

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

**Transmission Planning Processes
Under Order No. 890**

Docket No. AD09-8-000

**REPLY COMMENTS OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR**

On October 8, 2009 the Federal Energy Regulatory Commission (Commission) issued a Notice of Request for Comments (Notice) regarding the development and implementation of the Order 890 transmission planning process.¹ The Commission asked interested parties to submit comments on specific topics dealing with regional transmission planning and transmission infrastructure cost allocation. In response to a motion for extension of time by Edison Electric Institute, FERC issued a subsequent notice extending the comment date to November 23, 2009 and the reply comment date to December 18, 2009. The California Independent System Operator Corporation (ISO) hereby submits its reply comments in response to the Notice.

I. REPLY COMMENTS

A. Objections To ISO's Coordination With The California Transmission Planning Group Under The ISO's Proposed 33% RPS Planning Process Lack Merit

As the ISO indicated in its Initial Comments, the ISO has launched a 33% Renewable Portfolio Standards (RPS) transmission planning initiative.² The ISO envisions that the outcome of this initiative will be a new, separate, open and transparent process that provides for collaboration with other California transmission

¹ *Preventing Undue Discrimination and Preference in Transmission Service*, Order 890, FERC Stats. & Regs. ¶ 31,241 at P 418-602, *order on reh'g*, Order No. 890-A, FERC Stats & Regs. ¶ 31,261 (2007), *order on reh'g*, Order 890-B, 123 FERC ¶ 61,299, (2008) *order on reh'g*, Order 890-C, 126 FERC ¶ 61,228 (2009).

² In recent public documents, the ISO has referred to this new process as the Renewable Energy Transmission Planning Process (RETPP).

providers and planning authorities to effectively, efficiently and comprehensively address the statewide infrastructure needed to achieve the ambitious renewable resource targets adopted by the state of California for load serving entities.³

In particular, the process being developed by the ISO contemplates coordination and collaboration with the California Transmission Planning Group (CTPG), a statewide planning group made up of transmission providers and planning authorities in the State of California, including the ISO. The purpose of CTPG is to serve as a forum for performing studies and conducting joint planning and coordination in order to meet the transmission needs of California, including renewable-related transmission needs, on a comprehensive, statewide basis and, *inter alia*, to identify potential joint transmission projects that can take advantage of existing corridors, avoid unnecessary duplication, and be optimally sized to provide reliable and cost effective access to renewable and other resources needed by load serving entities throughout California.

Certain parties raise issues regarding the role of the CTPG in the ISO's transmission planning process. For example, LS Power claims that the CTPG has become "the primary venue for transmission planning in California... without any representation from independent transmission developers." LS Power Comments at 13. LS Power also claims that CTPG will decide "which transmission projects should be developed, by whom they should be developed, and when the projects must be in service." *Id.* LS Power, Green Energy Express Transmission (GEET), and Independent Power Producers-West (IPP-W) express concern that CTPG will lack transparency, openness and participation by non-utility transmission providers. LS Power Comments

³ The link to 33% RPS initiative web page is <http://www.caiso.com/242a/242abe1517440.html>

at 13-14; GEET Comments at 4; IPP-W Comments at 7. IPP-W alleges that the CTPG member entities are planning the development of their own generation, and this raises the concern that the planning process will be weighted with projects that are important to these entities. IPP-W Comments at 7-8.

These parties miscomprehend the role of CTPG in the ISO's proposed 33% RPS planning process. The ISO will be coordinating and collaborating with CTPG; however, CTPG is not a decisional body. CTPG will not determine what projects will be built, who will build them, and how the costs of such projects must be allocated. The ISO has made it clear that the ISO Board will ultimately determine which projects within the ISO footprint are needed and must approve such projects; CTPG will not do this. The ISO's 33% RPS process will include collaborative activities with the participants in the CTPG process, but all decisional activities and actions related to transmission planning and development for the ISO controlled grid will be conducted by the ISO in compliance with the Order 890 planning principles. The ISO notes that one of the key principles adopted in Order No. 890 was the requirement for regional participation whereby each transmission provider must coordinate with interconnected systems. Order No. 890 at P 523. The ISO's interaction with CTPG is wholly consistent with this tenet of Order No. 890.

