



Testimony, none of the CAISO witnesses referred to or relied on any project sponsor bids (other than those already in the record), CAISO bid materials, final cost reports, or drafts and communications related to third party Approved Project Sponsor Agreement (“APSA”) negotiations DCRT is now seeking.

DCRT easily could have requested the information it now seeks in connection with preparation of its rebuttal testimony in December 2025 and before the close of the discovery period. It did not. Instead, DCRT now seeks this information, unrelated to the competitive solicitation underlying the issues in this proceeding, going back 12 years. Waiting until this late hour to request this information is unduly burdensome and prejudicial to the CAISO and will unnecessarily and unduly tax the CAISO’s limited staff resources as it tries to (1) prepare for the hearing that starts April 8 and (2) complete two extensive competitive solicitation reports for the ongoing competitive solicitations, which are scheduled for decision this month. The CAISO personnel working on those matters are the same personnel that will be required to respond to the data requests.

DCRT is seeking highly confidential third-party information in the possession of the CAISO related to competitor bids and contract negotiations of competitors. In this answer, the CAISO provides details on Commission-approved provisions of the CAISO Tariff governing the confidentiality of third party information in the possession of the CAISO implicated by the Motion to Compel which require the CAISO to consult with those third parties whose confidential information DCRT is seeking. To date, the CAISO has received

responses from several of those impacted project sponsors who were provided notice to other project sponsors who confidential information DCRT is seeking. Those third party project sponsors, who are not parties to this proceeding, have contacted the CAISO and strongly object to the disclosure of their competitive solicitation bids under any circumstances, even when designated as “PRIV-HC” under the protective order in this proceeding.

The CAISO is preparing this answer under significant time and resource constraints. During the week since DCRT filed its first Motion to Compel, the CAISO has been required to respond to four additional sets of DCRT discovery requests as well as providing limited objections to those discovery requests in addition to preparing for the resumption of the hearing next week and preparing materials due on April 3 under the procedural schedule. CAISO transmission planning staff have also been processing two competitive solicitations due to be completed in April which require internal approval of the approved project sponsor in advance of the CAISO’s public announcement of the results of that solicitation and the drafting of two detailed Approved Project Sponsor selection reports. Due to these resource and time constraints, the CAISO is submitting a brief answer and respectfully requests that Your Honor allow the CAISO to supplement its arguments during the oral argument scheduled on the two Motions to Compel scheduled for April 6, 2026.

**I. Answer to Motion to Compel**

In its March 26 Motion to Compel, DCRT requests that Your Honor issue an order directing the CAISO to respond to data request DCRT-CAISO-10.09 (Data Request 10.09), which states:

**DCRT-CAISO-10.09:**

Refer to the Le Vine rebuttal testimony (Exh. No. CSO-0601 PUB starting at Page 9 of 132) where Witnesses Le Vine is asked: “At pages 38 and 39 of his Rebuttal Testimony (Exh. No. DCT-0125 REV2 PUB), Witness Reed provides a table listing and summarizing the Approved Project Sponsor Agreements the CAISO has executed and attempts to draw several conclusions from them. Do you have any comments regarding this discussion?”.

- a. Please provide all Project Sponsor bids or applications and any revised bids or applications provided by the transmission developer bidder for each APSA executed by the CAISO listed on the referenced table.
- b. Please provide all bidding materials provided by the CASIO [sic] for each competitive process that resulted in an APSA listed on the referenced table.
- c. For each APSA listed on the referenced table executed by the CAISO that is subject to a cost cap, please provide the amount of the cap, the amount of final costs that were subject to the cost cap and any other costs, such as interconnection costs, that were outside the cost cap.

DCRT’s March 31 Motion to Compel also requests that Your Honor issue an order directing the CAISO to respond to portions of data request DCRT-CAISO-11.07 (Data Request 11.07) and portions of data request DCRT-CAISO-11.08 (Data Request 11.08), which provide in relevant part:

**DCRT-CAISO-11.07:**

Referring to Witness Le Vine’s Rebuttal Testimony (Exh. No. CSO-0601 PUB, at 9) where Witness Le Vine is asked: “At pages 38 and 39 of his Rebuttal Testimony (Exh. No. DCT-0125 7 REV2 PUB), Witness Reed provides a table listing and summarizing the Approved

Project Sponsor Agreements the CAISO has executed and attempts to draw several conclusions from them.”

- a. For each APSA the CAISO has executed that is subject to a cost cap or containment mechanism, please provide the amount of the cap, the amount of final costs that were subject to the cost cap and any other costs, such as interconnection costs, that were outside the cost cap.
- b.
- c. Please provide the final cost reports provided by the transmission developers for each of the executed APSAs between 2015 and 2026.
- d. For each project selected by CAISO between 2015 and 2026, please provide all APSA drafts and related communications exchanged by the relevant parties over the course of the negotiation of each project.

