

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

**Industrial Energy Consumers of America;)
American Forest & Paper Association; R Street)
Institute; Glass Packaging Institute; Public Citizen;))
PJM Industrial Customer Coalition; Coalition of)
MISO Transmission Customers; Association of)
Businesses Advocating for Tariff Equity; Carolina)
Utility Customers Association, Inc.; Pennsylvania)
Energy Consumer Alliance; Resale Power Group)
of Iowa; Wisconsin Industrial Energy Group;)
Multiple Intervenors (NY); Arkansas Electric)
Energy Consumers, Inc.; Public Power)
Association of New Jersey; Oklahoma Industrial)
Energy Consumers; Large Energy Group of Iowa;)
Industrial Energy Consumers of Pennsylvania;)
Maryland Office of People’s Counsel;)
Pennsylvania Office of Consumer Advocate;)
Consumer Advocate Division of the Public)
Service Commission of West Virginia; and)
Missouri Industrial Energy Consumers,)**

Complainants

v.

**Avista Corporation; Idaho Power Company;)
MATL LLP; NorthWestern Corporation;)
PacifiCorp; Portland General Electric Company;)
Puget Sound Energy, Inc.; Duke Energy Florida,)
LLC; Florida Power & Light Company;)
Tampa Electric Company; Dominion Energy)
South Carolina, Inc.; Duke Energy Carolinas, LLC)
and Duke Energy Progress, Inc.; Louisville Gas)
and Electric Company and Kentucky Utilities)
Company; Southern Company Services Inc.,)
as agent For Alabama Power Company;)
Georgia Power Company, and Mississippi Power)**

Docket No. EL25-44-000

Company; Arizona Public Service Company;)
 Black Hills Power, Inc.; Black Hills Colorado)
 Electric Utility Company, LP; Cheyenne Light,)
 Fuel & Power Company; El Paso Electric Co.;)
 NV Energy, Inc; Public Service Co. of Colorado;)
 Public Service Company of Colorado; Public)
 Service Company of New Mexico; Tucson)
 Electric Power Company; UNS Electric, Inc.;)
 California Independent System Operator, Inc.;)
 Southwest Power Pool, Inc.; PJM Interconnection,)
 L.L.C.; Midcontinent Independent System Operator)
 Inc.; New York Independent System Operator, Inc;)
 and Independent System Operator of New)
 England Inc.,)
)
 Respondents)

**ANSWER TO COMPLAINT OF THE INDUSTRIAL CONSUMERS OF
 AMERICA, et al, BY THE
 CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORTION**

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**ANSWER TO COMPLAINT OF THE INDUSTRIAL CONSUMERS OF
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CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (CAISO)¹ hereby submits its Answer to the Complaint filed in this proceeding by the above-captioned Complainants on December 19, 2024. Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, an answer to a complaint must admit or deny, specifically and in detail, each material allegation of the pleading answered; and set forth every defense relied on.² As discussed in greater detail below, the CAISO denies each of Complainants' material allegations as they apply to the CAISO, transmission planning in the CAISO region, and asset management or maintenance of transmission facilities undertaken by CAISO Participating Transmission Owners (Participating TOs). For the reasons discussed herein, Complainants fail to satisfy their burden of proof under section 206 of the Federal Power Act (FPA) as it applies to the CAISO, its transmission planning process, and its Participating TOs. The Commission should summarily deny the Complaint.

I. BACKGROUND

A. The Complaint

Complainants – none of whom reside in the Western Interconnection or participate in the CAISO's transmission planning process – have filed their

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the CAISO Tariff.

² 18 C.F.R. § 385.213(c)(2).

Complaint against every independent system operator (ISO), regional transmission organization (RTO), and public utility located in a non-ISO/RTO planning region alleging local transmission planning is unjust, unreasonable, and unduly discriminatory or preferential, and thus produces transmission rates that are unjust and unreasonable. Importantly, Complainants do not challenge the rates of any specific locally planned project as being unjust and unreasonable. Instead, they generally allege that the cumulative effect of tariff provisions allowing local transmission planning of projects 100 kV and above produces unjust and unreasonable transmission rates.³ To remedy this situation, Complainants ask the Commission to mandate sweeping changes to transmission planning and maintenance of transmission facilities nationwide. Complainants would define all transmission facilities 100 kV and above as Regional Transmission Facilities. Complainants argue that **all** transmission projects 100 kV and above for **all** needs must be evaluated and approved in a regional transmission planning process. Complainants, expanding the requirements recently adopted in Order No. 1920, would require transmission owners of facilities 100 kV and above to identify on a minimum 10-year forward basis, transmission facilities likely to reach their end of operational life, and provide final notification to the regional planner that the end of life will occur within the next seven years. Finally, Complainants would require an Independent Transmission Planner (ITP) to conduct all regional planning (including generator interconnection studies).

³ Complaint at 11.

B. The CAISO's Existing Transmission Planning Process and Cost Allocation Paradigm

1. The CAISO's Transmission Planning Applicable to Local Transmission Facilities

To put the CAISO's Answer to the Complaint in context and assist the Commission, the CAISO first describes below the key features of its regional transmission planning process as it pertains to so-called local transmission facilities. As an initial matter, there is only one transmission planning process in the CAISO region – the CAISO's. There is no separate local transmission planning process conducted by the Participating TOs in addition to the regional transmission planning process conducted by the CAISO. The CAISO follows a "top-down" transmission planning approach in which it assesses transmission needs annually and works with stakeholders to identify the most efficient or cost-effective transmission or non-transmission solution to meet **every** identified transmission need (e.g., reliability, economic, public policy, congestion revenue right (CRR) feasibility, location-constrained resource facilities, and certain expansions of generator interconnection facilities) on the CAISO controlled grid (including so-called local transmission needs). As the CAISO has explained in numerous filings with the Commission, the CAISO conducts the transmission planning activities authorized under CAISO Tariff Section 24 for **all** upgrades and expansions of transmission facilities under its operational control. This includes

transmission facilities at **all** voltage levels,⁴ at **all** locations on the system,⁵ and for **all** transmission needs specified in the tariff for both Local Transmission Facilities⁶ and Regional Transmission Facilities.⁷

The CAISO evaluates all local and regional transmission needs and solutions holistically through a single regional transmission planning process. The CAISO does not conduct separate processes for local and regional transmission needs, nor is it necessary to do so. The CAISO alone determines if there is any need for a transmission upgrade or expansion within a CAISO Participating TO's service territory and determines the appropriate solution to meet that need. Thus, Participating TOs have no authority to approve entirely new transmission lines or upgrades to existing transmission lines. Under

⁴ The CAISO balancing authority area includes some transmission facilities down to 69 kV, and it conducts all expansion and upgrade planning for all such transmission on its system. As discussed below, Participating TOs have no expansion or upgrade planning authority for any transmission under the CAISO's operational control, including lower-voltage transmission.

⁵ See, e.g., CAISO Reply Comments on Advance Notice of Proposed Rulemaking, Docket No. RM21-17-000 at 24-27 (Nov. 30, 2021) available at <http://www.caiso.com/Documents/Nov30-2021-ReplyComments-ANOPR-BuildingTransmissionSystemoftheFuture-RM21-17.pdf> See also *Cal. Pub. Util. Comm'n, et al. v. Pac. Gas & Elec. Co.*, 164 FERC ¶ 61,161 at PP 35-37 (2018). CAISO Participating TOs cannot approve upgrades or transmission work in their asset management and maintenance processes that expand (other than incidentally) the capacity of the CAISO grid. System capacity expansions and upgrades at any voltage level can occur only through the CAISO's regional transmission planning process.

⁶ The CAISO Tariff defines a Local Transmission Facility as "[a] transmission facility that is (1) under the CAISO Operational Control, (2) is owned by a Participating TO or to which a Participating TO has an Entitlement that is represented by a Converted Right, (3) operates at a voltage below 200 kilovolts, and (4) only in the case of a transmission facility approved in the final 2013/2014 comprehensive Transmission Plan and thereafter, is located entirely within a Participating Transmission Owner's footprint or PTO [Participating TO] Service Territory." CAISO Tariff, Appendix A, definition of Local Transmission Facility.

