG&E*").

the planning process, the Commission should expressly state that its grant of any incentives for the project does not prejudice the outcome of the ISO transmission planning process or render an ISO determination of the need for the GEET Project unnecessary. Such a statement would be consistent with Commission determinations in a number of incentive orders. For example, the *Green Power Express* order noted:

As the Commission has previously found, ruling on a request for incentives pursuant to Order No. 679 does not prejudice the findings of a particular transmission planning process or the siting procedures at state commissions. Midwest ISO confirms that Green Power has submitted the Project into Midwest ISO's Commission-approved planning process and that any Commission action on Green Power's incentive request will not change how Midwest ISO evaluates the Project. Similarly, any finding on Green Power's request for incentives will not change how projects are considered under existing regional transmission planning initiatives nor have an impact on projects . . . that have already been incorporated into a transmission provider's expansion plans.<sup>8</sup>

The findings necessary for the Commission to grant incentives pursuant to Section 219 of the FPA and Order No. 679 are not a substitute for an ISO determination that a project is needed through the ISO planning process. Although an incentive applicant must show some benefits of a project, the criteria for receiving Order No. 679 incentive approval are different and, in certain respects, less comprehensive than the criteria for finding that a project is a needed upgrade through an approved ISO transmission planning process. For example, a cost-benefit analysis is not

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<sup>8</sup> *Green Power Express*, 127 FERC ¶ 61, 031 at P 42, citing *Pioneer*, 126 FERC ¶ 61,281, at P 40, and *Tallgrass Transmission LLC, et al.*, 125 FERC ¶ 61,248 at P 43 (2008).

required for approval of incentives under Order No. 679.<sup>9</sup> To determine that an economically driven project is needed under the ISO tariff, the ISO is required to take into account costs and benefits:

In determining whether to approve the project, the CAISO Governing Board or CAISO management, as applicable, shall consider the degree to which, if any, the benefits of the project outweigh the costs, in accordance with the procedures and using the technical studies set forth in the Business Practice Manual.<sup>10</sup>

Moreover, finding that a particular project is needed may require the system planner to choose among multiple projects which may be proposed to satisfy the same set of regional needs. In acting on an Order No. 679 incentive request, however, the Commission looks at each proposed transmission project in a vacuum, without regard for competing projects.<sup>11</sup>

If the grant of an Order No. 679 finding that a proposed project has reliability or economic benefits that pre-determine the outcome of the ISO planning process, the objectives of that process would be undermined fundamentally. Instead of competing with other projects in an open, transparent process, project developers could simply “race to the filing room,” submitting incentive requests that would short-circuit the detailed and comprehensive review of projects by system planners acting in accordance with a Commission-approved planning process.

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<sup>9</sup> Order No. 679 at P 65.

<sup>10</sup> Section 24.1.1(b) of the ISO tariff.

<sup>11</sup> *PG&E*, 123 FERC ¶ 61,067 at P 39 (“As for the issue of whether the [PG&E] Project is the best solution or whether competing projects are entitled to incentives, we reiterate our policy to review each request for incentives on its own merits and on a case-by-case basis. Only PG&E’s Petition is before us here. Thus, we are reviewing only whether that petition meets the requirements for incentives under Commission policy.”) (footnotes omitted).

The ISO's recent experience demonstrates why it is important for the Commission to explicitly state that approval of incentives under Order No. 679 does not pre-judge the outcome of independent system operator and regional transmission organization planning processes. Some incentive recipients have already taken the position that receipt of Order No. 679 incentives from the Commission eliminates the requirement for a project to be considered in the ISO planning process.

In that regard, the Nevada Hydro Company Inc. ("Nevada Hydro") filed for rate incentives for its proposed Talega-Escondido/Valley-Serrano Interconnect project (the "TE/VS Interconnect") in Docket No. ER06-278. In response to claims that the Commission should not approve incentive-based rates until the ISO has approved the TE/VS Interconnect in its transmission planning process, Nevada Hydro stated its expectation that Commission approval of incentive-based rates would "neither preempt CAISO or state planning nor predetermine their outcome."<sup>12</sup> Once the Commission accepted some of the requested incentives,<sup>13</sup> however, Nevada Hydro took the position that, by approving incentives for the TE/VS Interconnect, "FERC has concluded that we have completed the evaluation processes that would otherwise be required by CAISO Tariff §24 and consequently [the ISO's] study plan is no longer necessary."<sup>14</sup> This case illustrates the potential for uncertainty when the Commission

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<sup>12</sup> January 27, 2006, Response of Nevada Hydro in Docket No. ER06-278 at 8.

