Comments of the California Wind Energy Association and First Solar, Inc. on CAISO's September 13, 2013 Market Notice of Intention to Release Transmission Lines and Associated Facilities from Operational Control

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The California Wind Energy Association ("CalWEA") and First Solar, Inc. ("First Solar") jointly submit these comments to the California Independent System Operator Corporation's ("CAISO") September 13, 2013 Market Notice of Intention to Release Transmission Lines and Associated Facilities from Operational Control ("September 13 Market Notice"). CAISO proposes to relinquish operational control over certain Southern California Edison ("SCE") transmission lines and associated facilities in the East Kern Wind Resource Area ("EKWRA") and reclassify these facilities from transmission facilities to distribution facilities. Generators connected to these reclassified facilities will no longer operate under the CAISO tariff, but instead will have to obtain distribution service from SCE.

CalWEA and First Solar object to CAISO's proposed conversion and reclassification of the EKWRA facilities on three grounds: (1) The reconfigured EKWRA facilities do not qualify for conversion from transmission to local distribution facilities under applicable CAISO and FERC standards; (2) CAISO's proposal will disrupt the interconnection process for, and impose undue economic burdens on, Market Participants operating in the EKWRA; and (3) The September 13 Market Notice is premature as the proposed reconfiguration will not occur for several months.¹

¹ "Market Participant" is defined under the Amended and Restated Transmission Control Agreement ("TCA") as (among other things) an entity that participates in the CAISO Markets through the buying, selling, transmission or distribution of Energy, capacity, or Ancillary Services into, out of, or through the CAISO Controlled Grid.

1. The Reconfigured EKWRA Facilities Do Not Meet The Standards For Conversion From Transmission To Distribution Facilities

Section 4.7 of the TCA enumerates three (3) categories of facilities that may be released from CAISO's operational control: (1) directly assignable radial lines and associated facilities interconnecting Generation; (2) lines and associated facilities that should be classified as local distribution facilities or should otherwise be excluded from CAISO control under FERC established criteria; or (3) lines and associated facilities that are retired from service.²

CAISO bases its proposed conversion on Category (2), asserting that following completion of the EKWRA Reliability Project certain facilities currently under CAISO control should be reconfigured as "local distribution" facilities.³ CAISO contends that application of FERC's five factor *Mansfield* test supports this reconfiguration and provides the FERC established criteria upon which it may terminate its operational control over these facilities.⁴ CAISO is wrong for three reasons.

First, the *Mansfield* test does not assess whether facilities should be classified as local distribution facilities as opposed to transmission facilities for purposes of determining whether the facilities fall under the jurisdictional control of an Independent System Operator.⁵ FERC has applied the *Mansfield* test to address whether new upgrades required to interconnect a generator that are located at or beyond the generator's point of interconnection—which are normally considered network upgrades—are nevertheless better characterized as upgrades to non-integrated facilities that are directly assignable to that particular generator.⁶ The issue here is very different. CAISO is proposing to relinquish operational control over an array of existing facilities that serve many different generators and retail customers. *Mansfield* has never been applied by FERC in this context, and is not well formulated for such a complex question involving multiple generators and stakeholders. CAISO's reliance on *Mansfield* to support a shift of control over the reconfigured EKWRA facilities is misplaced.

Second, even if *Mansfield* were applicable to this issue, its application shows that the facilities in question remain integrated with the CAISO transmission system. The

² CAISO's proposed conversion is not warranted under Categories (1) and (3). The reconfigured EKWRA facilities are not directly assignable radial lines interconnecting "Generation"—which is defined as energy delivered from an individual generator and its associated plant. The reconfigured EKWRA facilities will continue to serve many different generators as well as many retail customers. Further, none of the lines or facilities at issue will be retired.

³ See attachment to September 13 Market Notice at 1.

⁴ See id. at 2.

⁵ Mansfield Municipal Electric Dept., Opinion No. 454, 97 FERC ¶ 61,134 (2001).

⁶ See Opinion No. 487, 117 FERC ¶ 61,103 (2006).