⁷ The CAISO Tariff defines a Regional Transmission Facility as "[a] transmission facility that is owned by a Participating TO or to which a Participating TO has an Entitlement that is represented by a Converted Right, that is under the CAISO Operational Control, and that is not (1) a Local Transmission Facility or a Location Constrained Resource Interconnection Facility, and supporting facilities, or (2) a Merchant Transmission Facility." CAISO Tariff, Appendix A, definition of Regional Transmission Facility.

agreements in effect since the CAISO commenced operations in 1998, the CAISO does not oversee or evaluate “pure” transmission maintenance or asset management projects in the transmission planning process that do not expand or upgrade the system (e.g., replacing a 115 kV transmission line at the end of its operational life with another 115 kV transmission line); the CAISO only evaluates transmission expansions and upgrades.

The CAISO’s Participating TOs handle asset management and maintenance projects, *i.e.*, projects that do not involve system upgrades or expansions, through separate asset management processes. Additional transparency for the asset management projects of the CAISO’s three investor-owned utilities (IOUs) exists with the California Public Utilities Commission’s (CPUC) Transmission Project Review process (TPR), which arose with the adoption of CPUC Resolution E-5252 on April 27, 2023 and became effective January 1, 2024.⁸ The purpose of the TPR Process is “to have a uniform process to review IOUs’ capital transmission projects, allowing the CPUC and Stakeholders to receive robust data from Transmission Owners and to inquire about and provide feedback on the IOUs’ historical, current, and forecast transmission projects.” The TPR process allows stakeholders to submit questions and comments to the IOUs and includes stakeholder meetings. Prior

⁸ See <https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-costs/transmission-project-review-process>. This page provides an overview of the TPR program and includes a schedule of TPR process dates and activities for each IOU and links to the IOUs’ TPR webpages.

to the TPR process, the three IOUs had Commission-approved asset management processes that they subsequently terminated.⁹

In their asset management processes, Participating TOs cannot approve any kind of project that expands or upgrades the capacity of the CAISO transmission system (other than incidentally). They cannot approve transmission upgrades and expansion projects to meet applicable reliability criteria, public policy needs, or economic needs as the CAISO tariff defines those concepts. Only the CAISO can approve such expansion and upgrade projects, which it does through its regional transmission planning process. This distinguishes the CAISO's transmission planning framework from the planning frameworks of some other regional planning entities that allow individual public utilities to approve in their local transmission planning processes upgrade/expansion projects within their service territories to meet local reliability, economic, public policy, and other needs. On the other hand, CAISO Participating TOs can only approve "pure" transmission maintenance and asset management projects that do not upgrade (except incidentally) or expand the capacity of an existing transmission facility.

The CAISO coordinates with the Participating TOs in connection with their asset management and maintenance processes to ensure system reliability and

⁹ Specifically, Southern California Edison Company had a Transmission Maintenance and Compliance Review process, *S. Cal. Edison Co.*, 164 FERC ¶ 61,160 (2018) (*SCE*), *reh'g denied*, 168 FERC ¶ 61,170 (2019) (*SCE Rehearing Order*). Pacific Gas and Electric Company had its Stakeholder Transmission Access Review process. PG&E TO Tariff, FERC Electric Tariff. Volume No. 5, Appendix IX (STAR Process Tariff). See also Letter Order, Docket No. ER24-282 (Dec. 13, 2023) (terminating the STAR Process). San Diego Gas & Electric Company (SDG&E) had its TO5 Transmission Planning Process as part of a settlement. *San Diego Gas & Electric Co.*, Docket No. ER19-221, SDG&E Offer of Settlement and Settlement Agreement (filed Oct. 18, 2018), *San Diego Gas & Elec. Co.*, 170 FERC ¶ 61,240 (2020) (order approving settlement).

assess whether it might modify an asset management/maintenance project to meet an identified regional transmission need. If the CAISO determines a Participating TO's asset management, maintenance, or in-kind replacement project can be expanded or modified to address a CAISO-identified transmission need in a local area (or system-wide), the incremental portion of the asset management project is subject to the CAISO's transmission planning process, and the expansion is subject to the CAISO's planning authority.¹⁰ The CAISO's ability to evaluate and "right-size" such replacement or maintenance projects to meet CAISO-identified transmission needs is not limited just to higher-voltage facilities, *i.e.*, facilities at and above 200 kV, it applies to all transmission facilities at all voltages that would be under the CAISO's operational control.

In addition, Order No. 1920 requires the CAISO to adopt further processes regarding replacement facilities for certain transmission facilities nearing their end of operational life. Specifically, Order No. 1920 requires regional transmission planners to evaluate whether there are any 200 kV or above transmission facilities they anticipate replacing in-kind during the next 10 years that can be right-sized to address a need identified in the transmission planning process.¹¹ To implement this planning feature, Order No. 1920 requires that, sufficiently early in each long-term regional transmission planning process cycle,

¹⁰ SCE, 164 FERC ¶ 61,160 at P 69.

¹¹ *Building for the Future Through Elec. Regional Transmission Planning & Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068, at P 1677 (Order No. 1920), *order on reh'g & clarification*, Order No. 1920-A, 189 FERC ¶ 61,126 (2024) (Order No. 1920-A).

each transmission provider submit its in-kind replacement estimates for use in the long-term regional planning process.¹²

2. The CAISO's Cost Allocation and Competitive Solicitation Paradigm

The CAISO allocates the costs of all Regional Transmission Facilities under the CAISO's operational control, *i.e.*, transmission facilities 200 kV and above and located within a single Participating TO's service territory, system-wide, on a postage-stamp basis.¹³ Thus, whether the justification for a newly approved network transmission facility at 200 kV or above is reliability, public policy, economics, or some other permissible justification, the costs of the transmission facility are recovered through the CAISO's single High Voltage Access Charge (also known as the Regional Access Charge). The High Voltage Access Charge is a volumetric rate assessed to market participants who withdraw energy from the grid.¹⁴

On the other hand, the CAISO allocates the costs of all network transmission facilities below 200 kV to the applicable Participating TO, who recovers the costs of such lower-voltage facilities from its customers that use the

¹² *Id.*

¹³ Transmission facilities constructed after the CAISO's Order No. 1000 compliance effective date that interconnect the transmission facilities of two or more Participating TOs or one Participating TO and an external balancing authority area are considered Regional Transmission Facilities because they are not located entirely within a single Participating TO's footprint. The CAISO has not approved such lower-voltage facilities to date.

¹⁴ CAISO Tariff Section 26.1(a). Utility Distribution Companies and Metered Subsystem Operators that are serving Gross Load in a PTO Service Territory pay the access charge based on their Gross Load. *Id.* CAISO Tariff Section 26.1(c). Wheeling customers pay the Wheeling Access Charge, which is the same volumetric rate as the Regional Access Charge for exports. CAISO Tariff Section 26.1.4.

lower-voltage facilities. The Participating TO establishes its lower-voltage usage charge rate in its transmission owner tariff (TO Tariff) on file with the Commission and collects it, using data the CAISO provides, from the customers of its local service area that actually withdraw energy from those lower-voltage facilities.¹⁵

As discussed in greater detail in Section II.C.1 *infra*, the CAISO's transmission cost allocation scheme is justified by the physical configuration of the CAISO's transmission system in its footprint and recognizes that the higher-voltage transmission lines (200 kV and above) on the CAISO controlled grid perform a backbone function that supports regional flows of bulk energy throughout the system. On the other hand, lower-voltage facilities (below 200 kV) in this region are essentially local facilities designed (1) to deliver energy already transmitted over the higher-voltage lines to local customers in load pockets, or (2) to deliver energy from smaller-scale, individual generating units used to serve local areas. The higher-voltage facilities support the attachment and delivery of bulk energy throughout the system. They also enable the CAISO to maintain reliability on the overall system, support the import and export of power, provide access to remote resource areas, and facilitate reserve sharing among load serving entities.

The CAISO conducts a competitive solicitation open to all interested entities to select an approved project sponsor to construct, own, operate, and

¹⁵ As indicated above, the CAISO Tariff treats transmission facilities below 200 kV that extend beyond the footprint or service territory of the Participating TO as Regional Transmission Facilities, not Local Transmission Facilities.

maintain any approved Regional Transmission Facility that is not an upgrade to, or replacement of, an existing transmission facility.