**DCRT-CAISO-11.08:**

Witness Le Vine states: “The Suncrest project has been constructed, Estrella is pending construction. The APSAs for both projects permit cost escalation for inflation in the event of project delays.” (Exh. No. CSO-0601 PUB, at 36, lines 7-9).

- a.
- b. Are the Suncrest and Estrella agreements silent as to the inflation index that will be used to calculate the adjustment? If so, how would CAISO administer the escalation of these contracts’ cost caps? Please provide all documents or other evidence in the CAISO’s possession as to the intent of these contracts with regard to the use of any escalation factor.

**A. The Motion to Compel Seeks Information That is Beyond the Scope of Rebuttal Testimony**

Both Data Request 10.09 and Data Request 11.07 state that they are based on a single page of CAISO Witness Le Vine’s Testimony responding to a table of APSAs in Witness Reed’s testimony. When preparing her Rebuttal Testimony, Witness Le Vine did not rely on or even review any of the project sponsor bids or other confidential data of third-party project sponsors sought in the DCRT data requests. The page of Witness Le Vine’s Rebuttal Testimony cited in both Data Requests 10.09 and 11.07 contains no discussion of the third

party project sponsor bids or other confidential data of third-party project sponsors sought by DCRT. Other than the DCRT bid, Witness Le Vine’s entire Rebuttal Testimony only relies on a single third-party project sponsor bid, which is already in the record in this proceeding.<sup>3</sup>

In its Motions to Compel, DCRT attempts to reframe its data requests by references to various general statements in Witness Le Vine’s Rebuttal Testimony that the various APSAs on Witness Reed’s table reflect details of project sponsor bids. First, these statements reflect a general CAISO practice rather than the specifics of any bid. With respect to cost caps – the only APSA issue in this case – these general statements are supported by Section 10.1.1 of the *pro forma* APSA, which provides that the APSA should incorporate “the Project cost cap or any other any other binding cost cap measures agreed-to or proposed by the Approved Project Sponsor.”<sup>4</sup> Moreover, these general statements are not a new position presented by Witness Le Vine in her rebuttal Testimony. In her September 17, 2025, Answering Testimony, Witness Le Vine stated, “One of the main reasons for requiring Approved Project Sponsors to execute an Approved Project Sponsor Agreement is to establish a contractual basis for enforcing a cost cap or cost containment measure proposed by a Project Sponsor in its bid.”<sup>5</sup> DCRT could have requested the information it now seeks in response to Witness Le Vine’s Answering Testimony, but it did not. It has instead waited until the eve of the resumed hearing to request it. The

---

<sup>3</sup> See Exh. No. CSO-0601 PUB at 13-14 (citing Exh. No. CSO-0372 PRIV at 8, 82).

<sup>4</sup> Exh. No. CDN-0003 at 19-20.

<sup>5</sup> Exh. No. CSO-0001 PUB at 44.

CAISO's position on these issues has been consistent. Exh. No. CSO-0394 reiterates the CAISO's position on these issues in a data response provided by the CAISO to DCRT in October 2025, DCRT-CAISO-3.03. The CAISO's response states:

The application and supporting documentation submitted by a project sponsor forms the basis for the CAISO's selection of an Approved Project Sponsor who will then enter into an Approved Project Sponsor Agreement that reflects the terms and conditions upon which it agreed to finance, construct, own, maintain, operate in its application and supporting materials.<sup>6</sup>

This is further reinforced by CAISO's response to DCRT-CAISO-3.02, included here as Attachment 1 to this answer.

DCRT confirmed its understanding of the CAISO's position on these issues prior to the close of general discovery in December in a CAISO data request provided to DCRT on December 3, 2025<sup>7</sup> where CAISO requested and received confirmation DCRT understood that an APSA is intended to reflect the commitments the Approved Project Sponsor made in the competitive solicitation bid and supporting documentation, and the CAISO cannot unilaterally dictate what cost containment measures they propose or unilaterally impose new ones.

DCRT cannot claim that this long-established CAISO position on how cost caps in project sponsor bids are incorporated into APSAs is some new position that requires discovery during a period when discovery is "limited to New Rebuttal Testimony."<sup>8</sup> There is nothing new about the statements of Witness Le

---

<sup>6</sup> Exh. No. CSO-0394.

<sup>7</sup> Exh. No. CSO-0313.

<sup>8</sup> March 2026 Order on Procedural Schedule.

Vine DCRT now cites to support the data requests that are the subject of its Motions to Compel.

