

160 FERC ¶ 61,047
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, and Robert F. Powelson.

California Independent System Operator Corporation Docket Nos. ER17-1432-000
ER17-1432-001

ORDER REJECTING TARIFF AMENDMENTS

(Issued September 1, 2017)

1. On April 18, 2017, the California Independent System Operator Corporation (CAISO) filed tariff amendments, pursuant to section 205 of the Federal Power Act (FPA),¹ to create a new class of participating transmission owner (PTO)—the Certified Small PTO—whose low-voltage, generator-interconnection-driven network upgrade costs would be allocated regionally, rather than locally.² The filing describes three criteria that would be used to determine whether a PTO is eligible for such rate treatment, and asserts that Valley Electric Association (Valley Electric) satisfies these criteria, and, thus, seeks to memorialize in its tariff Valley Electric as a Certified Small PTO.³ For the reasons discussed below, we reject the tariff amendments without prejudice.

I. Background and CAISO's Filing

2. Under CAISO's existing tariff, the costs of network upgrades to facilitate the interconnection of new generation are recovered through high-voltage and low-voltage transmission access charges, which are assessed to load served by CAISO's PTOs.⁴

¹ 16 U.S.C. § 824d (2012).

² CAISO Transmittal at 1.

³ *Id.*

⁴ CAISO, Fifth Replacement FERC Electric Tariff § 26, App. A, App. F, App. DD. The interconnection customer initially pays for the cost of network upgrades, and then is reimbursed by the PTO, typically over a five-year period. The reimbursed costs are then recovered by the PTO through its local or regional transmission access charges, as appropriate.

Costs associated with network upgrades to the high-voltage system (200 kV and above) are assessed to all CAISO PTOs and are recovered through a single regional transmission access charge, which is paid by utility distribution companies and metered subsystem operators based on the gross load in their service areas.⁵ Conversely, costs associated with network upgrades to the low-voltage system (below 200 kV) are assessed separately to each PTO's local transmission access charge and recovered from that PTO's load.

3. CAISO's system consists of four load-serving PTOs with local transmission access charges. Three of these PTOs are the large investor-owned California utilities: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Edison), and San Diego Gas & Electric Company (SDG&E). The fourth PTO is Valley Electric, a rural electric cooperative in Nevada, which is relatively small compared to the California utilities. By way of comparison, Valley Electric has an annual gross load of 545 GWh, which is less than one percent of CAISO's annual gross load, while PG&E, CAISO's largest PTO, has an annual gross load of 91,500 GWh.⁶ Valley Electric is also exempt from Nevada's renewable portfolio standard.⁷ However, because Valley Electric is based in Pahrump, Nevada, which is adjacent to Death Valley,⁸ generation developers have identified Valley Electric's low-voltage system as an ideal, cost-efficient point to interconnect solar photovoltaic resources.

4. According to CAISO, this situation has led to other load-serving entities contracting with these developers for future generation capacity. Specifically, CAISO states that it has received 25 interconnection requests,⁹ comprising 3,952 MW of new generating capacity, to connect to Valley Electric's low-voltage system.¹⁰ CAISO notes that these figures dwarf Valley Electric's peak demand of 135 MW, and asserts that the generation is intended to serve regional beneficiaries.

⁵ CAISO Transmittal at 3.

⁶ *Id.* at 5.

⁷ *See id.*; Nev. Rev. Stat. § 704.7808(3)(b).

⁸ The Death Valley region receives more solar radiance than anywhere in the United States. CAISO Transmittal at 6 (citing National Renewable Energy Laboratory, U.S. Solar Resource Maps, <https://www.nrel.gov/gis/solar.html>).

⁹ Of the 25 interconnection requests, 23 were solar generation, one was wind generation, and one was energy storage. *Id.* at 11.

¹⁰ *Id.*

5. CAISO asserts that the local allocation of low-voltage network upgrade costs combined with Valley Electric's small size and the high demand for generator interconnection in Valley Electric's service territory will result in inequitable cost allocation. To remedy this cost allocation issue for Valley Electric, and potential similarly situated PTOs in the future, CAISO proposes to create a new class of PTO called the Certified Small PTO.¹¹ To qualify as a Certified Small PTO, CAISO states that a transmission owner must: (1) maintain an annual gross load at or below 2,000 GWh; (2) be located in an area where there is "significant interest" in developing new generating facilities that can support municipal, county, state, federal, or other renewable portfolio standards; and (3) not be subject to a renewable portfolio requirement or comparable directive.¹²