Mansfield test involves the following five factors: (1) Whether the facilities are radial, or whether they loop back into the transmission system; (2) Whether energy flows only in one direction, from the transmission system to the customer over the facilities, or in both directions, from the transmission system to the customer, and from the customer to the transmission system; (3) Whether the transmission provider is able to provide transmission service to itself or other transmission customers over the facilities in question; (4) Whether the facilities provide benefits to the transmission grid in terms of capability or reliability, and whether the facilities can be relied on for coordinated operation of the grid; and (5) Whether an outage on the facilities would affect the transmission system.⁷ FERC has made it clear that a positive showing on any one of the five factors can be used to show that a facility is integrated with the rest of the network.⁸

Here, several of the *Mansfield* factors demonstrate that the reconfigured EKWRA facilities are integrated transmission facilities. Under the first factor, even with the reconfigured open breakers, the EKWRA facilities will have multiple 66 kV loops on which power flows will reverse during maintenance and contingency line outages. The second factor also indicates that the facilities are integrated with the transmission network because power will flow in both directions. The primary flow will be away from generation in the direction of the grid. In the occasional circumstance where load requirements exceed generation on the reconfigured systems, power will also flow from the transmission system to retail customers over the facilities. Finally, the fourth factor also supports the conclusion that the EKWRA facilities are integrated with the transmission network as the function of the reconfigured system is to provide benefits to the grid in terms of capability and reliability.

Third, the reconfigured EKWRA facilities remain transmission facilities pursuant to FERC's established seven (7) factor test to determine whether lines and associated facilities should be classified as local distribution or transmission facilities.⁹ These factors are discussed in turn below:

(1) Local distribution facilities are normally in close proximity to retail customers. Here, the primary function of the 66 kV EKWRA facilities is to export power to the grid. Very little retail load is connected to the system, and this load is connected only at a small number of nodes.

(2) *Local distribution facilities are primarily radial in character*. The EKWRA facilities are composed of transmission loops—SCE intends to open a number of

⁷ See id.

⁸ See San Diego Elec. & Gas Co., et al., 139 FERC ¶ 61,006 (2012).

⁹ See Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31; City of Pella, Iowa v. Midwest Indep. Transmission Sys. Operator, Inc. and Mid American Energy Co., 134 FERC ¶ 61,081 (2011).

these loops at Corum, Goldtown and Cal Cement, however, these loops will remain available for providing backup service during emergencies, routine maintenance and daily operation. Moreover, even though these breakers will normally be open, there will be multiple 66kV loops within the discrete EKWRA systems providing alternate 66 kV routes for delivery of generation to the 220 kV and 500 kV systems through the Windhub and Antelope substations.

(3) *Power flows into local distribution systems and rarely, if ever, flows out.* Based on SCE's studies, power will normally flow out of the reconfigured 66 kV EKWRA facilities and will only occasionally flow in.

(4) When power enters a local distribution system, it is not reconsigned or *transported onto some other market*. Because generation in the reconfigured EKWRA facilities will normally exceed load, the power that leaves the reconfigured systems will be reconsigned or transported onto other markets.

(5) *Power entering a local distribution system is consumed in a comparatively restricted geographical area.* Power entering the EKWRA system will most often be exported and therefore will not be consumed in a restricted geographical area.

(6) *Meters are located at the transmission/local distribution interface to measure flows into the local distribution system.* Meters located at the proposed transmission/ distribution interface will primarily measure flows out of, and not into, the reconfigured EKWRA facilities.

(7) *Local distribution systems will be of reduced voltage*. The voltage at which the EKWRA facilities will operate—66 kV—is the voltage class of a nearby CAISO controlled transmission line from the Antelope substation to the Bailey substation. Distribution voltage in the CAISO balancing area is commonly 33kV, 21kV, 12kV or less.

Based on the application of these FERC established criteria, the reconfigured EKWRA facilities should not be reclassified as local distribution facilities. The primary function of true distribution facilities is to take large quantities of bulk power from a high-voltage grid, lower the voltage and parcel that power into smaller packets for delivery to ultimate users. As the interconnection studies performed by SCE demonstrate, the primary function of the reconfigured EKWRA facilities is to export power from multiple generators to the transmission grid; secondarily, retail power users will also be served from the facilities, through several levels of step up/down transformation to distribution voltages, and therefore the 66kV transmission performs this primary transmission function.

Accordingly, the reconfigured EKWRA facilities do not fall into any of the three categories of facilities set forth in Section 4.7 of the TCA over which CAISO may relinquish its operational control.

2. Terminating CAISO's Control Over the Reconfigured EKWRA Facilities Will Have Far-Reaching Disruptive Effects on Market Participants

CAISO's mandate pursuant to the TCA is to exercise its operational control "for the benefit of all Market Participants by providing non-discriminatory transmission access, Congestion Management, grid security and Balancing Authority Area services."¹⁰ Indeed, a threshold requirement for CAISO's release of operational control is a determination that such control is no longer required for CAISO to meet its Balancing Authority responsibilities.¹¹ CAISO's proposal to terminate its operational control over the reconfigured EKWRA facilities runs afoul of these obligations and responsibilities because such a conversion will have significant adverse effects on a range of Market Participants in the EKWRA.