Parties seek to cast aspersions on the CTPG process because CTPG may not be fully compliant with all of the Order No. 890 principles and is not a Commission-approved Order No. 890 planning process.. That is not a fatal flaw. Indeed, in Order No. 890, the Commission recognized the value of voluntary and coordinated regional planning efforts. Order No. 890 at P 524. The Commission also recognized that there

are numerous institutions engaged in voluntary regional and sub-regional planning and supported these efforts. *Id.* at PP 514-522 Most of these entities do not have FERC-approved Order No. 890 planning processes, nor has the Commission required it. Likewise, it is not a requirement that CTPG have a FERC-approved Order No. 890 planning process.

Even though CTPG may not have a FERC-approved Order No. 890 planning process, the ISO expects that the CTPG planning process will adhere to many of the Order No. 890 planning principles, including coordination, transparency and information exchange. The ISO notes that CTPG has implemented a website where it has already posted its study plan describing the analyses its members are currently performing⁴ and will make public the underlying data supporting the conceptual statewide study report that it is currently developing for release in the first quarter of 2010. Additionally, a series of public meetings has been scheduled, beginning with a conference call that took place on December 17, 2009 to discuss the posted study plan. A conference is scheduled for January 20, 2009 in San Diego. This schedule was provided to ISO stakeholders as part of the ISO's 33% RPS initiative, and the ISO intends to keep its stakeholders informed about CTPG activities as part of the ISO's Order 890 compliant process.⁵ In any event, CTPG will not approve specific projects or make project cost-allocation decisions that will bind the ISO Board. Rather, such decisions will remain the responsibility of each transmission provider/planning authority for those projects that will be under its operational control, or in the case of

⁴ The CTPG website is located at <http://www.ctpg.us>.

⁵ For example, at the December 8, 2009 ISO stakeholder meeting convened to address the ISO's proposed 33% RPS initiative, the ISO provided the CTPG schedule for the release of preliminary study results and draft and final conceptual statewide plans, as well as planned meetings to discuss such results. See <http://www.caiso.com/247a/247affe4625c0.pdf>

joint projects, the responsibility of those transmission providers/planning authorities participating in the project. In other words, the ISO must ultimately determine what projects should be built within its footprint, and those decisions will be made pursuant to a process that is fully compliant with Order No. 890.⁶ All interested persons will be able to participate and provide input into that process. The ISO believes that its proposed approach will facilitate sufficient coordination to enable regional approaches for meeting transmission needs expeditiously without requiring the participating transmission providers to develop the new institutional infrastructure that would be needed to decide project approvals and cost allocation within a collaborative group such as CTPG.

The ISO intends to file a tariff amendment with the Commission in February 2010 to implement its 33% RPS planning process. The ISO urges the Commission to allow the ISO to develop this proposal through its stakeholder process and not use the instant proceeding to prejudge, proscribe or otherwise limit the contents of that filing. In light of the lengthy time periods necessary to obtain permits and other siting approvals, the ISO hopes to quickly approve several major transmission projects by the first quarter of 2011 under the process described above. The Commission should not take any actions to delay these efforts.

⁶ Any suggestion that the CTPG is simply a vehicle for CTPG members to promote the development of their own generation is a red-herring. All generation in the ISO footprint must come through the ISO's interconnection queue and satisfy the requirements set forth in the ISO's Large Generator Interconnection Procedures. If a new generation project meets all of the LGIP requirements, reliability and delivery upgrades will be built to interconnect such new generation in accordance with the LGIP. Further, the ISO, not CTPG or individual participating transmission owners, must ultimately determine whether a transmission project is needed; so, any concerns about discrimination are unfounded. Transmission owners cannot dictate what projects are approved by the ISO in the transmission planning process.