6. CAISO explains that the first criterion is meant to reflect that the Certified Small PTO is small, and therefore, its customers cannot bear the costs of large system upgrades resulting from the procurement activities of other load-serving entities. Unlike the larger load-serving entities, CAISO asserts that Certified Small PTOs will face significant rate spikes as a result from external procurement and may not be able to find counterbalancing cost savings.¹³

7. CAISO states that the second criterion reflects that significant regional benefits are attached to the Certified Small PTO's location, namely, the ability for load-serving entities to procure cost-efficient new generation to meet renewable portfolio standards or similar procurement policies. CAISO states these regional benefits balance the costs that regional ratepayers will incur.¹⁴ CAISO further clarifies that this criterion will not be a bright-line rule, but rather, will examine the totality of the circumstances, including factors such as geography, potential fuel sources, proposed generating capacity relative to load, and the number of interconnection requests.¹⁵

8. CAISO explains that the third criterion reflects that the Certified Small PTO is neither the driving force behind the network upgrades nor the beneficiary. CAISO states that a transmission owner may satisfy this criterion where: (1) it is not subject to a renewable portfolio standard or comparable directive, (2) it has already fulfilled its

¹¹ *Id.* at 6-7.

¹² *Id.* at 8.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 9.

renewable portfolio standard or comparable directive, or (3) it has already sufficiently contracted with resources that have achieved commercial operation or will achieve commercial operation within a year that will fulfill its renewable portfolio standard.¹⁶ CAISO argues that this criterion will ensure that, where a transmission owner is not benefiting from additional renewable generation, it will qualify for Certified Small PTO status to avoid bearing disproportionate network upgrade costs.

9. Once approved as a Certified Small PTO, the transmission owner's new, low-voltage network upgrade costs associated with new renewable generation that is not intended to meet its load will be folded into the regional transmission access charge and recovered from across the CAISO region.¹⁷

10. CAISO states that a Certified Small PTO would need to annually certify that it continues to meet the three criteria to continue to receive this rate treatment.¹⁸ If a Certified Small PTO fails to meet any of the criteria in any year, CAISO states that it will convene a stakeholder process to revise its tariff and revoke the Certified Small PTO status. Once a transmission owner loses its Certified Small PTO status, CAISO states that any unrecovered low-voltage network upgrade costs that were included in the regional transmission revenue requirement (because of the Certified Small PTO's status) would revert to recovery through the local transmission revenue requirement.¹⁹

11. CAISO further explains that a transmission owner would need to go through two processes to become a Certified Small PTO.²⁰ First, it would need to receive approval from the CAISO Board, following a stakeholder process. Once approved, CAISO would then revise its tariff to include the new Certified Small PTO, and then seek Commission approval for designating the specific transmission owner as a Certified Small PTO. CAISO explains that stakeholders agree that CAISO should not be able to unilaterally

¹⁶ *Id.* at 8-9.

¹⁷ *Id.* at 6-7. Low-voltage network upgrades associated with generation that is built to serve a Certified Small PTO's load would continue to be assessed directly to the Certified Small PTO. *Id.* at 7.

¹⁸ *Id.* at 9.

¹⁹ *Id.* at 7.

²⁰ *Id.* at 10.

make such designations and prefer to have two processes to discuss whether a transmission owner should qualify.²¹

12. Additionally, CAISO proposes to revise its tariff to provide that any local transmission facility costs associated with generator-interconnection network upgrades on non-load-serving transmission owner's system will be included in the regional transmission revenue requirement consistent with the treatment described above for interconnections directly to a Certified Small PTO.²²

13. Lastly, as part of its filing, CAISO proposes to make Valley Electric a Certified Small PTO, asserting that it meets the necessary criteria. Specifically, CAISO argues that Valley Electric: (1) has an annual gross load of 545 GWh, well under the 2,000 GWh threshold; (2) has demonstrated "significant interest" in developing new renewable generating facilities, as 25 generation interconnection requests, totaling 3,952 MW of renewable resources are currently in CAISO's interconnection queue; and (3) is not subject to a renewable portfolio standard or comparable directive.²³

II. Notice and Responsive Pleadings

14. Notice of CAISO's filing was published in the *Federal Register*, 82 Fed. Reg. 19,037 (2017), with interventions and comments due on or before May 9, 2017. Timely motions to intervene were filed by the California Department of Water Resources State Water Project, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (Six Cities), the City of Santa Clara, California and the M-S-R Public Power Agency, Modesto Irrigation District, Northern California Power Agency, NRG Power Marketing LLC and GenOn Energy Management, LLC, PG&E, State Water Contractors, and the Transmission Agency of Northern California. Timely motions to intervene and comments were filed by GridLiance West Transco LLC (GridLiance), SoCal Edison, and Valley Electric. On May 23, 2017, CAISO and Valley Electric filed separate answers to SoCal Edison's comments.