Finally, the CAISO again emphasizes that although its tariff distinguishes Regional Transmission Facilities from Local Transmission Facilities for purposes of cost allocation and competitive solicitation, the CAISO undertakes all upgrade and expansion planning for both Regional Transmission Facilities and Local Transmission Facilities.

II. ANSWER

A. Complainants Fail To Carry Their Burden Of Proof

Complainants fall woefully short of meeting their heavy burden under FPA section 206 of demonstrating that transmission planning and asset management and maintenance activities in the CAISO region are unjust and unreasonable. Although the CAISO does not suggest the Complaint is valid for any region, the Complaint focuses primarily on other regions of the country and contains at most passing references to the CAISO and its transmission owners. This is hardly surprising given none of Complainants is a CAISO stakeholder or demonstrates any insight into the CAISO transmission planning process. Far from offering the substantial evidence required to prevail under section 206, the Complaint's brief references to the CAISO Tariff reflect basic misunderstandings of the Commission-approved CAISO planning procedures.

Nor is there evidence to support other aspects of the Complaint as applied to the CAISO. The only claimed evidence of concerns with asset management and maintenance activities by CAISO Participating TOs is a brief discussion of

claims already rejected by the Commission in two proceedings. Complainants point to no change in circumstances that would warrant overturning those Commission findings, rendering the Complaint an unsupported collateral attack on prior orders involving the CAISO region. The Complaint is largely an attempt to re-litigate issues from prior complaint proceedings or addressed just months ago in the Order No. 1920 rulemaking. As such, the Complaint constitutes a prohibited out-of-time request for rehearing of those complaint orders and Order No. 1920. Lastly, Complainants do not offer a single piece of evidence or even allege that the CAISO is engaged in unduly discriminatory or preferential behavior in favor of transmission owners or otherwise.

For all these reasons, the Commission should reject the Complaint. The CAISO discusses the many legal (and factual) infirmities of the Complaint in more detail below.

1. Complainants Must Meet a Heavy Burden of Proof Under FPA Section 206

Under FPA section 206, “the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon . . . the complainant.”¹⁶ The courts and the Commission have long recognized that a complainant “carries the heavy burden of making a convincing showing that [a rate, term, or condition approved by Commission order] is invalid because it is

¹⁶ *CXA La Paloma, LLC v. Cal. Indep. Sys. Operator Corp.*, 169 FERC ¶ 61,045, at P 36 (2019) (quoting FPA § 206(b)) (*La Paloma*). See also, e.g., *FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Md. Pub. Serv. Comm’n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011).

unjust and unreasonable in its consequences.”¹⁷ Only if that initial burden is met can the Commission turn to whether a complainant’s proposed replacement of the existing rate is just and reasonable.¹⁸ “Without a showing that the existing rate is unlawful,” the Commission “has no authority to impose a new rate.”¹⁹

To satisfy its burden, both the complainant’s demonstration that the existing rate is unjust and unreasonable and its showing that the proposed replacement rate is just and reasonable must be supported by substantial evidence.²⁰ This substantial evidence must be specific and include more than just general allegations.²¹ A complainant can make the required showing that the existing rate is unjust and unreasonable by providing new evidence or by demonstrating that circumstances have changed from when the Commission accepted the existing rate.²²

Moreover, when a party files a section 206 complaint against multiple respondents, that complainant has the burden of proof against each of the

¹⁷ *FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 602 (1944) (*Hope*). Although *Hope* addressed section 5 of the Natural Gas Act, the Commission properly applies these bedrock principles to the analogous provisions of the FPA. See *Cal. Mun. Utils. Ass’n v. Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,315, at P 70 (2009), *order on reh’g*, 143 FERC ¶ 61,174 (2013).

¹⁸ See *Norwalk Power, LLC*, 120 FERC ¶ 61,048 at P 58 (2007), *order on reh’g*, 122 FERC ¶ 61,273 (2008).

¹⁹ *La Paloma* at P 36 (quoting *Emera Maine v. FERC*, 854 F.3d 9, 25 (D.C. Cir. 2017)).

²⁰ *Ameren Servs. Co. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,173 at P 9 (2008), *order on reh’g*, 131 FERC ¶ 61,214 (2010).

²¹ See *Wis. Pub. Serv. Corp. et al v. Midwest Indep. Syst. Operator, Inc. and PJM Interconnection, LLC*, 120 FERC ¶ 61,269 at PP 45-46 (2007); see also *CALifornians for Renewable Energy, Inc., et al. v. Pac. Gas & Elec. Co., et al.*, 142 FERC ¶ 61,143, at P 18 (2013) (“Rather than bald allegations, [a complainant] must make an adequate proffer of evidence including pertinent information and analysis to support its claims.”).

²² *N.Y. State Pub. Serv. Comm’n & N.Y. State Energy Research & Devel. Auth. v. N.Y. Indep. Sys. Operator Inc.*, 173 FERC ¶ 61,060, at P 29 (2020).

respondents individually.²³ As explained in detail below, Complainants fail to meet their evidentiary obligations under section 206 and the evidentiary requirements of the Commission's regulations.²⁴

2. Complainants Fail to Show that Any Existing CAISO Tariff Provisions Are Unjust and Unreasonable

Complainants argue that “[i]n multiple RTO OATTs [Open Access Transmission Tariffs], locally planned projects are rolled up into the regional plan with limited regional planner review” and “even when limited review is available, disparate planning timelines allow individual transmission owners to circumvent a regional review of holistic alternatives because the locally planned project is permitted to advance on timelines inconsistent with more rigid regional planning timelines.”²⁵ For these reasons, Complainants claim, “the transmission owner/regional OATTs identified in Attachment B [to the Complaint] are unjust and unreasonable to the extent that they permit individual transmission owners to plan FERC-jurisdictional transmission facilities at 100 kV and above.”²⁶

²³ See *Office of the Ohio Consumers' Counsel v. Am. Elec. Power Serv. Corp., et al.*, 181 FERC ¶ 61,214, at P 60 (2022) (finding that “OCC [*i.e.*, the complainant] has shown that the rates for [respondents] Ohio Power and AEP Ohio Transmission are unjust and unreasonable” but that “OCC has not met its burden of showing the rates for [respondents] Duke and ATSI are unjust and unreasonable”), *result sustained*, 183 FERC ¶ 61,024 (2023), *vacated in part and remanded on other grounds sub nom. Dayton Power & Light Co. v. FERC*, 2025 U.S. App. LEXIS 1196, 2025 WL 227515 (6th Cir. Jan. 17, 2025).

²⁴ Rule 203 of the Commission's Rules of Practice and Procedure requires that all pleadings contain the “relevant facts” and the “position taken by the participant . . . and the basis in fact and law for such position.” 18 C.F.R. §§ 385.203(a)(6)-(7). Similarly, Rule 206 of the Commission's regulations requires a complainant to “[c]learly identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements” and “[e]xplain how the action or inaction violates applicable statutory standards or regulatory requirements.” 18 C.F.R. §§ 385.206(b)(1)-(2).

²⁵ Complaint at 182.

²⁶ Complaint at 182. See also *id.* at 272 (stating that Attachment B to the Complaint contains “the list of relevant local tariff provisions of FERC-jurisdictional RTOs/ISOs [Independent

Attachment B to the Complaint lists three sections of the CAISO Tariff—Sections 24.4.8, 24.4.10, and 26.1(b)—as being unjust and unreasonable.²⁷

Complainants argue that transmission facilities down to 100 kV perform a regional transmission function and, thus, each ISO and RTO should reevaluate and approve all transmission projects down to 100 kV in a regional transmission planning process.²⁸

As an initial matter, the CAISO notes the Commission has found transmission facilities in the CAISO region below 200 kV are not regional backbone facilities and instead are designed (1) to deliver energy already transmitted over the high-voltage lines to local customers in load pockets, or (2) to deliver energy from smaller-scale, individual generating units used to serve local areas.²⁹ Complainants provide no specific evidence to overcome these salient facts.