<sup>13</sup> *The Nevada Hydro Company, Inc.*, 122 FERC ¶ 61,272 (2008).

<sup>14</sup> April 7, 2008, letter from Nevada Hydro attached to the April 21, 2008, Motion for Clarification of the ISO in Docket No. ER06-278. This Motion for Clarification is still pending.

approves incentives for a proposed transmission project before that project has been fully considered through the ISO planning process.

The ISO is not alone in raising these concerns. Based on similar questions resulting from the Commission's grant of incentives in the *Green Power Express* and *Pioneer* proceedings, the ISO/RTO Council has submitted requests for clarification in those proceedings.<sup>15</sup> Specifically, the ISO/RTO Council has requested clarification on the following overarching question:

What is the interrelationship between the Commission's findings in its [incentive orders] concerning reliability and economics specific to section 219 of the FPA and the findings that ISOs and RTOs are required to make on reliability and economics (pursuant to their tariffs and Commission approved planning criteria) regarding which projects are to be included in, or excluded from, their respective regional planning processes?<sup>16</sup>

The ISO/RTO Council also raised a number of more specific questions related to this overarching question. Because the fact patterns are similar, and because the Commission has not yet issued an initial order in this proceeding, the ISO believes it would be appropriate to provide the clarification requested by the ISO/RTO Council in its order on the petition in this proceeding. At a minimum, however, the Commission should confirm that the grant of any incentives for the project does not prejudice

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<sup>15</sup> In addition to the ISO, the members of the ISO/RTO Council joining these requests for clarification were the other FERC-jurisdictional independent system operators and regional transmission organizations: ISO New England, Inc. ("ISO-NE"); Midwest Independent System Operator, Inc. (the "Midwest ISO"); New York Independent System Operator, Inc. ("NYISO"); PJM Interconnection, L.L.C. ("PJM"); and Southwest Power Pool, Inc. ("SPP").

<sup>16</sup> See ISO/RTO Council Motions for Clarification in Docket No. ER09-75 (April 27, 2009) and Docket No. ER09-681 (May 8, 2009). These motions are still pending.

the outcome of the ISO transmission planning process or render an ISO determination of the need for the GEET Project unnecessary.

**B. The Commission Should Not Permit Development Costs of a Proposed Project Not Found to Be Needed by the ISO to Be Recovered Under the ISO Tariff**

With one exception, the ISO does not comment on the merits of the incentives requested in the Green Energy Express petition. The request for an abandoned plant cost recovery incentive for the project, however, raises additional policy issues about the interplay between Order No. 679 incentives and the ISO planning process.

In a number of orders the Commission has approved abandoned plant cost recovery incentives for proposed transmission projects that have not yet been found to be needed by a regional independent system operator or regional transmission organization.<sup>17</sup> In some cases, the Commission has expressly made the grant of incentives, including abandoned plant cost recovery incentives, contingent on inclusion of a project in an independent system operator or regional transmission organization system plan.<sup>18</sup> It is not clear whether an incentive to recover prudently-incurred costs if a project is “abandoned due to forces outside an applicant’s control” would apply if a transmission project is not constructed because the ISO finds that the project is not needed and does not approve project. Green Energy Express at least suggests that an

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<sup>17</sup> See, e.g., *Green Power Express*, 127 FERC ¶ 61, 031 at P 42, and *Pioneer*, 126 FERC ¶ 61,281, at P 40.

<sup>18</sup> See, e.g., *Central Maine Power Co., et al.*, 125 FERC ¶ 61,182 at P 56 (2008) (“ . . . we will authorize incentives contingent on ISO New England including the project in the Regional System Plan as a Market Efficiency Upgrade.”).

abandoned plant cost recovery incentive would apply to the costs to “participate in regional transmission planning processes.”<sup>19</sup>

If the Commission approves an abandoned plant cost recovery incentive for the GEET Project, it should clarify that this incentive does not apply if the reason a project is abandoned is that the ISO does not determine that the project is needed. A policy that allows abandoned plant cost recovery for projects which do not go forward simply because an ISO or RTO found that a project is not needed will create inappropriate and counter-productive incentives for sponsors to propose projects that are not really needed. While an Order No. 679 incentive request must demonstrate some benefits from a proposed project, the Commission’s policy of making case-by-case determinations of a project’s eligibility for incentives means that projects with little chance to be included in a regional plan could be eligible for abandoned plant cost recovery. Such a policy would shift the risks of developing transmission projects from developers to customers and encourage speculation on transmission projects that have little chance of becoming viable.