As noted above, even assuming third-party project sponsor bids and other third-party project sponsor confidential information sought by DCRT in its Motions to Compel are relevant in this proceeding, DCRT had plenty of time to submit follow up discovery requests to the CAISO on this matter before the general discovery period in this proceeding ended on December 23, 2025. DCRT did not do so. It is unduly burdensome and prejudicial to wait until this last minute to ask for this information now just when the CAISO is trying to prepare for hearing and respond to the nine sets of discovery requests DCRT sent to the CAISO over a two and a half week period.

DCRT's references to CAISO Witness Davis's Rebuttal Testimony in their Motions to Compel are perplexing. Witness Davis's testimony is solely based on a review of the DCRT bid and the DCRT APSA. She acknowledges the existence of other APSAs that include inflation adjustments – all of which are in the record in this proceeding – but Dr. Davis does not refer to or rely on any bid other than the DCRT bid, which is also already in the record. As such, there is no connection between the Rebuttal Testimony of CAISO Witness Davis and the information DCRT seeks in its Motions to Compel.

**B. The Motion to Compel Seeks Highly Confidential Information on Third Party Competitors to DCRT Which Should Not Be Disclosed in This Proceeding**

In its Motions to Compel DCRT asks Your Honor to compel the CAISO to provide DCRT with highly confidential information provided to the CAISO by

competitors of DCRT and its affiliates in CAISO competitive solicitations over the strenuous objections of those competitors.

With certain exceptions not relevant here, the CAISO Tariff requires the CAISO to “maintain the confidentiality of all of the documents, data and information provided to it by any Market Participant that are treated as confidential or commercially sensitive under Section 20.2.”<sup>9</sup> Section 20.2 of the CAISO Tariff defines confidential information to include “Information that involves proprietary analytical tools, computer codes, or any other material that is protected by intellectual property rights held by the CAISO, *Project Sponsor*, Market Participant or other third-party.”<sup>10</sup>

The CAISO Business Practice Manual for Transmission Planning allows project sponsors to designate a range of information provided to the CAISO in their bids or applications as confidential, subject to the confidentiality provisions of the CAISO Tariff.<sup>11</sup> In practice, most details of project sponsor submittals to the CAISO, including data and information that would be responsive to Data Request 10.09, are submitted subject to confidentiality protections. This is unsurprising as the details of project sponsor bids – particularly successful bids – would be highly useful not only to transmission project developers like DCRT but

---

<sup>9</sup> CAISO Tariff, Section 20.1.

<sup>10</sup> CAISO Tariff, Section 20.2(f) (emphasis added).

<sup>11</sup> CAISO Business Practice Manual for Transmission Planning Process (Version 28), Section 5.3.3.2 (stating in relevant part that “[t]o the extent a project sponsor considers any of the information submitted with its application to be confidential or proprietary[,] such information must be clearly identified and must include an explanation as to why the information should be handled by the CAISO as confidential”).

also to counsel and consultants who advise project sponsors participating in CAISO competitive solicitations.

Section 20.4 of the CAISO Tariff requires the CAISO to take certain steps with respect to confidential information provided to it by project sponsors and other third parties:

If the CAISO is required by applicable laws or regulations, or in the course of administrative or judicial proceedings, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section 20, the CAISO may disclose such information; provided, however, that as soon as the CAISO learns of the disclosure requirement and prior to making such disclosure, the CAISO shall notify any affected Market Participant of the requirement and the terms thereof. The Market Participant may, at its sole discretion and own cost, direct any challenge to or defense against the disclosure requirement and the CAISO shall cooperate with such affected Market Participant to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The CAISO shall cooperate with the affected Market Participant to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.<sup>12</sup>

For ease of reference, the CAISO is providing the relevant provisions of the CAISO Tariff and the Business Practice Manual for Transmission Planning as Attachment 2 to this answer.

Consistent with these Tariff provisions, the CAISO has provided notice to project sponsors whose applications and project information potentially will be affected by any requirement that might be imposed on the CAISO to disclose their data and information.<sup>13</sup> As required by the CAISO Tariff, the CAISO will

---

<sup>12</sup> CAISO Tariff, Section 20.4(b). In this context "Market Participant" includes Project Sponsors who have provided the CAISO with confidential information.

<sup>13</sup> Under Section 20.4(b) of its tariff, the CAISO arguably is not obligated to provide notice to affected third parties until the production of their confidential information is actually compelled but

cooperate with affected project sponsors “to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law.”

To the extent the CAISO is required to provide project sponsor confidential information as a result of Your Honor’s ruling on the Motions to Compel, the CAISO believes these requirements at a minimum will require it to submit any responses containing confidential information subject to PRIV-HC designation. Three project sponsors who are not parties to this proceeding have already contacted the CAISO and strongly object to the disclosure of their competitive solicitation bids under any circumstances, even when designated as PRIV-HC. By seeking the bids, updated bids, and other confidential information for every successful project sponsor in the CAISO competitive solicitation process, DCRT is effectively asking for everything needed to prepare a road map for winning future solicitations, including non-public bidding strategies and competitor assumptions, financials, and cost structures.