B. Complaints Regarding The ISO's Existing Planning Process Are Misplaced

LS Power and GEET make unsustainable characterizations regarding the ISO's current transmission planning process. LS Power alleges that the ISO's planning rules and the ISO's implementation of such rules are unduly discriminatory because they freeze independent transmission developers out of the planning process and allow incumbent transmission owners to dictate what is built. LS Power Comments at 12-13. LS Power claims that the ISO's planning process first begins with the incumbent Participating Transmission Owners developing their own plans, which they have the sole and exclusive right to build, and then allows others to submit transmission upgrades in an open season window. *Id.* at 13. LS Power then claims that the ISO has unfairly implemented its Order No. 890 process because the ISO has not yet completed a Study Plan or performed any analysis of the projects that were submitted in the Open Season Window that closed in 2008. *Id.*

GEET makes a broad, unsupported allegation that there were instances in the past year indicating that not all economic projects were allowed to engage and participate in the ISO's transmission planning process. GEET Comments at 3. GEET objects to the fact that the ISO conducted a congestion study to evaluate whether there was any need to mitigate congestion in the areas of the grid where GEET and others were proposing economic projects. *Id.* at 11. GEET claims that it has received conflicting and confusing information from the ISO regarding the status of its project, but admits on the same page that the ISO has told GEET that its project is still being considered as an economic project.

LS Power mischaracterizes the ISO's existing planning process. Tariff Section 24.2.3 expressly requires that all "transmission upgrades and additions must be submitted by Participating TOs, Market Participants, CPUC, CEC or Project Sponsors through the Request Window ... to be considered in the annual transmission plan," and the Request Window submission process is described in detail in the ISO Business Practice Manual for Transmission Planning (BPM).⁷ Thus, contrary to LS Power's claim, the PTOs and independent transmission developers submit their proposed transmission upgrades and additions to the ISO during the same request window. Further, the ISO conducts its own technical studies and determines which transmission upgrades and additions are needed and should be included in the transmission plan as projects to be approved by its Board or Executive Management, whichever is applicable.⁸ The ISO also has the ability to consider alternatives to the projects that are submitted in the Request Window.⁹ The PTOs do not -- and under the ISO tariff cannot -- make these determinations. Similarly, the PTOs cannot dictate what is approved, because only the ISO can determine whether a project is needed, and only projects that are approved by the ISO can be recovered in the ISO transmission access charge.

LS Power's and GEET's discussion of the ISO's treatment of economic projects submitted in the 2008 Request Window is also misleading, and the inference that the ISO has been remiss in not completing the study of their projects is misplaced. ISO tariff section 24.1.1(b) provides that the ISO will evaluate proposed economic projects in terms of potential benefits derived from, among other items, a reduction in

⁷ <https://bpm.caiso.com/bpm/bpm/doc/000000000000236>

⁸ See, e.g., Tariff Sections 24.2 and 24.2.4.

⁹ See e.g., Tariff Sections 24.1.1(b) and 24.2.3.

congestion costs. Toward this objective the ISO took a first step in the consideration of proposed economic projects submitted by LS Power and GEET by conducting a congestion study as part of its Economic Planning Study process. This study included an evaluation of production costs to determine whether any new projects were needed to mitigate congestion in the areas of the transmission additions and upgrades submitted in the request window. This type of study did not and is not designed to assess the impacts and benefits of specific project proposals, but is an important prerequisite for the ISO to perform assessments of specific economic projects such as the ones submitted by LS Power and GEET. Thus, GEET's express objection to the ISO conducting this study and its simultaneous allegation that the ISO is not fulfilling its study responsibilities are both incorrect and mutually inconsistent. The fact is that the congestion study mentioned above, that the ISO has already completed, is an essential step in fulfilling the tariff requirements with regard to economic projects because it enables the ISO to evaluate the need for a project in GEET's footprint to mitigate congestion on the grid.¹⁰