Complainants also fail to carry their FPA section 206 burden of showing that the listed CAISO Tariff provisions (or any other unlisted CAISO Tariff provisions, for that matter) are unjust or unreasonable. As explained herein,³⁰ the CAISO conducts the transmission planning activities authorized under CAISO Tariff Section 24 for all upgrades and expansions of transmission facilities under

System Operators] and individual FERC-jurisdictional public utility transmission owners that allow the individual transmission owner to plan transmission facilities at 100 kV or above that it alone declares necessary, on criteria it alone sets, notwithstanding the regional impact of the planned transmission”).

²⁷ See Attachment B to Complaint at 6-7. Neither these CAISO Tariff sections nor any others are cited anywhere else in the Complaint.

²⁸ Complaint at 242.

²⁹ See *supra* Section I.B.2 and *infra* Section II.C.1 of this Answer.

³⁰ See *supra* Section I.B.1 of this Answer.

its operational control, including for transmission facilities at all voltage levels and at all locations on the system. Pursuant to Section 24, the CAISO evaluates all local and regional transmission needs and solutions holistically through a single regional transmission planning process—it does not conduct separate processes for local and regional transmission needs. Contrary to the claims of the Complaint, the CAISO’s Participating TOs do not undertake separate local transmission planning processes for lower-voltage transmission facilities. The Commission has acknowledged the CAISO’s explanation of these components of its transmission planning process in numerous orders, including in *PG&E* and Order No. 1920 discussed further below.³¹

Because the CAISO does not have a separate local transmission planning process under its Tariff (or in its footprint), but only has the single regional transmission planning process applicable to all voltage levels, the CAISO Tariff *already requires* the CAISO to conduct regional planning for upgrades and expansions of transmission facilities at and above the 100 kV threshold Complainants request as specific relief in the Complaint.³² Indeed, the CAISO Tariff provisions Complainants cite in Attachment B to the Complaint as purportedly “governing local transmission planning”³³ make it clear that the CAISO alone determines the need for a Local Transmission Facility, as the CAISO Tariff defines that term.

³¹ See *Cal. Pub. Utils. Comm’n v. Pac. Gas & Elec. Co.*, 164 FERC ¶ 61,161, at PP 35-37 (2018) (*PG&E*); Order No. 1920 at PP 1594, 1666.

³² See Complaint at 229.

³³ See Attachment B to Complaint at 1.

Attachment B to the Complaint cites the following CAISO tariff sections:

(1) CAISO Tariff Section 24.4.8, which states the CAISO's "comprehensive Transmission Plan" may include "determinations and recommendations regarding the need for identified transmission upgrades and additions and their identification as either Local or Regional Transmission Facilities;" and (2) CAISO Tariff Section 24.4.10, which states that "[a] Participating Transmission Owner will have the responsibility to construct, own, finance and maintain any Local Transmission Facility deemed needed under this section 24 that is located entirely within such Participating Transmission Owner's PTO [Participating TO] Service Territory or footprint." These existing CAISO Tariff provisions do not give any role to an entity other than the CAISO in transmission planning related to Local Transmission Facilities. Thus, Complainants cannot demonstrate the existing CAISO Tariff provisions are unjust and unreasonable, which is the first step Complainants must satisfy to obtain the Commission action they seek under section 206.³⁴

It appears Complainants have a fundamental misunderstanding of the defined term "Local Transmission Facility" as used in the CAISO Tariff.

Complainants seem to confuse the lower-case term local transmission facility as defined in Order No. 1000 and the capitalized term Local Transmission Facility

³⁴ As noted above, Attachment B to the Complaint also lists CAISO Tariff Section 26.1(b), which states that the allocation of each Participating TO's Transmission Revenue Requirement between the Regional Transmission Revenue Requirement and the Local Transmission Revenue Requirement will be undertaken in accordance with a specified section of the CAISO Tariff (Section 11 of Schedule 3 of Appendix F). This allocation of the Transmission Revenue Requirement has nothing to do with the CAISO's transmission planning except insofar as it reflects the CAISO's differentiation between Regional Transmission Facilities (recovered through the Regional Transmission Revenue Requirement) and Local Transmission Facilities (recovered through the Local Transmission Revenue Requirement) for cost allocation purposes.

as defined in the CAISO Tariff. They note that in Order No. 1000, the Commission stated “[a] local transmission facility is a transmission facility located solely within a public utility transmission provider’s retail distribution service territory or footprint that is *not selected in the regional transmission plan* for purposes of cost allocation.”³⁵ However, Complainants do not mention the fundamentally different meaning of the CAISO-specific capitalized term Local Transmission Facility, which the CAISO Tariff defines in relevant part as a transmission facility that “operates at a voltage below 200 kilovolts” and that “in the case of a transmission facility *approved in the final 2013/2014 comprehensive Transmission Plan and thereafter*, is located entirely within a Participating Transmission Owner’s footprint or PTO Service Territory.”³⁶

By definition, then, a Local Transmission Facility under the CAISO Tariff (in stark contrast with a lower-case local transmission facility as defined in Order No. 1000) is a facility the CAISO must approve in its comprehensive Transmission Plan. The CAISO undertakes all upgrade and expansion planning for both Regional Transmission Facilities and Local Transmission Facilities.

Because the costs of Local Transmission Facilities are allocated to customers of this single Participating TO, development of Local Transmission Facilities is not subject to competitive solicitation.³⁷ Complainants, however,

³⁵ Complaint at 230 (quoting *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000, 136 FERC ¶ 61,057, at P 63 (also found at FERC Stats. & Regs. ¶ 31,323) (2011) (emphasis added) (Order No. 1000), *order on reh’g & clarification*, Order No. 1000-A, 139 FERC ¶ 61,132 (2012) (Order No. 1000-A).

³⁶ CAISO Tariff Appendix A, definition of Local Transmission Facility (emphasis added).

³⁷ See *supra* Section I.B.2 of this Answer.

request the Commission to require regional transmission planners to revise their tariffs to adopt competitive solicitation rules that would take into consideration all transmission projects 100 kV and above, which the Complaint proposes to define as Regional Transmission Facilities and differs from the definition of the term Regional Transmission Facilities contained in the CAISO Tariff.³⁸ As explained below, Complainants fail to carry their burden to show why the Commission should extend the requirements of the competitive solicitation processes in this manner.³⁹

The only transmission infrastructure investment in the CAISO balancing authority area (BAA) not subject to the planning provisions of the CAISO Tariff occurs when a Participating TO undertakes an asset management/maintenance project merely to replace (*i.e.*, not upgrade or expand) existing facilities in its service territory pursuant to its own tariff.⁴⁰ As discussed in more detail below,⁴¹

³⁸ Complaint at 236. Specifically, Complainants propose to define a Regional Transmission Facility as “a transmission facility that operates at or above 100 kv [sic] or provides benefits to two or more transmission utility zones, retail service territories, or regional footprints, as shown by an industry standard power flow analysis, such as Distribution Factor (‘DFAX’) or Line Outage Distribution Factor (‘LODF’) analysis.” *Id.* at 242-43. Appendix A to the CAISO Tariff, however, defines a Regional Transmission Facility as “[a] transmission facility that is owned by a Participating TO or to which a Participating TO has an Entitlement that is represented by a Converted Right, that is under the CAISO Operational Control, and that is not (1) a Local Transmission Facility or a Location Constrained Resource Interconnection Facility, and supporting facilities, or (2) a Merchant Transmission Facility.” As explained below in Section [II.D] of this Answer, Complainants fail to carry their burden to show the Commission should accept their proposed definition of a Regional Transmission Facility.

³⁹ See *infra* Section II.E of this Answer.

⁴⁰ As opposed to seeking to upgrade or expand existing facilities in its service territory, which is done solely under the CAISO’s transmission planning process. For asset management projects, as discussed above in Section [I] of this Answer, the CAISO does coordinate with the Participating TO to ensure system reliability and assess whether it might modify an asset management project to meet an identified regional transmission need.