15. On June 5, 2017, Commission staff issued a deficiency letter. CAISO filed a response on July 5, 2017.

16. Notice of CAISO's deficiency letter response was published in the *Federal Register*, 82 Fed. Reg. 32,354 (2017), with comments due on or before July 26, 2017.

²¹ *Id.*

²² *Id.*

²³ *Id.* at 11.

Timely comments were filed by GridLiance, SoCal Edison, and Valley Electric. On August 17, 2017, CAISO filed an answer to SoCal Edison's comments.

A. Comments on CAISO's Initial Filing

17. Valley Electric and GridLiance filed comments in support of CAISO's tariff revisions. Both emphasized that they support CAISO's filing because it allows for the recovery of the costs of interconnection-driven network upgrades based on cost-causation principles, rather than forcing local retail customers to bear costs that do not benefit them.²⁴ Valley Electric further notes that, even as a Certified Small PTO, it will still contribute to the recovery of the network upgrade costs through its payment of the regional transmission access charge; it will just do so in a manner more commensurate with the benefits it receives.²⁵ GridLiance also commends CAISO's proposal for addressing the costs of low-voltage interconnection-driven network upgrades developed by non-load-serving PTOs.²⁶

18. SoCal Edison states that it does not believe the current cost allocation mechanism is materially flawed, but if the Commission agrees with CAISO that revisions are necessary to address Valley Electric's unique situation, it would support a narrowly tailored approach.²⁷ Specifically, SoCal Edison states that it supports the establishment of eligibility criteria, including a specific size threshold that the transmission owner's annual gross load should be 2,000 GWh or less.²⁸ It further agrees with CAISO's annual certification process, and that, if at any time the Certified Small PTO fails to meet any of the three criteria, it should lose its classification and the rate treatment.

19. However, SoCal Edison does not believe that CAISO's proposal is just and reasonable. Instead, SoCal Edison recommends that the Commission modify the proposal so that a Certified Small PTO will be able to either: (1) extend for up to 20 years the time period over which generation is reimbursed for generator-interconnection-driven network upgrades; or (2) cap the costs that generators can be

²⁴ Valley Electric Comments at 3-4; GridLiance Comments at 4-7.

²⁵ Valley Electric Comments at 5.

²⁶ GridLiance Comments at 7-8.

²⁷ SoCal Edison Comments at 1-2.

²⁸ *Id.* at 4.

reimbursed through the low-voltage transmission access charge.²⁹ SoCal Edison argues that both of these approaches would temper the rate impact on customers of small transmission owners and eliminate potential rate shock, while also avoiding inappropriately shifting local costs across the region.

20. CAISO filed an answer to SoCal Edison's comments, arguing that SoCal Edison's preference for the *status quo* would allocate costs based on voltage instead of beneficiaries. Although CAISO acknowledges that the use of voltage as a demarcation for cost allocation in the past has worked, CAISO asserts that SoCal Edison's comments ignore the exceptional and unanticipated issue currently facing Valley Electric.³⁰ CAISO argues that its proposal is just and reasonable, and consistent with Commission policies allowing for regional flexibility in cost allocation and cost-causation principles.³¹

21. CAISO further argues that the Commission should ignore SoCal Edison's proposed solutions as its review is limited to whether the utility's proposal is just and reasonable, not "whether a proposed rate schedule is more or less reasonable to alternative rate designs."³² Even if the Commission were to consider SoCal Edison's alternatives, which CAISO asserts it need not, CAISO argues neither proposal is just and reasonable. First, CAISO states that SoCal Edison's 20-year extended refund period would merely extend the pain for ratepayers in that they would be paying interest on these costs over a longer period (when compared to five years).³³ Furthermore, CAISO argues that the proposed cap on reimbursements is more problematic because it would discourage generators from interconnecting at the most cost-efficient locations by leaving them more responsible for the interconnection costs.³⁴

²⁹ *Id.* at 6-7.

³⁰ CAISO Answer at 4.

³¹ *Id.* at 6-7 (citing *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, at P 559, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009)).

³² *Id.* at 8 (quoting *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44 n.43 (2012) (internal quotations omitted)).

³³ *Id.* at 8.

³⁴ *Id.* at 9.