GEET's and LS Power's inference that the ISO must conduct all studies and decide whether a submitted project is needed within a single annual planning cycle is likewise incorrect. While the tariff contemplates an annual study process, there is no tariff requirement that the ISO complete all studies and approve or disapprove a project within one planning cycle. It is not unusual for the evaluation of proposed high voltage

¹⁰ Some of GEET's concerns may be due to its recent unsuccessful attempt to demonstrate congestion benefits from its proposed project. GEET provided an economic analysis, first to the ISO and again to the Commission in its incentive rate filing, claiming that its project provided congestion benefits. Although GEET complains about the ISO's assessment process, the Commission itself found that GEET's own analysis "has not demonstrated that the Project will ensure reliability or reduce the price of delivered power by reducing congestion." *Green Energy Express, LLC*, 129 FERC 61,165 at PP 27-29 (2009).

transmission lines to span multiple planning cycles, and the ISO has in fact studied projects, including PTO projects, through multiple planning cycles. Thus, there is no basis to GEET's and LS Power's assertions that the fact that the study process to fully assess their proposals is not yet completed is somehow discriminatory against them or against independent project sponsors in general.

GEET and LS Power also fail to recognize the implications of the fundamental and monumental changes that the electricity industry in California is undergoing as the result of, *inter alia*, a proposed 33% renewable portfolio standard and other climate initiatives. These regulatory initiatives have created significant uncertainty regarding numerous key input assumptions that will drive the transmission planning process as California attempts to meet a 33% RPS standard, including: (1) where and on what timetable the renewable resources needed to meet a 33% RPS standard will actually be built; (2) which resources in the existing fleet will be displaced by renewable resources or retire as the result of Once Through Cooling and other environmental regulations, (3) how new, intermittent resources will be reliably integrated into grid operations; (4) what the new congestion patterns will be as a result of the changes in the resource fleet, (5) what renewable energy areas show sufficient commercial interest for generation necessary to ensure achievement of the 33% RPS goal while minimizing the risk of stranded investment due to underutilized transmission capacity, (6) what specific transmission facilities will be needed to ensure that these goals are achieved in a cost-effective and reliable manner, and (7) what generation and transmission projects the interconnected, non-ISO Balancing Area Authorities are interested in building to meet a 33% RPS requirement. These factors create significant uncertainties for the planning

process that need to be addressed and resolved in a comprehensive fashion to some degree of certainty before the ISO can develop a cost-effective transmission plan for the future. Otherwise the ISO could end up approving billions of dollars of transmission projects that turn out not to be needed given future conditions. Thus, it would not be prudent for the ISO to study and approve proposed transmission projects in a piecemeal, sequential fashion as GEET and LS Power assert the ISO should do. Accordingly, the ISO will conduct further evaluation of the economic projects submitted through the ISO's transmission planning request window in a manner that examines transmission needs comprehensively and best manages the risks associated with the above uncertainties.¹¹

C. The Commission Should Not Generically Pre-Judge The Right-of-First-Refusal Issue In This Proceeding

In its Initial Comments, the ISO expressed support for a carefully tailored, right of first refusal mechanism for existing participating transmission owners ("PTOs") with a service territory in which they or their affiliates have an obligation to provide electric service to end use customers. Certain parties, including GEET, LS Power and the Starwood Energy Group submitted comments opposing a right of first refusal mechanism. Other ISO stakeholders such as Southern California Edison Company and Pacific Gas & Electric Company support adoption of some form of right-of-first-refusal mechanism.