⁴¹ See Section II.C.2.b.1 of this Answer.

in parallel pairs of orders involving two Participating TOs in California—Southern California Edison Company (SCE) and Pacific Gas and Electric Company (PG&E)—the Commission found years ago that asset management projects are outside the transmission planning requirements of Order No. 890 and are not subject to the CAISO’s transmission planning process.⁴²

It is wholly inappropriate, unnecessary, problematic, and contrary to Commission precedent to extend drastically the role of ISOs and RTOs—including the CAISO—by requiring them to approve every maintenance-related transmission investment down to 100 kV even if it does not upgrade or expand the transmission system and does not address transmission needs identified in the regional transmission planning process. Such a requirement would far exceed the core functions the Commission has required of an ISO or RTO. As explained below,⁴³ such a requirement would also violate the fundamental allocation of rights and responsibilities between the CAISO and its Participating TOs set forth in the Commission-approved Transmission Control Agreement (TCA).

In sum, Complainants do not carry their FPA section 206 burden to show any existing CAISO Tariff provisions have become unjust and unreasonable.

⁴² See *SCE*, 164 FERC ¶ 61,160, at PP 30-41; *SCE Rehearing Order*, 168 FERC ¶ 61,170, at PP 20-59; *PG&E*, 164 FERC ¶ 61,161, at PP 65-74, *reh’g denied*, 168 FERC ¶ 61,171, at PP 18-59 (2019) (*PG&E Rehearing Order*). This Answer refers to *SCE* and the *SCE Rehearing Order* together as the “SCE Orders,” and refers to *PG&E* and the *PG&E Rehearing Order* together as the “PG&E Orders.”

⁴³ See Section [II.C.2.a] of this Answer.

3. Complainants Fail to Carry Their Burden of Showing the CAISO Has Been Unduly Discriminatory or Preferential

Complainants argue the individual Commission-jurisdictional public utility transmission owners and the ISOs and RTOs listed as respondents to the Complaint—which include the CAISO—have tariff provisions that allow an individual transmission owner to “plan transmission facilities at 100 kV or above that it alone declares necessary, on criteria it alone sets, notwithstanding the regional impact of the planned transmission.”⁴⁴ They contend undue discrimination in retail transactions “continues through local transmission planning of regionally impactful transmission resulting in unjust and unreasonable rates because individual transmission owners are permitted by their tariffs to plan 100 kV and above transmission facilities.”⁴⁵ They also argue it is unduly discriminatory to allow individual transmission owners to rebuild transmission at the end of operational life, including in California pursuant to the Commission’s findings in the *PG&E Orders*.⁴⁶ Lastly, Complainants suggest, without any supporting evidence, that the voluntary nature of ISO and RTO participation often lead ISOs and RTOs to favor incumbent interests.⁴⁷

All of these accusations are wrong with regard to the CAISO.⁴⁸ As explained above, the CAISO does not have a local transmission planning

⁴⁴ Complaint at 181.

⁴⁵ *Id.* at 184.

⁴⁶ *Id.* at 202-04.

⁴⁷ *Id.* at 233.

⁴⁸ The CAISO has no reason to believe these allegations are true of any ISO or RTO, but it focuses this Answer on the CAISO and its planning provisions.

process under its Tariff, but rather only has a comprehensive transmission planning process that applies to transmission at all voltage levels. Individual Participating TOs in the CAISO have no authority to plan any transmission upgrade or expansion facilities; they can only undertake asset management and maintenance of existing facilities within their own service territories pursuant to the *PG&E* and *SCE* Orders and their open access transmission tariffs. Moreover, as explained below,⁴⁹ Complainants offer no specific examples where the CAISO has made biased decisions in favor of incumbents or has not been transparent in the planning process. The Commission should reject Complainants' arguments as to the CAISO because they once again fail to carry their FPA section 206 burden of proof.⁵⁰

Regarding Participating TOs in the CAISO, the Commission expressly found in the *PG&E* and *SCE* Orders that the asset management practices of the Participating TOs were not unduly discriminatory or preferential.⁵¹ There are no changed circumstances to support overturning this established precedent. Incredibly, Complainants suggest the mere fact a complaint was filed against PG&E constitutes evidence that now supports a complete reversal of the

⁴⁹ See Section [II.F.1] of this Answer.

⁵⁰ See, e.g., *Californians for Renewable Energy v. Cal. Indep. Sys. Operator Corp.*, 174 FERC ¶ 61,204, at P 38 (2021) ("Finally, we find that CARE has also failed to satisfy its burden under FPA section 206 to demonstrate that the CAISO markets unduly discriminate against net energy metered customers by denying them access to Commission-regulated wholesale energy markets. As with its allegations of high prices, CARE cites no provision of the existing CAISO tariff that has become unjust and unreasonable nor does it identify any specific action or inaction by CAISO that constitutes undue discrimination.").

⁵¹ See *SCE*, 164 FERC ¶ 61,160 at PP 30, 38, 40; *SCE Rehearing Order*, 164 FERC ¶ 61,170, at PP 20-42; *PG&E*, 168 FERC ¶ 61,161, at PP 65-66, 73; *PG&E Rehearing Order*, 168 FERC ¶ 61,171, at PP 18-42.

Commission's actual findings in the *PG&E Orders*.⁵² As discussed below,⁵³ Complainants fail to provide any actual evidence that the Participating TOs have engaged in unduly discriminatory or preferential asset management practices. Therefore, Complainants fail to meet their section 206 burden of proof as to the Participating TOs either.

4. Complainants Cannot Meet Their FPA Section 206 Burden by Making Improper and Untimely Collateral Attacks on Commission Orders

Complainants acknowledge that in Order Nos. 1920 and 1920-A the Commission denied commenters' requests to provide the very relief they request again in this Complaint by requiring regional transmission planners to perform local transmission planning. Nevertheless, Complainants argue that the Commission should reverse course in response to the Complaint filed less than a month after the issuance of Order No. 1920-A.⁵⁴ Thus, Complainants' attempts in their Complaint to require regional transmission planners to perform local transmission planning constitute collateral attacks on Order Nos. 1920 and 1920-A.⁵⁵

⁵² Complaint at 251-53.

⁵³ See Section II.C.2.d of this Answer.

⁵⁴ Complaint at 10, 28, 64-66, 181.

⁵⁵ See also *infra* Section II.C.2.b.ii of this Answer (providing further discussion of how the Complaint is a collateral attack on Order Nos. 1920 and 1920-A). In addition, as discussed in [that same section of] of the Answer, Complainants collaterally attack Order Nos. 1920 and 1920-A in arguing that Complainants seek is to require each owner of transmission facilities above 100 kV to identify on a minimum 10-year forward-looking basis transmission facilities likely to reach the end of operational life and to provide final notification to the regional planner that the end of operational life of the facility will occur seven years in advance of that happening (see Complaint at 233).

The Commission has explained that “[a] collateral attack is ‘[a]n attack on a judgment in a proceeding other than a direct appeal’ and is generally prohibited.”⁵⁶ “[I]n the absence of new or changed circumstances, it is contrary to sound administrative practice and a waste of resources to re-litigate issues in succeeding cases once those issues have been finally determined.”⁵⁷

Complainants fail to explain how their proffered evidence is different from that considered and rejected in those previous orders or how a change in circumstances has occurred since the Commission issued the orders in May and November 2024, respectively. The Complaint is therefore nothing more than an out-of-time request for rehearing of and collateral attack on Order Nos. 1920 and 1920-A. For these reasons, the Commission should dismiss the Complaint.⁵⁸

Similarly, Complainants urge the Commission to overturn its findings in the *PG&E* and *SCE* Orders by requiring the CAISO, rather than the Participating TOs, to be responsible for planning of asset management projects to replace

⁵⁶ *New Eng. Conf. of Pub Util. Comm’rs v. Bangor Hydro-Elec. Co.*, 135 FERC ¶ 61,140, at P 27 (2011) (citing *Wall v. Kholi*, 562 U.S. 545, 552 (2011)) (internal quotation marks and brackets omitted).

⁵⁷ *Complaint of Cotter Seeking Modifications to Critical Infrastructure Sec. Stds.*, 181 FERC ¶ 61,202, at P 20 n.44 (2018) (*Complaint of Cotter*) (citing *Alamito Co.*, 41 FERC ¶ 61,312, at 61,829 (1987), *order on reh’g*, 43 FERC ¶ 61,274 (1988)) (internal quotation marks omitted).