The need for the Commission to clarify the application of the abandoned plant incentive is particularly important in light of the Commission’s policy of reviewing applications for rate incentives without regard to competing proposals. Under this approach, it is entirely possible that the Commission could authorize rate incentives (including the abandoned plant cost recovery incentive) for multiple transmission

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<sup>19</sup> Petition at 26.

projects proposed to address the same set of regional needs. If the developers of each of these projects are entitled to recover their costs once the projects are determined by the ISO not to be needed, customers could be forced to incur millions of dollars of redundant development costs for multiple projects, only one of which was needed to meet a single set of regional needs.<sup>20</sup>

One way to avoid these inequitable results would be for the Commission to condition the availability of the abandoned plant cost recovery incentive on the determination that a project is needed in the ISO planning process. In the alternative, the Commission should confirm that the decision of the ISO of whether to include a project in the ISO transmission plan is not a “factor beyond the applicant’s control” that creates a right for abandoned right cost recovery under an Order No. 679 incentive.

It is especially important for the Commission to establish such a policy given the circumstances the ISO expects to face in the near future. If load serving entities in California are expected to meet a state-mandated 33% Renewable Portfolio Standard (“RPS”), there could be a proliferation of proposed projects to integrate renewable resources in numerous locations. Providing project sponsors with a no-risk opportunity to propose

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<sup>20</sup> The ISO is aware that only “prudently-incurred” costs are permitted to be recovered under the abandoned plant incentive. Whether a cost is prudently-incurred would be the subject of a subsequent filing under Section 205 of the FPA. The Commission has also made it clear, however, that “the subsequent section 205 proceeding would be limited to a review of the applicant’s rates and would not include a review of whether the applicant’s facility qualifies to receive incentive-based rate treatments.” Order No. 679 at P 79. See also *PG&E*, 123 FERC ¶ 61,067 at P 36 (suggesting that the availability of abandoned plant cost recovery cannot be challenged in the subsequent 205 filing).

projects will encourage sponsors to submit speculative projects that do not have a sound basis and are not really needed. This could include, *inter alia*, proposals (1) to connect renewable resources in areas (a) where there are no proposed resources in the interconnection queue or where there are no resources with executed power purchase agreements or large generator interconnection agreements (“LGIAs”), or (b) that are not highly ranked with respect to their potential for renewable energy production, or (2) that do not mitigate identified congestion or address an identified reliability need. Not only could this unnecessarily increase costs to ratepayers, it could unduly clog-up the ISO’s planning process with speculative projects that do not effectively meet identified needs. The Commission should be wary of taking any actions that would allow the oft-recognized problems that have plagued interconnection queue processes also to “come to roost” in ISO/RTO planning processes. That would (1) make it even more difficult for the ISO to timely study and approve those transmission projects that truly are needed to meet the State’s goals, maintain reliability, and mitigate congestion and (2) only serve to delay the construction of transmission projects that are needed to meet these needs. The ISO’s goal is to develop a holistic, integrated state plan for achieving RPS and other goals that reflects regional coordination efforts (e.g., the efforts of the Renewable Energy Transmission Initiative and the California Transmission Planning Group) and which will allow environmental and other goals to be achieved in the most efficient, reliable and cost-effective manner. Allowing projects that are not found to be

needed to meet these goals to recover their costs is not consistent with the goal of ensuring that *needed* transmission is built and will unnecessarily increase costs to ratepayers.

Further, absent such a clarification, permitting abandoned plant cost recovery for a proposed project in the ISO balancing authority area would conflict with the terms of the ISO tariff and the Transmission Control Agreement. Developers like Green Energy Express are not currently Participating TOs and do not have a transmission revenue requirement or FERC-jurisdictional tariff under which to recover their costs. This is acknowledged in the petition:

After the GEET Project has been approved in the transmission planning process administered by the CAISO, and prior to commercial operation, Green Energy Express will seek to become a PTO under the CAISO Tariff. At that time, Green Energy Express will make a tariff filing under Section 205 of the FPA seeking to establish a transmission revenue requirement and transmission rate for the Project under the CAISO Tariff.<sup>21</sup>

If a proposed transmission project is approved by the ISO, the developer of that project can become a Participating TO and can file a TO tariff establishing revenue requirements that may be recovered through the ISO's transmission access charge.

The ISO tariff has no mechanism for recovering transmission development costs for an entity that does not qualify as Participating TO.