One impacted project sponsor asked the CAISO to highlight how the protective order allows for disclosure of “Highly Confidential Privileged Material” to “Reviewing Representatives” that have signed a non-disclosure certificate, noting that this would allow review by in-house and outside counsel, experts retained by a party, and party employees that are not currently “Competitive Duty Personnel.” Even if those individuals do not disclose specifics of project sponsor bids or other project sponsor data, a review of the confidential information DCRT

---

in order to facilitate the resolution of the Motion to Compel, the CAISO has already provided notice to affected project sponsors.

seeks would allow any reviewer to identify patterns of successful bidding strategies over the years. The third-party project sponsor asked the CAISO to explain how the protective order provides no protection against such individuals engaging in “competitive activities” in the future and leveraging the confidential competitive bid materials to disrupt the competitive process and directly compete against the successful project sponsors whose information DCRT is seeking.

Other project sponsors have raised comparable concerns. For example, another project sponsor asked the CAISO to highlight that competitive bids contain proprietary pricing strategies, cost structures, risk assumptions, and supplier relationships and the disclosure of this information to a competitor, even subject to a protective order, will cause harm to transmission developers that is “concrete and irreparable.” The CAISO is anticipating further feedback from impacted third party project sponsors prior to the April 6 oral argument and will present that feedback at the oral argument.

Given the serious concerns about providing the requested information even subject to a protective order, DCRT has not demonstrated that its requests for confidential information of competitors is justified.

## **II. Conclusion**

For the foregoing reasons, the CAISO respectfully requests that Your Honor reject DCRT’s Motions to Compel.

Respectfully submitted,

Anthony J. Ivancovich  
Deputy General Counsel  
Sarah Kozal  
Senior Counsel  
California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630  
Tel: (916) 351-4400  
Fax: (916) 608-7222  
Email: [aivancovich@caiso.com](mailto:aivancovich@caiso.com)  
[skozal@caiso.com](mailto:skozal@caiso.com)

**/s/ Sean A. Atkins**  
Sean A. Atkins  
Bradley R. Miliauskas  
Samin Peirovi  
Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 20005  
Tel: (202) 973-4200  
Fax: (202) 979-4499  
Email: [seanatkins@dwt.com](mailto:seanatkins@dwt.com)  
[bradleymiliauskas@dwt.com](mailto:bradleymiliauskas@dwt.com)  
[saminpeirovi@dwt.com](mailto:saminpeirovi@dwt.com)

Dated: April 2, 2026

## 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 above-referenced dockets, pursuant to the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 2<sup>nd</sup> day of April, 2026.

/s/ Deiman Flores

Deiman Flores  
Davis Wright Tremaine LLP  
1301 K Street, NW  
Suite 500 East  
Washington, DC 20005  
Tel: (202) 402-4037  
Email: [deimanflores@dwt.com](mailto:deimanflores@dwt.com)

# ATTACHMENT 1

CAISO Response to DCRT-CAISO-3.02

**CAISO Response to Data Request  
DCRT-CAISO-3.02**

**Request:**

Does the CAISO consider responses to a Request for Proposal to solicit competitive bids for the development, permitting and licensing, financing, construction, commissioning, ownership and operation of new transmission facilities identified in an approved transmission plan to be contractually binding offers?

- a. If the response is anything other than an unqualified no, does the response change where the responses are submitted without having the project fully permitted, project route/location finalized, and only preliminary design is completed at the time of the response?

**Response:**

Yes. The CAISO considers each response to a request for proposals in the competitive solicitation process to be a binding offer to own, finance, construct, operate, and maintain the specific project pursuant to the terms and conditions set forth in the project sponsor's competitive solicitation application and supportive documents and clarifications. CAISO Tariff Section 24.5.2.3 (Project Sponsor Information Requirements) states that,

[t]he application to be submitted to the CAISO by an entity desiring to become an Approved Project Sponsor shall include the following general information (as well as related details) in response to the questions on the application form: . . . (j) demonstrated cost containment capability of the Project Sponsor and its team, specifically, binding cost control measures the Project Sponsor agrees to accept, including any binding agreement by the Project Sponsor and its team to accept a cost cap that would preclude costs for the transmission solution above the cap from being recovered through the CAISO's Transmission Access Charge . . . .