⁵⁸ See, e.g., *Complaint of Cotter*, 181 FERC ¶ 61,202, at P 25 (“Further, we find this allegation to be an impermissible collateral attack on Order No. 866.”); *Ass’n of Bus. Advocating Tariff Equity v. Midcontinent Indep. Sys. Operator, Inc.*, 149 FERC ¶ 61,049, at P 200 (2014) (“Complainants’ assertion that ITC Transmission should not be rewarded for its continued participation in MISO is a collateral attack on Order No. 679-A; thus, we reject these arguments.”) (internal citation omitted); *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,074, at P 137 (2011) (“These challenges are collateral attacks on Order No. 890 that established the three-factor test. As the Commission has stated, ‘[c]ollateral attacks on final orders and relitigation of applicable precedent . . . thwart the finality and repose that are essential to administrative efficiency, and are therefore strongly discouraged.’”) (quoting *NSTAR Elec. Co. v. ISO New Eng. Inc.*, 120 FERC ¶ 61,261, at P 33 (2007)).

existing transmission facilities at 100 kV and above.⁵⁹ Complainants wrongly describe the *PG&E* Orders as “pending proceedings” under 18 C.F.R. Section 385.206(b)(6), which requires a complaint to “state whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum.”

In fact, the issues raised in the *PG&E* Orders—and the parallel *SCE* Orders—were fully resolved years ago, and the time for seeking rehearing or judicial review of those orders has long passed. Complainants fail to explain how their proffered evidence is different from that considered and rejected in those previous orders or how a change in circumstances has occurred since the Commission issued these orders. Again, the Complaint is simply an out-of-time

⁵⁹ See Complaint at 39 & n.96 (citing *PG&E* and *SCE* in arguing that “[t]he Commission issued a series of orders in CAISO . . . allowing, over consumer interest objections, allowing [sic] transmission owners to rebuild, virtually unimpeded, the grid of yesterday regardless of whether the grid of yesterday is the appropriate grid of tomorrow.”); Complaint at 39-40 & n.97 (citing *SCE* in arguing that “[w]hen presented with the opportunity address over-reliance on Local Planning, the Commission undertook a narrow reading of its precedent to find that existing transmission owners could rebuild the grid of yesterday without meeting even the minimum required consumer engagement set in Order No. 890.”); Complaint at 203 & n.919 (citing *PG&E* in arguing that “proceedings in . . . CAISO pertaining to end-of-life projects and efforts to rebuild the grid of yesterday are provide [sic] evidence of undue discrimination.”); Complaint at 225 & n.1000 (citing *PG&E* and *SCE* in arguing that “through Commission Orders, the Commission has excluded the bulk of Self-Planning Transmission, those addressing transmission facilities reaching the end of operational life, from even the most basic requirements of Order No. 890”); Complaint at 251-53 (citing the *PG&E* Orders in arguing that “what the Commission actually did in *CPUC et al. v. PG&E* was to provide self-interested transmission owners a road map to thwart the Commission’s regional planning goals, and the interests of transmission customers, entirely by rebuilding yesterday’s grid”).

request for rehearing of and collateral attack on the *PG&E* and *SCE* Orders.⁶⁰

Therefore, the Commission should dismiss the Complaint.⁶¹

5. The Issues Complainants Raise Primarily Involve Entities Other than the CAISO and Regions Other than the CAISO Balancing Authority Area

No Complainant is a CAISO stakeholder. Thus, it is unsurprising the Complaint contains only a small amount of discussion specific to the CAISO and the balancing authority area it oversees. The bulk of that discussion concerns the *PG&E* and *SCE* Orders, which, as discussed above, preclude Complainants' proposal to require the CAISO, rather than the Participating TOs, to be responsible for planning of asset management projects to replace existing transmission facilities at 100 kV and higher voltages. As explained above, Complainants fail to meet their FPA section 206 burden to present any new evidence or change in circumstances that could justify overturning the *PG&E* and *SCE* Orders. The Complaint also references the Participating TOs' existing responsibility for asset management projects and contrasts it with the CAISO's regional planning process.⁶² However, the Complaint does not challenge the

⁶⁰ See also *infra* Section II.C.2.b.i of this Answer (providing further discussion of how the Complaint is a collateral attack on the *PG&E* and *SCE* Orders).

⁶¹ See, e.g., *New Eng. Conf. of Pub. Utils. Comm'rs v. Bangor Hydro-Elec. Co.*, 135 FERC ¶ 61,140, at P 28 (2011) ("NECPUC's complaint here represents an attack on a Commission final order in a proceeding other than on direct appeal of Opinion No. 489 and, therefore, is prohibited as a collateral attack."); *EPIC Merchant Energy NJ/PA, L.P. v. PJM Interconnection, L.L.C.*, 130 FERC ¶ 61,130, at P 20 (2010) ("We dismiss the complaint. This complaint merely seeks to re-litigate the same issues as raised in the prior case citing no new evidence or changed circumstances."); *NSTAR Elec. Co. v. ISO New Eng. Inc.*, 120 FERC ¶ 61,061, at P 33 (2007) ("The Commission denies NSTAR's complaint. First and foremost, the complaint is a collateral attack on both the Commission's June 16 and October 31 Orders.").

⁶² See Complaint at 69-70, 195-96, 197.

rates of any specific asset management project as being unjust and unreasonable.

What little CAISO-specific discussion Complainants provide actually appears to support the CAISO's regional planning process. The Complaint acknowledges the CAISO's 2022-2023 Transmission Plan included "CAISO regionally planned projects" over which "*CAISO had planning authority.*"⁶³

Regarding that Transmission Plan, the Complaint goes on to explain:

Because of the nature of the need identified, the [CA]ISO determined the project and the regional tariff determined whether the project would be assigned to the existing transmission owner or subject to competitive solicitation. *This result is precisely what this Complaint seeks*, through removal of the Local Planning tariffs that allow individual transmission owners to self-plan transmission facilities.⁶⁴

Thus, here Complainants express support for the regional planning process under the CAISO Tariff. Complainants state they only oppose the use of "Local Planning tariffs"—*i.e.*, the ability of Participating TOs to undertake asset management projects pursuant to their tariffs as affirmed in the *PG&E* and *SCE* Orders.

Insofar as the Complaint addresses issues specific to named ISOs and RTOs, most of that discussion does not involve the CAISO. Complainants do not describe any existing, CAISO-specific practices they believe warrant change—apart from the fleeting, inapposite references to the CAISO Tariff contained in

⁶³ Complaint at 195 (emphasis in original).

⁶⁴ Complaint at 196 (internal quotation marks omitted) (emphasis added).

Attachment B to the Complaint, for which Complainants fail to carry their burden of proof under section 206.⁶⁵

Conversely, insofar as the Complaint contains arguments generic to all ISOs and RTOs, the Complaint fails to meet its section 206 burden to provide substantial evidence that the CAISO should be subject to those generic arguments. As explained above,⁶⁶ the CAISO Tariff already includes a comprehensive transmission planning process and does not include any provision for an entity other than the CAISO to conduct a local transmission planning process. Furthermore, the Commission should not require the CAISO (rather than the Participating TOs) to approve asset management projects. Lastly, the Commission should not require the CAISO to appoint an Independent Transmission Planner (ITP).⁶⁷

6. Complainants Fail to Carry Their Burden of Showing the Commission Should Require the CAISO to Revise its Tariff to Appoint an Independent Transmission Planner

Complainants request that the Commission require all Commission-jurisdictional public utilities—including the CAISO—to revise their regional planning tariffs to include the appointment of an ITP for transmission planning.⁶⁸ They state the ITP they propose “incorporates elements of” the independent transmission monitor the Commission initially sought comment on in the Advance Notice of Proposed Rulemaking (ANOPR) that ultimately resulted in Order No.

⁶⁵ See *supra* Section II.A.2 of this Answer.

⁶⁶ See Section [II.B.2] of this Answer.

⁶⁷ See Sections II.A.6 and II.F of this Answer.

⁶⁸ Complaint at 232-44.