B. Staff Deficiency Letter and CAISO's Response

22. Staff issued a deficiency letter requesting additional information on several issues. First, in response to Staff's question relating to the second criterion and what would constitute "significant interest" in renewable energy development, CAISO asserts that it would consider a number of factors, including: (1) the capacity of renewable resource interconnection requests relative to the load of the interconnecting transmission owner; (2) the transmission owner's relative share of interconnection requests; and (3) independent data on the availability of renewable resources in the area.³⁵ CAISO claims that these factors are the most relevant in determining that generation development has significant regional benefits, such that a local allocation would be not be reasonable. Applying them here, CAISO notes that: (1) Valley Electric has 25 interconnection requests totaling 3,952 MW of new capacity for a peak system demand of 135 MW; (2) although Valley Electric only comprises 0.27 percent of CAISO's gross load, it comprises six percent of the total interconnection requests; and (3) independent data from neutral resources confirm that Death Valley receives more solar radiance than anywhere in the country.³⁶

23. With respect to how CAISO intends to annually assess the "significant interest" criterion, CAISO states that it would do so through the interconnection queue, planning processes, involvement with public utility commission proceedings, and load profiling.³⁷ CAISO states that maintaining "significant interest" would depend on the specific facts and circumstances.³⁸ For example, a Certified Small PTO would not likely lose its status if no generators sought interconnection in its footprint for a single year, but a lack of new interconnection requests over a span of successive years may be more determinative. CAISO further states that if a relatively high number of existing interconnection customers withdrew their interconnection requests that would likely be cause for determining that there is no significant interest.

24. In response to Staff's questions concerning how the program would apply to PTOs subject to a renewable portfolio standard, CAISO explains that it proposes to treat transmission owners who have already met a renewable portfolio standard the same as those who are not subject to a renewable portfolio standard because, in both situations,

³⁵ CAISO Deficiency Response at 2.

³⁶ *Id.* at 3-4.

³⁷ *Id.* at 5.

³⁸ *Id.*

neither transmission owner has a need to procure additional renewable resources.³⁹ Instead, a load-serving entity other than the transmission owner would be the one with a need to procure additional resources. Accordingly, CAISO believes that the transmission owners would not be the sole beneficiaries such that their ratepayers should be allocated all of the costs of the network upgrades to support incremental generation for another load-serving entity simply because of the location and voltage of the interconnection.⁴⁰ CAISO states that these transmission owners' ratepayers will still cover their proportionate share of the cost of these network upgrades because the network upgrade costs will be recovered through the regional high-voltage transmission access charge, which is recovered from all CAISO ratepayers based on their respective gross load.

25. In response to Staff's questions about the procurement of new generation by a Certified Small PTO, CAISO states that low-voltage network upgrade costs associated with new generation that is the result of a Certified Small PTO's own procurement efforts will be recovered through the Certified Small PTO's local transmission access charge.⁴¹ However, if the Certified Small PTO relies on new generation that interconnects to its low-voltage transmission facilities to meet its renewable portfolio standard, CAISO states that it will no longer be eligible for Certified Small PTO status because it will not satisfy CAISO's third criterion.⁴²

26. Lastly, in response to Staff's question to explain how all CAISO transmission customers will benefit from low-voltage interconnection-driven network upgrades in Valley Electric's service territory, CAISO states that transmission customers will benefit from generators interconnecting at the most cost-efficient point of interconnection.⁴³ CAISO states that, but for Valley Electric's low-voltage system, generators would have to interconnect at more expensive points on the grid, likely on the high-voltage system. CAISO also states that the whole system benefits from the additional generation that the upgrades to the low-voltage system enable.⁴⁴ CAISO further notes that generator-interconnection network upgrades generally have no other purpose and provide no other benefit than to enable the reliable interconnection of the generator, and that customers

³⁹ *Id.* at 7.

⁴⁰ *Id.*

⁴¹ *Id.* at 8.

⁴² *Id.*

⁴³ *Id.* at 9.

⁴⁴ *Id.*

benefit from the power they provide, the increase in competition, and fulfillment of public policy goals.

C. Comments on CAISO's Deficiency Letter Response

27. Valley Electric and GridLiance filed comments in support of CAISO's response to the deficiency letter, urging the Commission to accept CAISO's tariff amendments as filed.⁴⁵ Valley Electric states that CAISO's response to question number 3(c) requires some clarification in that it incorrectly states that becoming subject to a renewable portfolio standard alone will automatically disqualify an entity from being a Certified Small PTO.⁴⁶ Valley Electric asserts that according to the tariff amendment, a Certified Small PTO may satisfy the requirement if it has already fulfilled its renewable portfolio standard or sufficiently contracted with resources that have achieved commercial operation or will achieve commercial operation within a year.⁴⁷ With this clarification, Valley Electric continues its support. GridLiance also notes that the Commission has accepted other proposals to address similar problems in other territories, including the Southwest Power Pool, Inc. (SPP).⁴⁸ Additionally, GridLiance states that Valley Electric would not be required to credit interconnection customers for the costs of network upgrades had it not joined CAISO.⁴⁹ Specifically, GridLiance argues that non-jurisdictional entities, such as Valley Electric, would not be required to pay credits for network upgrade costs, unless they already made such payments for their own generation.⁵⁰

⁴⁵ Valley Electric Comments on the Deficiency Response at 2; GridLiance Comments on the Deficiency Response at 4.