CAISO Tariff section 24.5.4 (j) further states that a factor the CAISO will consider in the comparative analysis of project sponsors is the "demonstrated cost containment capability of the Project Sponsor and its team, specifically, binding cost control measures the Project Sponsor agrees to accept, including any binding agreement by the Project Sponsor and its team to accept a cost cap that would preclude costs for the transmission solution above the cap from being recovered through the CAISO's Transmission Access Charge..." Question P-12 of the competitive solicitation application asks: "Does the Project Sponsor propose a binding cost cap

Prepared by or under the supervision of: Deborah A. Le Vine

This response is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry. /s/ Deborah A. Le Vine

(or some other binding cost containment measures)? If so, specify the amount of the cost cap and describe the cost cap or other cost containment measures in detail.” The CAISO relies on the project sponsor’s submitted demonstrations, express cost containment proposals, and any associated cost cap or cost containment exclusions in comparing the proposals of all project sponsors for the selection of an approved project sponsor.

All project sponsor applications in a competitive solicitation process are submitted without having all the necessary permits, without route finalization, and subject to possible design changes. That is why binding cost caps submitted by project sponsors often contain specific cost cap exclusions that identify the project risks the project sponsor is unwilling to accept. To the extent there is no specific cost cap exclusion for a particular risk, the project sponsor is knowingly willing to accept such risk. Allowing the approved project sponsor to change the terms and conditions pursuant to which the approved project sponsor agreed in its application, including the specific cost containment measures and specified cost containment exceptions, after the CAISO has selected the approved project sponsor, would undo the rationale on which the CAISO’s decision to select an approved project sponsor was based in the first instance and would unfairly give the approved project sponsor an advantage the other project sponsors did not have.

Prepared by or under the supervision of: Deborah A. Le Vine

This response is true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry. /s/ Deborah A. Le Vine

## ATTACHMENT 2

Excerpt of CAISO Tariff and CAISO  
Business Practice Manual

## **20. Confidentiality**

### **20.1 CAISO**

The CAISO shall maintain the confidentiality of all of the documents, data and information provided to it by any Market Participant that are treated as confidential or commercially sensitive under Section 20.2; provided, however, that the CAISO need not keep confidential: (1) information that is explicitly subject to public data exchange pursuant to Section 6; (2) information that the CAISO or the Market Participant providing the information is required to disclose pursuant to this CAISO Tariff, or applicable regulatory requirements (provided that the CAISO shall comply with any applicable limits on such disclosure); or (3) information that becomes available to the public on a non-confidential basis (other than as a result of the CAISO's breach of this CAISO Tariff).

### **20.2 Confidential Information**

The following information provided to the CAISO shall be treated by the CAISO as confidential:

- (a) individual Bids;
- (b) CRR bids and other CRR Allocation nomination information;
- (c) transactions between Scheduling Coordinators, including Inter-SC Trades;
- (d) individual Generator Outage programs unless a Generator makes a change to its Generator Outage program which causes Congestion in the short term (i.e. one month or less), in which case, the CAISO may publish the identity of that Generator; and
- (e) The following information related to the resource adequacy program in accordance with Section 40:
  - (i) Annual and monthly Resource Adequacy Plans and Supply Plans;
  - (ii) Demand Forecasts; and
  - (iii) Information on existing import contracts.
- (f) The following information related to the Transmission Planning Process in accordance with Section 24:
  - (i) Information received under Section 24.8 to the extent such information has been designated as confidential in accordance with the Business Practice Manual;
  - (ii) Information deemed confidential by DMM, per Section 8.6 of Appendix P;

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

- (iii) Information received by the CAISO pursuant to agreements and contracts, executed prior to December 21, 2007, that preclude the release of the information;
- (iv) Information that involves proprietary analytical tools, computer codes, or any other material that is protected by intellectual property rights held by the CAISO, Project Sponsor, Market Participant or other third-party; and
- (v) Critical Energy Infrastructure information.

However, composite documents, data, and other information that may be developed based on confidential information under this Section shall not be deemed confidential if the composite documents, data, and other information do not disclose any confidential information of any individual Scheduling Coordinator, Market Participant, or other third-party or Critical Energy Infrastructure Information.

### **20.3 Other Parties**

No Market Participant shall have the right hereunder to receive from the CAISO or to review any documents, data or other information of another Market Participant to the extent such documents, data or information is to be treated as in accordance with Section 20.2; provided, however, a Market Participant may receive and review any composite documents, data, and other information that may be developed based upon such confidential documents, data, or information, if the composite document does not disclose such confidential data or information relating to an individual Market Participant and provided, however, that the CAISO may disclose information as provided for in its bylaws.

### **20.4 Disclosure**

Notwithstanding anything in this Section 20 to the contrary,

- (a) The CAISO: (i) shall publish individual bids ninety (90) days after the Trading Day with respect to which the bid was submitted and in a manner that does not reveal the specific resource or the name of the Scheduling Coordinator submitting the bid, but that allows the bidding behavior of individual, unidentified resources and Scheduling Coordinators to be tracked over time; (ii) may publish data sets analyzed in any public report issued by the CAISO or by the MSC, provided that such data sets shall be published no sooner than six (6) months after the latest Trading Day to which data in the data set apply, and in

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

a manner that does not reveal any specific resource or the name of any Scheduling Coordinator submitting bids included in such data sets; and (iii) shall, consistent with 18 CFR § 35.28 (g)(4), electronically deliver to FERC, on an ongoing basis and in a form and manner consistent with the CAISO's own collection of data and in a form and manner acceptable to FERC, data related to the CAISO Markets.