For example, CAISO's proposal will result in the following:

- Generators operating or developing projects in the EKWRA will be required to alter or replace principal contracts that have already been negotiated and finalized. For example, power purchase agreements will require changes to the point of delivery and point of interconnection to the CAISO controlled grid. These changes could impact contract economics, increase curtailment risk, and have other adverse affects on power sellers. The end result will be to significantly alter the economic understanding of the contract parties, and impose undue economic burden on certain Market Participants.
- Interconnection rights that generators currently have via existing interconnection agreements or CAISO queue positions will be nullified or require significant modification. Generators may instead be forced to interconnect via SCE's wholesale distribution access tariff ("WDAT") process. Conversion to the WDAT will have far-reaching impacts to Market Participants' economic expectations, by (among other things) vesting authority in SCE to impose fees and other impediments on the delivery of energy.
- Operating requirements and practices imposed by SCE will have a negative impact on many Market Participants. Following conversion, SCE will control congestion

¹⁰ TCA at page 2 (recital of fact (viii)).

¹¹ See id. at Section 4.7.1.

management and generator curtailment over the entirety of the reconfigured EKWRA facilities. SCE may also impose additional equipment requirements and change applicable metering settings. Shifting from CAISO to SCE practices and protocols in the EKWRA will result in increased costs for many generators, render these Market Participants' transmission access subject to SCE's discretion, and subject Market Participants to SCE's load-interchange-generation balancing preferences. For example, SCE readily admits that, after taking over operational control of the EKWRA transmission facilities, it will no longer follow the CAISO's well-established operating practices, exercised for close to a decade through its Market Redesign and Technology Upgrade ("MRTU") protocols and systems, for these facilities. Even the threat of such a change has already led to the denial of access to new generation capacity. Furthermore, the use of SCE's operational protocols, rather than CAISO's, will result in added curtailment of the existing generation capacity interconnected to the EKWRA transmission facilities.

Reclassification of the EWKRA transmission facilities to distribution status will negatively impact Market Participant's rights to reimbursement for upgrades to these facilities. These reimbursement rights are critical to the economics of both existing and future projects in this region. SCE will also levy a recurring distribution facilities charge on interconnection customers as a result of this reclassification. In addition, generator Market Participants will be deprived of one of the primary benefits of the recent amendments to the Generator Interconnection Procedures ("GIP"), particularly the implementation of a cap on the cost of the network upgrades associated with a generator's interconnection. CAISO's proposed conversion will subject generators to new and increased cost exposure, violating the spirit of these recent amendments to the GIP. Altering the existing reimbursement status and imposing these additional charges and costs (for either operating projects or projects in development) will result in significant economic hardship to many Market Participants and will be extremely disruptive to the development process. This change threatens the financial viability of both present and future projects in the EKWRA.

CAISO fails to analyze (or even address) any of these significant impacts to the generator Market Participants in the EKWRA. Yet these impacts are a critical measure that determines whether it is appropriate for CAISO to relinquish operational control over the facilities in question. CAISO's proposal fails this benchmark. Retention of its operational control over the EKWRA facilities is required in order for CAISO to fulfill its responsibilities to a diverse group of Market Participants, including ensuring non-discriminatory transmission access, equitable congestion management practices and maintaining load-resource balance among Market Participants and Participating Transmission Owners.

3. The September 13 Market Notice is Premature

Even if CAISO's relinquishment of operational control over the reconfigured EKWRA facilities were appropriate, CAISO's proposal to do so no later than December 15, 2013 is premature. According to CAISO, the earliest date the reconfiguration of the EKWRA facilities will be completed is June 30, 2014. Thus, even if the project remains on schedule—which is unlikely given that the project has already been delayed, and has only been re-initiated in October 2013—the conversion is still many months away. SCE's schedule for the project indicates that the transfer capability of the line rearrangement will be less than 50% of the interconnected generation capacity as late as May 2014. Until the line rearrangement is completed, there is no basis for reclassifying the facilities from transmission to distribution under any conceivable standard. CAISO's attempt to implement the regulatory conversion of these facilities before the physical work is completed is therefore contrary to the TCA and FERC established criteria no matter what standard is applied. At a minimum, CAISO should withdraw the September 13 Market Notice and revisit this issue after the reconfiguration of the EKWRA facilities is completed.