⁴⁶ Valley Electric Comments on the Deficiency Response at 3 (quoting CAISO Deficiency Response at 8).

⁴⁷ *Id.*

⁴⁸ GridLiance Comments on the Deficiency Response at 11 (citing *Sw. Power Pool, Inc.*, 127 FERC ¶ 61,283, at P 5 (2009) (*SPP*)).

⁴⁹ *Id.* at 13.

⁵⁰ *Id.* (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *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. &

28. SoCal Edison again argues that the existing cost allocation methodology is not materially flawed and should be maintained given the unique transmission systems in CAISO.⁵¹ Turning to the individual questions, SoCal Edison first argues that CAISO fails to explain how all customers will benefit from low-voltage interconnection-driven network upgrades, and that its current statements are inconsistent with prior testimony submitted in its Order No. 1000⁵² compliance filing.⁵³ SoCal Edison states that network upgrades benefit the robustness and resiliency of the low-voltage system and provide benefits to local customers, which even the Commission has acknowledged.⁵⁴ Lastly, SoCal Edison argues that CAISO's proposal fails to align costs commensurate with benefits, despite CAISO's claim to do exactly that.⁵⁵

29. Subsequently, CAISO filed an answer to SoCal Edison's comments on its deficiency response arguing that SoCal Edison's comments overlook the fundamental cost allocation issue currently facing Valley Electric. First, CAISO acknowledges that its high-voltage, low-voltage transmission access charge split should be maintained and has worked well for nearly two decades. It further notes that it has no intention of revising this methodology or its voltage distinctions. Nevertheless, CAISO asserts that the cost allocation methodology creates inequities when applied to Valley Electric in light of interest of generators to interconnect to its low-voltage system.⁵⁶ CAISO further argues that, while Valley Electric does benefit from being a member in CAISO, its benefits are

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)).

⁵¹ SoCal Edison Comments on the Deficiency Response at 1-2.

⁵² *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *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), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁵³ SoCal Edison Comments on the Deficiency Response at 2-3 (citing CAISO Order No. 1000 Compliance Filing, Docket No. ER13-103-000 (filed Oct. 11, 2012)).

⁵⁴ *Id.* at 4 (quoting Order No. 2003-A, FERC Stats. & Regs. ¶ 31,146 at P 584).

⁵⁵ *Id.* at 6.

⁵⁶ CAISO Aug. 17, 2017 Answer to SoCal Edison at 5-6.

not commensurate with the costs that it faces.⁵⁷ Next, CAISO argues that SoCal Edison's reliance on Order No. 1000 testimony and precedent is taken out of context, and that Order No. 1000 addresses only network upgrades approved through the annual transmission planning process, not generator-interconnection-driven network upgrades.⁵⁸ Lastly, CAISO argues that SoCal Edison's reliance on Order No. 2003 actually supports CAISO's proposal, in that its proposal "looks beyond the direct usage related benefits usually associated with transmission system enhancements," and recognizes the benefits of "more competitive power markets that result from a policy that facilitates the interconnection of new generating facilities."⁵⁹

III. Discussion

A. Procedural Matters

30. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2017), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

31. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2017), prohibits an answer to a protest and an answer to an answer unless otherwise ordered by the decisional authority. We accept the aforementioned answers, because they have provided information that has assisted us in our decision-making process.

B. Substantive Matters

32. We find that CAISO has failed to support its proposal as just and reasonable and not unduly discriminatory or preferential, and therefore, reject it without prejudice.

33. CAISO asserts that the local allocation of low-voltage network upgrade costs combined with Valley Electric's small size and the high demand for generator interconnection in Valley Electric's service territory will result in inequitable cost allocation. To remedy this cost allocation issue for Valley Electric, and potential similarly situated PTOs in the future, CAISO proposes to create a new class of PTO called the Certified Small PTO. However, CAISO has not demonstrated that its proposal

⁵⁷ *Id.* at 7-8.

⁵⁸ *Id.* at 8-9.