- (b) If the CAISO is required by applicable laws or regulations, or in the course of administrative or judicial proceedings, to disclose information that is otherwise required to be maintained in confidence pursuant to this Section 20, the CAISO may disclose such information; provided, however, that as soon as the CAISO learns of the disclosure requirement and prior to making such disclosure, the CAISO shall notify any affected Market Participant of the requirement and the terms thereof. The Market Participant may, at its sole discretion and own cost, direct any challenge to or defense against the disclosure requirement and the CAISO shall cooperate with such affected Market Participant to the maximum extent practicable to minimize the disclosure of the information consistent with applicable law. The CAISO shall cooperate with the affected Market Participant to obtain proprietary or confidential treatment of confidential information by the person to whom such information is disclosed prior to any such disclosure.
- (c) The CAISO may disclose confidential or commercially sensitive information, without notice to an affected Market Participant, in the following circumstances:
- (i) If the FERC, the Commodity Futures Trading Commission ("CFTC"), or the staff of one of those agencies, during the course of an investigation or otherwise, requests information that is confidential or commercially sensitive. In providing the information to FERC or its staff, the CAISO shall take action consistent with 18 C.F.R. §§ 1b.20 and 388.112, or to the CFTC or its staff, the CAISO shall take action consistent with 17 C.F.R. §§ 11.3 and 145.9, and request that the information be treated as confidential and non-public by the agency and its staff and that the information be withheld from public disclosure. The CAISO shall

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

provide the requested information to the agency or its staff within the time provided for in the request for information. The CAISO shall notify an affected Market Participant within a reasonable time after the CAISO is notified by the agency or its staff that a request for disclosure of, or decision to disclose, the confidential or commercially sensitive information has been received, at which time the CAISO and the affected Market Participant may respond before such information would be made public; or

- (ii) If the National Cyber Communication Information Center (“NCCIC,” part of the Department of Homeland Security), or a federal agency with similar cybersecurity responsibilities, or the staff of one of those agencies, requests information that is confidential or commercially sensitive in response to a Cyber Exigency that threatens or has the potential to threaten reliable operation of the CAISO Balancing Authority Area. In providing the information to the agency or its staff, the CAISO shall take action consistent with applicable laws and regulations, as well as other applicable policies or procedures of the agency, and request that the information be treated as confidential and non-public by the agency and its staff and that the information be withheld from public disclosure. The CAISO shall notify an affected Market Participant within a reasonable time after the CAISO is notified by the agency or its staff that a request for disclosure of, or decision to disclose, the confidential or commercially sensitive information has been received, at which time the CAISO and the affected Market Participant may respond before such information would be made public; or
- (iii) As provided in 18 C.F.R. § 35.47(h)(1), the CAISO may share Credit Related Information with another market operator if the receiving market operator will treat the Credit Related Information as confidential under the terms set forth in the receiving market operator’s FERC-approved tariff. If the CAISO receives Credit Related Information from another market operator, the CAISO will treat the information in accordance with the confidentiality protections in Section 20. The

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

CAISO will use the Credit Related Information received from another market operator to the same extent and for the same purpose as information received from its own Market Participants.

- (iv) In order to maintain reliable operation of the CAISO Balancing Authority Area, the CAISO may share critical operating information, system models, and planning data with the WECC Reliability Coordinator that has executed the Western Electricity Coordinating Council Confidentiality Agreement for Electric System Data, or is subject to similar confidentiality requirements; or
- (v) In order to maintain reliable operation of the CAISO Balancing Authority Area, the CAISO may share individual Generating Unit Outage information with the operations engineering and the outage coordination division(s) of other Balancing Authorities, Participating TOs, MSS Operators and other transmission system operators engaged in the operation and maintenance of the electric supply system whose system is significantly affected by the Generating Unit and who have executed the Western Electricity Coordinating Council Confidentiality Agreement for Electric System Data; or
- (vi) In order to maintain reliable operation of the CAISO Balancing Authority Area, the CAISO may share information regarding Maintenance Outages and Forced Outages of natural gas-fired generation resources and Maintenance Outages and Forced Outages of elements of the ISO Controlled Grid with natural gas transmission and distribution utilities operating inter-state and/or intra-state natural gas pipelines that serve natural gas-fired generation resources within the CAISO Balancing Authority Area. The CAISO may share information necessary for day-to-day coordination and longer term planning of gas transmission and pipeline outages which information includes, but is not limited to, the identity of individual natural gas-fired generation resources that are needed to support reliability of the ISO Balancing Authority Area in the event of natural gas shortage, natural gas pipeline testing and maintenance, or other curtailment of

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

natural gas supplies. The information will be shared only pursuant to a non-disclosure agreement and non-disclosure statement included as part of the Business Practice Manual.