1920, “including the need for an independent review of the planning process and costs of transmission facilities before construction starts.”⁶⁹

The Commission should reject Complainants’ proposal to require appointment of an ITP. As an initial matter, the Complaint is vague and wholly unclear as to what “elements” of the independent transmission monitor proposal their ITP concept incorporates. In Order Nos. 1920 and 1920-A, the Commission rejected proposals to require an independent transmission monitor, finding they were beyond the scope of the proceeding and could instead be examined in the Commission’s ongoing Transmission Planning and Cost Management proceeding.⁷⁰ Furthermore, Complainants fail to provide any evidence showing the CAISO (or any other ISO or RTO) is not independent or has any financial interest in the outcome of the transmission planning processes it conducts. Indeed, the Complaint concedes that “[i]n RTO/ISO regions,” Complainants’ proposed criteria for certification as an ITP “are traditionally administered by an RTO/ISO, as it is assumed the RTO/ISO has met FERC’s existing independence standards” set forth in Order Nos. 888, 889, and 2000.⁷¹ By suggesting only “certain” ISOs and RTOs may meet the proposed ITP standard, Complainants seemingly attempt to modify the Commission’s longstanding independence requirements without carrying their burden of proof.

⁶⁹ Complaint at 233 & n.1024 (citing *Building for the Future Through Elec. Reg’l Transmission Planning & Cost Allocation*, Advance Notice of Proposed Rulemaking, 176 FERC ¶ 61,024, at PP 165, 171 (2021) (ANOPR for Order No. 1920).

⁷⁰ Order No. 1920 at P 1648; Order No. 1920-A at PP 858, 880, & n.2195.

⁷¹ Complaint at 234-35 & n.1031.

To the extent an ITP could be an entity that is not already a public utility like the CAISO, Complainants' proposal to grant separate FPA section 205 filing rights to a stand-alone ITP is impermissible under the FPA, and it would be unworkable and contrary to the findings in Order No. 1920. Due to these fatal defects in their proposal, and the defects discussed *infra* in Section II.F, Complainants cannot carry their FPA section 206 burden to require the CAISO—or any other ISO or RTO—to revise its Tariff to appoint an ITP.

B. Complainants' Primary Objection to the CAISO's Planning Process Pertains Solely to the Fact the CAISO Does Not Approve Asset Management and Maintenance Projects 100 kV and Above That Do Not Upgrade or Expand the Grid

Complainants seek to apply the regional transmission planning process to all transmission facilities at and above 100 kV. As indicated above, the CAISO already conducts the transmission planning for all needed transmission upgrades and expansions in its BAA at all voltage levels, including lower-voltage levels (down to 69 kV). Indeed the Complaint recognizes the CAISO's approach and states "[t]his result is precisely what the Complaint seeks."⁷²

Accordingly, Complainants' primary objection to the planning that occurs in the CAISO's regional transmission planning process appears to be that in such process the CAISO does not review and approve each and every asset management and maintenance project down to 100 kV that does not involve a transmission upgrade or expansion.⁷³ Indeed, the entirety of the "evidence" the Complaint relies upon regarding the CAISO pertains to asset management and

⁷² Complaint at 196.

⁷³ *Id.*

maintenance projects that do not expand or upgrade the grid and which the Commission previously ruled the CAISO is not required to evaluate and approve in its regional transmission planning process.⁷⁴ The Complaint alleges this “prohibits the CAISO’s ability to determine that the individual transmission investment is actually the correct investment for California.”⁷⁵ As discussed below, it is inappropriate, unnecessary, and contrary to Commission precedent to expand drastically, the CAISO’s role by requiring it to approve every single transmission investment down to 100 kV even if it does not expand or upgrade the transmission system and does not address transmission needs identified in the regional transmission planning process. Requiring the CAISO to micromanage the maintenance of existing transmission facilities through asset management and maintenance projects far exceeds the CAISO’s core functions and would entail significant additional resources, time, and expense.

C. The Commission Should Deny Complainants’ Request to Make All Transmission Projects, Down to 100 kV, Including Asset Management And Maintenance Projects, Subject to the Regional Transmission Planning Process

1. Transmission Facilities in the CAISO Less Than 200 kV and Located In a Single Participating TO’s Service Territory Are Not Regional Transmission Facilities and Do Not Perform a Regional Transmission Function

Complainants propose to define all transmission facilities 100 kV and above as regional transmission facilities.⁷⁶ Complainants make numerous

⁷⁴ *Id.* at 69-70, 196, 251-53.

⁷⁵ *Id.*

⁷⁶ *Id.* at 236.

generalized claims that transmission facilities down to 100 kV require evaluation and approval in a regional transmission planning process.⁷⁷ The Complaint also suggests as an afterthought – with no supporting discussion – that “to prevent efforts to circumvent the proposed 100 kV threshold, the Commission could require all proposed transmission solutions between 69 kV and 99 kV to be independently evaluated by the Independent Transmission Planner to determine whether more than one pricing zone benefits from the transmission project/solution.”⁷⁸

Although the CAISO undertakes the transmission upgrade and expansion planning for all transmission facilities on its system including lower-voltage Local Transmission Facilities, those Local Transmission Facilities do not perform a regional transmission function within the CAISO footprint. Complainants offer not one iota of evidence specific to the CAISO system that transmission facilities below 200 kV perform regional functions on the CAISO controlled grid.⁷⁹ As such, Complainants fail to make even a prima facie case CAISO transmission facility under 200 kV are regional transmission facilities, let alone carry their burden of proof under FPA section 206.

There is no factual basis for Complainants’ conclusory and broad-brushed claim that every transmission facility 100 kV (and possibly even those below 100 kV) and above on every transmission system in the country is a regional

⁷⁷ *Id.* at 242.

⁷⁸ *Id.*

⁷⁹ That is not surprising given no Complainant is a CAISO stakeholder located in the CAISO region.

transmission facility and provides regional benefits. As the CAISO explained in its Order No. 1000 compliance filing accepted by the Commission, on the CAISO grid transmission facilities 200 kV and above (higher-voltage transmission lines) provide regional benefits, but facilities below 200 kV (lower-voltage transmission lines) are local in nature.⁸⁰ The CAISO reiterated this fact when describing the difference between regional and local facilities on the CAISO grid in its Comments in the Order No. 1920 rulemaking proceeding:

The CAISO's transmission cost allocation scheme recognizes that the high voltage transmission lines on the CAISO grid perform a backbone function that supports regional flows of bulk energy throughout the system; whereas, the lower voltage facilities are essentially local facilities designed (1) to deliver energy already transmitted over the high voltage lines to local customers in load pockets, or (2) to deliver energy from smaller-scale, individual generating units used to serve local areas. The high voltage facilities support the attachment and delivery of bulk energy throughout the system. They also enable the CAISO to maintain reliability on the overall system, support the import and export of power, provide access to remote resource areas, and facilitate reserve sharing among load serving entities.⁸¹

The CAISO's Order No. 1000 compliance filing described in detail how facilities below 200 kV in each of the Participating TO service territories (*i.e.*, PG&E, SCE, and SDG&E) are configured and operated to provide a local

⁸⁰ Transmittal letter for CAISO Order No. 1000 Compliance Filing at 23-30 and Prepared Testimony of Neil Millar, Docket No. ER13-103-000 (Oct. 11, 2012), available at <https://www.aiso.com/documents/october112012order1000compliancefiling-docketnoer13-103-000.pdf>.

⁸¹ CAISO Comments on Advance Notice of Proposed Rulemaking, Docket No. RM21-17-000, at 74 (Oct. 12, 2021), available at <https://www.aiso.com/documents/oct12-2021-comments-advancenoticeofproposedrulemaking-buildingtransmissionsystemofthefuture-rm21-17.pdf>.

function, not a regional function.⁸² The Commission accepted this aspect of the CAISO's Order No. 1000 compliance filing that reflects the CAISO's practice since start-up. The CAISO will not repeat that entire discussion here, as Complainants offer no CAISO-specific evidence to the contrary.