In that regard, Section 4.3.1 of the ISO tariff provides that:

New Participating TOs will be required to turn over Operational Control of all facilities and Entitlements that: (1) satisfy the FERC's functional criteria for determining

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<sup>21</sup> Petition at 33.

transmission facilities that should be placed under CAISO Operational Control; (2) satisfy the criteria adopted by the CAISO Governing Board identifying transmission facilities for which the CAISO should assume Operational Control; and (3) are the subject of mutual agreement between the CAISO and the Participating TOs.

The ISO governing board has expressly adopted the requirements of the ISO planning process as criteria that must be satisfied for the ISO to assume operational control of a transmission facility. As such, an entity whose only transmission project is a proposed project not found to be needed in the ISO planning process would not qualify to be a new Participating TO. Similarly, Section 4.1.1 of the Transmission Control Agreement states that:

Any transmission lines or associated facilities that the ISO determines not to be necessary to fulfill the ISO's responsibilities under the ISO Tariff in accordance with Section 4.1.3 of this Agreement shall not be treated as part of a Participating TO's network for the purposes of this Section 4.1.<sup>22</sup>

A proposed transmission project that has not been determined to be needed in the ISO planning process also would not be "necessary to fulfill the ISO's responsibilities under the ISO Tariff."

If the GEET Project is not approved in the ISO transmission planning process, Green Energy Express has no avenue to become a Participating TO and therefore would have no ability to recover costs under the ISO tariff. In theory, Green Energy Express could file its own tariff separate from the ISO tariff for the recovery of development costs,

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<sup>22</sup> See *also*, Section 2.2.3 of the TCA which provides, among other things, that an entity can become a Participating TO only after it actually turns over facilities for the ISO's operational control and has an approved tariff.

although it is not clear which customers, if any, could be charged under such a tariff.<sup>23</sup> In any event, the Commission should confirm that a grant of an abandoned plant cost recovery incentive does not permit a developer with a project not approved in the ISO planning process to recover development costs pursuant to the ISO tariff through the transmission access charge or any other mechanism.

### III. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California, with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The ISO is a balancing authority responsible for the operation of transmission facilities placed under the ISO's operational control pursuant to a Transmission Control Agreement between the ISO and Participating TOs. The ISO conducts a regional transmission planning process pursuant to transmission expansion and planning provisions of the ISO tariff which comply with Order 890.<sup>24</sup>

The petition requests incentives for a proposed transmission project that is currently being evaluated under the ISO's planning process, along

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<sup>23</sup> The Commission appears to have contemplated this possibility in other incentive orders. See *Green Power Express*, 127 FERC ¶ 61, 031 at P 52 ("We note, however, that if the Project is cancelled before it is completed, it is unclear whether Green Power will have any customers from which to recover the costs it incurred. Before it can recover any abandoned plant costs, Green Power states that it will, and we require it to, make a filing under section 205 of the FPA to demonstrate that the costs were prudently incurred. Green Power must also propose in its section 205 filing a just and reasonable rate and cost allocation method to recover these costs.").

<sup>24</sup> See *California Independent System Operator Corp.*, 123 FERC ¶ 61,283 (2008). Among other requirements, Order 890 mandates that regional transmission organizations and independent system operators employ "an open, transparent, and coordinated transmission planning process." *Preventing Undue Discrimination and Preference in Transmission Service*, 118 FERC ¶ 61,119 at P 3 (2007).

with other projects, as a request for an Economic Planning Study.<sup>25</sup> In the petition, Green Energy Express states that it intends to become a Participating TO if the GEET Project is approved in the ISO planning process.<sup>26</sup> If this were to occur, the petition may impact transmission rates that the ISO collects under its tariff. No other party can adequately represent the ISO's interests. Accordingly, the ISO requests the Commission's permission to intervene with full rights of a party.

#### **IV. COMMUNICATIONS**

Please address all communications concerning this proceeding to the following persons:

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18 C.F.R. § 203(b)(3).

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<sup>25</sup> See, e.g., Petition at 5.

<sup>26</sup> Petition at 33.

**V. CONCLUSION**

The ISO respectfully requests that the Commission grant its motion to intervene in the captioned proceeding, allow the ISO to participate in the proceeding with full rights as a party thereto, and act on the petition in a manner consistent with the comments filed herein.

Respectfully submitted,

**/s/Anthony J. Ivancovich**

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Dated: October 9, 2009,

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom this 9th day of October, 2009.

*Anna Pascuzzo*

Anna Pascuzzo