- (d) Notwithstanding the provisions of Section 20.2(e), information submitted through Resource Adequacy Plans and Supply Plans in accordance with Section 40 may be provided to:
- (i) the Scheduling Coordinator(s) and/or Market Participant(s) involved in a dispute or discrepancy as to whether a resource is properly identified in a Resource Adequacy Plan or a Supply Plan only to the limited extent necessary to identify the disputed transaction and the relevant counterparty or counterparties.
  - (ii) the regulatory entity, whether the CPUC, other Local Regulatory Authority, or federal agency, with jurisdiction over a Load Serving Entity involved in a dispute or discrepancy as to whether a resource is properly identified in a Resource Adequacy Plan or the Supply Plan, or otherwise identified by the CAISO as exhibiting a potential deficiency in demonstrating compliance with resource adequacy requirements adopted by the CPUC, other Local Regulatory Authority, or federal agency, as applicable. The information provided shall be limited to the particular dispute, discrepancy, or deficiency.
  - (iii) the California Energy Commission with respect to Demand Forecast information provided to the CAISO under Sections 40.2.2.3 and 40.2.3.3(b) to the extent the CAISO seeks, and the California Energy Commission grants, confidential treatment of such information pursuant to California Public Resources Code Section 25322 and related regulations.
- (e) Notwithstanding the provisions of Section 20.2(f), information submitted through the Transmission Planning Process shall be disclosed as follows:
- (i) Critical Energy Infrastructure Information may be provided to a requestor where such person is employed or designated to receive CEII by: (a) a Market

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

Participant; (b) an electric utility regulatory agency within California; (c) an Interconnection Customer that has submitted an Interconnection Request to the CAISO under the CAISO's Large Generator Interconnection Procedure or Small Generator Interconnection Procedure (LGIP or SGIP); (d) a developer having a pending or potential proposal for development of a Generating Facility or transmission addition, upgrade or facility and that is performing studies in contemplation of filing an Interconnection Request or submitting a transmission infrastructure project through the CAISO Transmission Planning Process; or (e) a not-for-profit organization representing consumer regulatory or environmental interests before a Local Regulatory Authority or federal regulatory agency. To obtain Critical Energy Infrastructure Information, the requestor must submit a statement as to the need for the CEII, and must execute and return to the CAISO the form of the non-disclosure agreement and non-disclosure statement included as part of the Business Practice Manual. The CAISO may, at its sole discretion, reject a request for CEII and, upon such rejection, the requestor will be directed to utilize the FERC procedures for access to the requested CEII.

- (ii) Information that is confidential under Section 20.2(f)(i) or 20.2.(f)(ii) may be disclosed to any individual designated by a Market Participant, electric utility regulatory agency within California, or other stakeholder that signs and returns to the CAISO the form of the non-disclosure agreement, nondisclosure statement and certification that the individual is a non-Market Participant, which is any person or entity not involved in a marketing, sales, or brokering function as market, sales, or brokering are defined in FERC's Standards of Conduct for Transmission Providers (18 C.F.R. § 358 et seq.), included as part of the Business Practice Manual; provided, however, that information obtained pursuant to this Section 20.4(e)(ii) will be provided only in composite form so that information related to individual Load Serving Entities or Scheduling Coordinators will not be disclosed.

California Independent System Operator Corporation  
Fifth Replacement Electronic Tariff

- (iii) Data base and other transmission planning information obtained from the WECC, or its successor, may be disclosed to individuals designated by a Market Participant, electric utility regulatory agency within California, or other stakeholder in accordance with the procedures set forth in the Business Practice Manual.

Nothing in this Section 20 shall limit the ability of the CAISO to aggregate data for public release about the adequacy of supply.

**20.5 Confidentiality**

The CAISO shall implement and maintain a system of communications with Scheduling Coordinators that includes the strict use of passwords for access to data to ensure compliance with Section 20. Access within the CAISO to such data on CAISO's communications systems, including databases and backup files, shall be strictly limited to authorized CAISO personnel through the use of passwords and other appropriate means.

### 5.3.3.1 Opportunity for Collaboration

Any entity interested in collaborating with another entity may notify the CAISO of its interest in collaborating within ten (10) business days after the bid window to finance, construct, own, operate and maintain the regional transmission facility opens. The CAISO will post on its website a list, including contact information, of entities interested in collaborating. Project sponsors are not required to notify the CAISO to collaborate. After the bid window closes, there will be no further opportunity for project sponsors to collaborate.