⁵⁹ *Id.* at 9 (quoting Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 584).

allocates the costs of network upgrades to those that benefit from the network upgrades.⁶⁰ In the past, CAISO has justified its cost allocation methodology by explaining, with supporting evidence, that low-voltage facilities generally support local service and that the high-voltage transmission facilities perform a backbone function that supports regional flows of bulk energy.⁶¹ CAISO now asserts, without supporting evidence, that low-voltage network upgrades on Valley Electric’s system—and only Valley Electric’s system, but not the systems of PG&E, SoCal Edison, and SDG&E—benefit customers throughout the region. While Valley Electric may offer generators a cost-efficient point of interconnection, which may result in lower interconnection costs generally, and some transmission customers may benefit from the generation that the low-voltage network upgrades enable, CAISO fails to demonstrate that network upgrades to Valley Electric’s low-voltage system benefit the regional transmission system users who are allocated the costs of such facilities under the CAISO proposal. CAISO’s proposal is inconsistent with the Commission’s cost causation principles⁶² because it shifts costs from a single PTO to all load in CAISO without providing evidence that CAISO transmission system users being allocated such costs benefit from the network upgrades to Valley Electric’s low-voltage transmission system.

34. To the extent CAISO is now arguing that, contrary to its prior assertions, network upgrades to low-voltage transmission systems provide benefits to CAISO’s entire system, CAISO has not justified why its proposed rate treatment should apply only to Valley Electric and not all CAISO PTOs. For example, CAISO has not explained why similar network upgrades to the low-voltage systems of the PG&E, SoCal Edison, and SDG&E do not similarly benefit the regional transmission system users. Although CAISO attempts to distinguish PTOs based on whether they are subject to a renewable portfolio standard, this distinction has no basis in the Commission’s policy concerning the benefits of network upgrades. The Commission has found that network upgrades represent

⁶⁰ See *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) (“FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation to the costs sought to be shifted to its members.”); *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (“Not surprisingly, we evaluate compliance with [the cost causation] principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party.” (citing *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300-01 (D.C. Cir. 1992))).

⁶¹ See, e.g., CAISO Order No. 1000 Compliance Filing, Docket No. ER13-103-000, at 26-31 (filed Oct. 11, 2012).

⁶² See *supra* note 60.

improvements to the integrated transmission system and that these benefits to the transmission system are considered independent from any benefits customers may receive as a result of generation that interconnects to the system.⁶³

35. The Commission has previously considered proposals regarding alternative cost allocation methodologies for network upgrades assigned to low-load zones.⁶⁴ For example, the Commission granted a complaint by Interstate Power and Light Company (IPL) contending that its load was unfairly paying for network upgrades used to export power to other zones in Midcontinent Independent System Operator, Inc. (MISO). The Commission agreed, finding that the interaction of a zonal cost allocation to IPL load and the 100 percent reimbursement policy to interconnection customers resulted in inadequate protection against improper subsidy.⁶⁵ The Commission accepted the proposed remedy in the complaint to require interconnection customers to pay at least 90 percent of the cost of network upgrades without reimbursement in the affected zone.⁶⁶ The situation in CAISO has some similarities with respect to the events that led to the IPL complaint, but rather than allocate costs commensurate with benefits, CAISO seeks to allocate the costs regionally.

36. The Commission has also accepted alternative rate treatments due to an unanticipated imbalance of benefits to costs caused by a high concentration of generator interconnections in low-load areas. As GridLiance notes, in SPP, the Commission accepted a deviation from that RTO's cost allocation methodology for network upgrades associated with wind generation, because the wind generation was located in a low-load area.⁶⁷ The Commission stated: “[w]e find it reasonable for SPP to institute a cost allocation methodology that appropriately addresses the issues created by these location-constrained wind resources, even if it is dissimilar to the allocation methodology for other

⁶³ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 585.

⁶⁴ In Order No. 2003, the Commission allowed flexibility for Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) to propose different methods of cost allocation, because their independence reduces concerns about whether all generation owners will be treated comparably. Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 701. We note that CAISO did not request an independent entity variation from Order No. 2003 in this proceeding.

⁶⁵ *Interstate Power & Light Co. v. ITC Midwest, LLC*, 144 FERC ¶ 61,052, at P 40 (2013).

⁶⁶ *Id.* P 1.