¹¹ Tariff Section 24.2.1.1 states that in developing the Unified Planning Assumptions and Study Plan, the ISO will use (among other things) "Regulatory initiatives, as appropriate, including state regulatory initiated programs." Further BPM Section 2.2.1 states that the Transmission Plan shall include System Outlook information to facilitate transmission planning decisions, including [o]ther factors such as state and federal policies impacting transmission planning, economic trends, fuel prices outlook, activities from other entities in the region that should be considered, future technology, impact from climate changes, etc."

The ISO's Initial Comments set forth some of the reasons why it believes a carefully crafted and not overly broad right of first refusal mechanism is appropriate, particularly given the obligations of load serving entities in California to meet 33% RPS requirements in a timely manner. In its ongoing stakeholder process for the 33% RPS initiative, the ISO is considering adoption of a right-of-first-refusal mechanism and is vetting the appropriate design of such a mechanism with stakeholders. The Commission should let this process play out and evaluate the right-of-first-refusal in the overall context of the ISO's filed proposal which is intended to facilitate the achievement of a 33% RPS in a timely, efficient and coordinated manner. As indicated above, the ISO intends to make its tariff filing in February 2010. The Commission should not, therefore, prohibit right of first refusal mechanisms in this proceeding or be overly proscriptive in dictating the specific design of any right of first refusal mechanism. Rather, the Commission should evaluate the reasonableness of right-of-first refusal mechanisms on a case-by-case basis as it has done in the past. To the extent an ISO or RTO desires to implement a right of first refusal mechanism carefully tailored to the specific circumstances and needs in its region, it should be permitted to do so. The ISO agrees that any such mechanism should not be overly broad and should be clearly stated and transparent in the tariff, and intends to reflect these considerations in its forthcoming tariff amendment filing.

In summary, the Commission should allow the right-of-first-refusal issue to be addressed in individual ISO and RTO stakeholder processes and not prescribe generic requirements in this proceeding that do not allow each ISO and RTO to address the specific circumstances and processes in each region.

D. Certain Statements In San Diego Gas & Electric Company's Initial Comments Require Clarification

San Diego Gas & Electric Company (SDG&E) recommends that the Commission adopt an economic test for Delivery Upgrades under the Large Generator Interconnection Procedures. The ISO does not object *per se* to such an economic test, but notes that certain of SDG&E's statements regarding the ISO's existing LGIP process are inaccurate.

First, SDG&E states that the study methodology models interconnecting generators at "full output." SDG&E Comments at 10. That is not correct. The ISO models interconnecting generators at their Net Qualifying Capacity (NQC), and the ISO limits the number of generation projects assumed to be simultaneously operating based on a reasonable estimate of their mechanical availability. NQC is essentially the capacity of a resource that can count for Resource Adequacy purposes. As indicated in the ISO Tariff, NQC is based on (1) testing and verification; (2) application of performance criteria; and (3) deliverability restrictions. For wind and other intermittent resources, NQC is significantly less than nameplate capacity.

SDG&E also states that the ISO models imports at high levels. SDG&E Comments at 10. The ISO notes that it models imports at the same level that they are counted for Resource Adequacy purposes. This step takes into account the actual deliverability of such energy. The basic assumption is that the ISO needs all available resources that are counted for Resource Adequacy. Thus, the ISO is not modeling imports at unreasonably high levels as SDG&E suggests.

CONCLUSION

The ISO appreciates this opportunity to provide Initial Comments and Reply Comments on the transmission planning issues raised in the Notice, and intends to continue with its efforts to work with neighboring balancing authorities and other regions in the Western Interconnection to address the challenges presented by environmental policy initiatives. As indicated herein and in its Initial Comments, in February 2010 the ISO will submit its 33% RPS transmission planning process to the Commission for approval. The Commission should evaluate the ISO's 33% RPS proposal on its merits and should not prejudge any element of that proposal in this proceeding or prematurely proscribe the contents of the ISO's proposal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 18th day of December, 2009 at Folsom, California.

Anna Pascuzzo

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