### 5.3.3.2 Contents of Project Sponsor Applications

The project sponsor shall provide the information requested in the application, and any additional information subsequently requested by the CAISO that the CAISO finds relevant to the evaluation of the application. For each application question, if the project sponsor is submitting proposals to finance, construct, own, operate and maintain multiple regional transmission facilities open for competitive solicitation, the project sponsor should also indicate how its response would change depending on how many of its proposals are approved. For example, the project sponsor should describe how the projected in-service date of each project would be affected if the project sponsor is selected as the approved project sponsor for two or more of the regional transmission facilities eligible for competitive solicitation. To the extent a project sponsor considers any of the information submitted with its application to be confidential or proprietary; such information must be clearly identified and must include an explanation as to why the information should be handled by the CAISO as confidential. The identity of project sponsors and basic information included in the project sponsor's application is not confidential information.

The application is separated into specific sections. Each section specifies information to be provided and is assigned a unique identifier for each item of information required, for example, there are separate sections for sponsor qualifications, project qualification, environmental and public process items, substation related items, and so on.

Project Sponsors participating and desiring to become an Approved Project Sponsor shall submit an application that includes the following general information (as well as detailed information related to these general categories) in response to the questions on the application form:

- The following financial information:
  1. A proposed financial plan demonstrating that adequate capital resources are available to the Project Sponsor to finance the transmission solution, and that constructing, operating and maintaining the facilities will not significantly impair the Project Sponsor's creditworthiness or financial condition;
  2. A showing from the Project Sponsor's most recent audited financial statements that the Project Sponsor's assets are in excess of liabilities as a percentage of the total cost of the transmission solution;
  3. Financial funding ratios from the most recent audited financial statements;
  4. Credit arrangements between affiliated entities, including corporate parent, and compliance with regulatory restrictions and requirements; and,
  5. Bankruptcy, dissolution, merger or acquisition history;
- The credit rating from Moody's Investor Services and Standard & Poors of the Project Sponsor, or its parent company, controlling shareholder, or any other entity providing a bond guaranty or corporate commitment to the Project Sponsor;
- Information showing the Project Sponsor's ability to assume liability for major losses resulting from failure of, or damage to, the transmission facility, including damage after the facility has been placed into operation;
- The projected in-service date of each transmission solution with a construction plan and timetable;
- A description of the Project Sponsor's proposed engineering, construction, maintenance and management teams, including relevant capability and experience;
- A description of the Project Sponsor's resources for operating and maintaining the transmission solution after it is placed in-service;
- A discussion of the capability and experience of the Project Sponsor that would enable it to comply with all on-going scheduling, operating, and maintenance activities required for each transmission solution, including those required by the tariff, business practice manuals, policies, rules, guidelines, and procedures established by the CAISO;
- Resumes for all key management personnel, including contractors, that will be involved in obtaining siting approval and other required regulatory approvals and for constructing, operating and maintaining each transmission solution;
- A description of the Project Sponsor's business practices that demonstrate consistency with Good Utility Practice for proper licensing, designing and right-of-way acquisition for

constructing, operating and maintaining transmission solutions that will become part of the CAISO Controlled Grid;

- The Project Sponsor's previous record regarding construction, operation and maintenance of transmission facilities within and outside the CAISO Controlled Grid; or a detailed plan for constructing, operating, and maintaining transmission facilities in the absence of a previous record regarding construction, operation and maintenance of transmission facilities;
- The Project Sponsor's pre-existing procedures and practices for acquiring and managing right of way and other land for transmission facility, or, in the absence of preexisting procedures or practices, a detailed description of its plan for right of way and other land acquisition;
- A description of existing rights of way or substations upon which all or a portion of the transmission facility can be located and incremental costs, if any, that would be incurred in connection with placing new or additional facilities associated with the transmission solution on such existing rights of way;
- The Project Sponsor's preexisting practices or procedures for mitigating the impact of the transmission solution on affected landowners and for addressing public concerns regarding facilities associated with the transmission solution. In the absence of such preexisting practices or procedures, the Project Sponsor shall provide a detailed plan for mitigating such impacts and addressing public concerns;
- A description of the following and any related or relevant information regarding:
  1. a plan for addressing topography issues;
- Cost containment capabilities and cost cap, if any;
- Description of the Project Sponsor's plan for complying with standardized maintenance and operation practices and all applicable reliability standards;
- Any other strengths and advantages that the Project Sponsor and its team may have to build and own the transmission solution, as well as any specific efficiencies or benefits demonstrated in its Project Sponsor proposal; and
- The authorized government body from which the Project Sponsor will seek siting approval for the transmission solution and the authority of the selected siting authority to impose binding cost caps or cost containment measures on the Project Sponsor, as well as its history of imposing such measures.