⁶⁷ *SPP*, 127 FERC ¶ 61,283 at P 28.

resources.”⁶⁸ SPP’s accepted solution directly assigned 33 percent of costs associated with wind generation to interconnection customers and assigned 67 percent of costs to the entire SPP region.⁶⁹

37. The Commission also considered an alternative rate proposal from MISO.⁷⁰ MISO proposed to assign interconnection customers 100 percent of the costs of network upgrades rated below 345 kV and 90 percent of the network upgrades rated at 345 kV and above (with the remaining 10 percent of the costs being recovered on a system-wide basis). The Commission found MISO’s solution to be a reasonable implementation of the discretion afforded in Order No. 2003 to independent entities in crafting cost allocation methodologies for interconnection driven network upgrades.⁷¹ The Commission also found that MISO’s solution better aligned costs with benefits and was “on balance a reasonable solution.”⁷²

38. In *SPP* and *MISO*, the Commission accepted alternative cost allocation proposals that assigned a portion of the interconnection driven network upgrade costs to the interconnection customer, finding that the proposals better aligned costs and benefits. By way of contrast, in the CAISO proposal, none of the costs of interconnection related network upgrades would be allocated to the interconnection customer. Also, unlike these proposals, CAISO attempts to effectively carve out just one transmission owner from its general cost allocation methodology for interconnection related network upgrades.

39. Even assuming, *arguendo*, that consideration of the need for renewable development is supported by the Commission’s cost causation principles, the process by which CAISO proposes to assess whether a PTO should receive the alternative rate treatment afforded to Certified Small PTOs is vague and unsupported. It is unclear how CAISO would determine how a particular PTO should become a Certified Small PTO. For example, CAISO’s proposal requires that a Certified Small PTO be located in an area where there is “significant interest” in renewable development.⁷³ However, CAISO does not adequately explain how it would determine whether a proposed Certified Small PTO

⁶⁸ *Id.* P 29.

⁶⁹ *Id.* P 4.

⁷⁰ *Midwest Indep. Transmission Sys. Operator, Inc.*, 154 FERC ¶ 61,073, at P 3 (2016) (*MISO*).

⁷¹ *Id.* P 25.

⁷² *Id.* PP 17, 23.

⁷³ CAISO Transmittal at 8-9.

is located in an area with a “significant interest” in renewable development, a vague standard that is only compounded by CAISO’s statement that it will make this determination on a case-by-case basis.

40. Of additional concern is CAISO’s proposal to allow stakeholders to decide whether to grant alternative Certified Small PTO rate treatment; stakeholders are interested parties that may be impacted by the determination that a PTO should become a Certified Small PTO.

41. For the foregoing reasons, we find that CAISO’s proposal is unjust and unreasonable and unduly discriminatory or preferential, and we therefore reject it without prejudice. Because we are rejecting CAISO’s proposal, we need not address the substantive concerns raised by SoCal Edison. If CAISO submits another proposal pursuant to FPA section 205, parties will have an opportunity to intervene and comment in that proceeding.

The Commission orders:

CAISO’s tariff amendments are hereby rejected without prejudice, as discussed in the body of this order.

By the Commission. Commissioner LaFleur is dissenting with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation

Docket Nos. ER17-1432-000
ER17-1432-001

(September 1, 2017)

LaFLEUR, Commissioner, *dissenting*:

In today's order, the Commission rejects a proposal from the California Independent System Operator Corporation (CAISO) to create a new class of participating transmission owner (PTO) – the Certified Small PTO – whose low-voltage, generator-interconnection-driven network upgrade costs would be allocated regionally, rather than locally. The proposal also sought to make Valley Electric Association (Valley Electric) a Certified Small PTO. I disagree with the majority's decision to reject this proposal, which I believe is just and reasonable and would result in allocating the costs at issue in a manner commensurate with the benefits that accrue to the customers involved.

My assessment reflects the unique set of circumstances underlying CAISO's innovative proposal. First, CAISO is made up of three large load-serving PTOs in the state of California serving more than 99 percent of CAISO's load, and one very small PTO in the state of Nevada, Valley Electric, serving less than 1 percent of CAISO's load. Second, the state of California has very ambitious targets for the procurement of renewable energy.¹ Finally, the location of Valley Electric has led to a volume of interconnection requests to meet California's renewable targets that is grossly disproportionate to its customer base.² It is simply unfair to require the 0.27 percent of CAISO's customer base in Nevada to bear the costs of these interconnections, which are not remotely commensurate with the benefits they receive.³ Rather, I believe the

¹ While the state of Nevada has also adopted a renewable portfolio standard, it is relatively less stringent, and, as a small electric cooperative, Valley Electric is not required to meet it.

² Specifically, CAISO states that it has received 25 interconnection requests, comprising 3,952 MW of new generating capacity, to connect to Valley Electric's low-voltage system; CAISO notes that these figures dwarf Valley Electric's peak demand of 135 MW. CAISO Transmittal at 11.

³ See *Ill. Commerce Comm'n v. FERC*, 576 F.3d 470, 476 (7th Cir. 2009) ("FERC is not authorized to approve a pricing scheme that requires a group of utilities to pay for facilities from which its members derive no benefits, or benefits that are trivial in relation

customers in California, whose policies are driving the costs, should largely bear the burden of these costs. The CAISO proposal achieves that objective in a pragmatic way.

I recognize that the CAISO proposal does not strictly hew to the Commission's typical treatment of generation-interconnection-driven network upgrades. However, I believe it is a just and reasonable solution to a discrete problem driven by the configuration of CAISO. I believe that the proposed criteria to qualify as a Certified Small PTO entitled to this exception are sufficiently strict to ensure that it will only be applied in appropriately narrow circumstances. Thus, I believe that any differential treatment between those PTOs who qualify and those who do not is fair and "due" discrimination, not "undue discrimination" under the Federal Power Act.

While I recognize that there were other ways that CAISO could have addressed the issue, it is axiomatic that in any given circumstance there can be more than one just and reasonable rate.⁴ The Commission need only determine that the proposal before it

to the costs sought to be shifted to its members."); *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) ("Not surprisingly, we evaluate compliance with [the cost causation] principle by comparing the costs assessed against a party to the burdens imposed or benefits drawn by that party." (citing *KN Energy, Inc. v. FERC*, 968 F.2d 1295, 1300-01 (D.C. Cir. 1992))). While the majority order cites these court decisions to support rejecting CAISO's proposal, *see California Indep. Sys. Operator Corp.*, 160 FERC ¶ 61,047, at n. 60 (2017), I believe that CAISO's proposal is consistent with the cost causation principles established in those decisions.

⁴ *See, e.g., New England Power Generators Assoc. Inc. v. ISO New England Inc.*, 150 FERC ¶ 61,064, at P 19 (2016) (citing *PJM Interconnection, L.L.C.*, 119 FERC ¶ 61,063, at P 39 (2007) ("[t]he Commission has permitted different just and reasonable rate designs reflective of particular system characteristics and stakeholder input. In this regard, we have stated our deference to regional preferences a number of times, for instance in Order No. 2000, and in *PJM Interconnection LLC*, 96 FERC ¶ 61,060, at 61,220 (2001), as well as in our approval of rate designs for difference regional markets") (citing *Sw. Power Pool, Inc.*, 106 FERC ¶ 61,110, at 61,397 (2004); *Sw. Power Pool, Inc.*, 111 FERC ¶ 61,118, at 761,643 (2005); *Cal. Indep. Sys. Operator Corp.*, 109 FERC ¶ 61,301 (2004), *reh'g denied*, 111 FERC ¶ 61,337 (2005); *New England Power Pool and ISO New England, Inc.*, 109 FERC ¶ 61,252 (2004), *order granting clarification*, 110 FERC ¶ 61,003 (2005)); *Midwest Indep. Transmission Sys. Operator, Inc.*, 127 FERC ¶ 61,109, at P 20 (2009) ("[i]t is well established that there can be more than one just and reasonable rate"); *New York Indep. Sys. Operator, Inc.*, 126 FERC ¶ 61,320, at P 40 (2009) ("there can be more than one just and reasonable planning process and RTOs and ISOs are not required to have identical planning processes"))).

satisfies the legal standard, not that it was the only or even the best solution available.⁵ Further, the Commission can and does extend flexibility to regional transmission organizations to meet cost allocation challenges driven by their geographic and political circumstances.⁶

Finally, while I recognize that this case relates to generator interconnections rather than transmission projects selected in a regional transmission planning process, I believe that CAISO's proposal is consistent in spirit with the planning principles of Order No. 1000⁷ related to transmission projects driven by public policy requirements. Since the interconnections to Valley Electric are helping California to meet the public policy requirements it has established on behalf of its customers, broadly spreading those costs to California customers—rather than directing them solely to the 0.27 percent of customers in Nevada—simply makes common sense. While not dispositive, I also note that the CAISO proposal was the result of a full stakeholder process that included those who would bear the costs at issue.

For these reasons, I respectfully dissent.

Cheryl A. LaFleur, Commissioner

⁵ See, e.g., *Cities of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984) (“FERC has interpreted its authority to review rates under this provision of the [FPA] as limited to an inquiry into whether the rates proposed by a utility are reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs”), *cert denied*, 469 U.S. 917 (1984); *OXY USA, Inc. v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995) (“[T]he Commission may approve the methodology proposed in the settlement agreement if it is 'just and reasonable'; it need not be the only reasonable methodology or even the most accurate.”).

⁶ See, e.g., *Interstate Power & Light Co. v. ITC Midwest, LLC*, 144 FERC ¶ 61,052, at P 40 (2013); *Sw. Power Pool, Inc.*, 127 FERC ¶ 61,283, at P 5 (2009).

⁷ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *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), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).