The CAISO also notes the legislation that created the CAISO – California Assembly Bill 1890 – directed the development of a new transmission access charge and established a default methodology (if CAISO Governing Board action did not develop an alternative approach) consisting of a uniform “regional” transmission access charge and a utility-specific “local” access charge. The default methodology in the relevant California statute defined regional transmission as facilities operating at 230 kV and above and local transmission as facilities operating below 230 kV.⁸³ To implement the legislation, the CAISO worked with stakeholders for over two years to model and evaluate extensive data. The result is reflected in the CAISO's demarcation of regional transmission facilities (200 kV and above) and local transmission facilities (below 200 kV).⁸⁴

Complainants ignore the CAISO's enabling legislation, the CAISO's prior filings and testimony accepted in numerous Commission proceedings, and the actual configuration and operation of the CAISO controlled grid. They offer no CAISO-specific evidence to demonstrate that all transmission facilities 100 kV and above and located entirely within a single CAISO Participating TO's service

⁸² Transmittal letter for CAISO Order No. 1000 Compliance Filing at 26-28 and attached Prepared Testimony of Neil Millar at 3-7.

⁸³ Cal. Pub. Util. Code § 9600(a)(2)(c).

⁸⁴ Transmittal Letter for CAISO Order No.1000 Compliance Filing at 24.

territory are Regional Transmission Facilities providing regional benefits. Their conclusory and general claims cannot convert local CAISO transmission facilities into regional facilities. Accordingly, the Commission must reject the Complaint's proposal that would define Regional Transmission Facilities on the CAISO as all transmission facilities 100 kV and above. Below, the CAISO addresses Complainants' general, non-CAISO-specific rationales why the Commission should find all transmission facilities 100 kV and above are Regional Transmission Facilities.

a. The Fact a 100 kV Facility Is Part of the Bulk Electric System Does Not Mean It Performs a Regional Function or Provides Regional Benefits

The Complaint alleges that Congress and the Commission have recognized that transmission facilities 100 kV and above are regional facilities because the definition of "bulk electric system" pertains to facilities at voltages of 100 kV or higher.⁸⁵ Complainants' allegations are without merit.

As an initial matter, the Complaint mischaracterizes the specific findings of Congress. Congress did not expressly adopt a 100 kV threshold for the bulk electric system in the Energy Policy Act of 2005 (EPA 2005). As the Complaint itself recognizes, Congress merely defined the Bulk Power System as "facilities and control systems necessary for operating an interconnected electric transmission network (or any portion thereof)."⁸⁶ It was the North American Electric Reliability Corporation (NERC), and subsequently the Commission – not

⁸⁵ Complaint at 207-12.

⁸⁶ *Id.* at 208.

Congress – that adopted the 100 kV threshold for the bulk electric system.⁸⁷ The definition of bulk electric system is relevant to ensuring compliance with reliability standards, but it does not dictate any transmission planning or cost allocation approach. If the Commission intended the definition of bulk electric facilities to dictate what transmission facilities in each individual planning region perform a regional function and provide regional benefits, and thus intended their costs be allocated regionally, the Commission would not have – and could not have – approved the CAISO Tariff’s definitions of Regional Transmission Facilities and Local Transmission Facilities. Thus, the fact facilities 100 kV and above are part of the bulk electric system does not mandate a conclusion that such facilities are regional transmission facilities for purposes of transmission planning and cost allocation.

In any event, the mere fact a 100 kV facility is interconnected to, or integrated with, the remainder of the transmission system, or is part of the bulk electric system, is irrelevant. That fact alone does not make a transmission facility a regional facility or mean the facility provides regional benefits. If that were the “test,” every transmission facility – not just those 100 kV and above – would automatically be deemed regional and to provide regional benefits because all such transmission is interconnected and integrated. That is not the case. The fact a 100 kV transmission facility can affect reliability does not mean it provides more than de minimis regional benefits to customers beyond a single transmission owner’s footprint. These are two entirely different considerations. If

⁸⁷ *Id.* at 209.

a 100 kV facility is out of service or derated, it can affect other parts of the integrated system because the electricity must be diverted elsewhere. However, that does not mean the specific lower-voltage facility is providing regional benefits.

b. Complainants' Reliance on the SPP Highway/Byway Orders Is Misplaced

Complainants rely on a prior order addressing a Southwest Power Pool, Inc. (SPP) filing to amend its OATT, in which the Commission recognized specific transmission facilities at issue in that proceeding operating at 100 kV to 345 kV were regionally important transmission facilities to integrate the eastern and western portion of the SPP grid, reduce congestion, efficiently integrate new resources, and accommodate growing loads.”⁸⁸ The Complaint notes that SPP’s filing was supported by power transfer analysis demonstrating that certain 115 kV and 138 kV facilities played a role in power transfers among the SPP zones.”⁸⁹

The lone case Complainants can muster to support their claim fails completely to satisfy their FPA section 206 burden of proof that transmission facilities on the CAISO below 200 kV perform a regional function. In *SPP*, the Commission did not make a generic finding that all transmission facilities above 100 kV in SPP (let alone every other ISO and RTO) are regional transmission facilities, and nowhere did the Commission indicate it intended the order to dictate the treatment of lower-voltage transmission facilities in all planning

⁸⁸ Complaint at 221-22, citing *Sw. Power Pool, Inc.*, 131 FERC ¶ 61,252 at P4 (2010) (*SPP*).

⁸⁹ Complaint at 222.

regions. Indeed, the Commission's analysis and decision only applied to the specific facilities at issue in the *SPP* proceeding. As indicated above, unlike the subject transmission facilities in *SPP*, transmission facilities on the CAISO system below 200 kV do not "play a significant role in power transfers among the [CAISO] zones." Complainants – who are not CAISO stakeholders – offer no CAISO-specific evidence to the contrary. Further, if the CAISO were to approve a lower-voltage facility that connects two Participating TOs or a single Participating TO and an external BAA, *i.e.*, transmission facilities that arguably "facilitate power transfers among zones," the CAISO would treat such facility as a Regional Transmission Facility under its existing Tariff. *SPP* provides no legitimate basis to modify the CAISO's longstanding delineation between Regional Transmission Facilities and Local Transmission Facilities, and, as such, the Complaint fails on its face.

2. The Commission Should Not Require Regional Transmission Planners to Review and approve Asset Management Projects 100kV and Above in the Regional Planning

Complainants request the Commission to "require that the regional planning process required by Order No. 1000 be revised to implement exclusive regional planning for **all** needs, including but not limited to reliability, resilience, economic considerations, Public Policy, facility addressing multiple needs, substations, generator interconnection, and planning for the end of operational life for existing transmission facilities above 100 kV."⁹⁰ With respect to the

⁹⁰ Complaint at 229 (emphasis added).

CAISO, the sole reason Complainants provide regarding the need for such measures is a reference to allegations made in prior Commission proceedings regarding the magnitude of asset management and maintenance projects – projects that do not upgrade or expand the transmission system – undertaken by CAISO Participating TOs.⁹¹ In particular, Complainants argue the allegations regarding undue discrimination and the significant costs incurred for asset management and maintenance projects in a prior complaint proceeding against PG&E in Docket No. EL17-45 (PG&E Complaint Proceeding) – a complaint the Commission rejected – requires the CAISO to approve asset management and maintenance projects in its regional transmission planning process.⁹² For the reasons below, the Commission should again reject the ill-advised, unjust, and unreasonable attempt to require the CAISO (and other ISOs and RTOs) to review and approve asset management and maintenance projects.

a. Requiring the CAISO to Approve Asset Management Projects in the Regional Planning Process Contravenes the Commission-Approved Transmission Control Agreement Between the CAISO and Its Participating Transmission Owners

The CAISO's Commission-approved Transmission Control Agreement (TCA) sets forth the respective responsibilities of the CAISO and its Participating Transmission Owners. The TCA and the CAISO Tariff provide the foundational principles for determining the need for transmission infrastructure expansion

⁹¹ Complaint at 69-70, 203, 251-53, citing prior CPUC filings in Docket No. RM21-17 (*i.e.*, the docket that produced Order No. 1920) and a complaint proceeding in Docket No. EL17-45 against PG&E. See *PG&E* and the *PG&E Rehearing Order*.

⁹² Complaint at 203.

through the regional transmission planning process. The TCA provides that CAISO Tariff Sections 24 (Transmission Planning Process) and 25 (Generator Interconnection) “will apply to any expansion or reinforcement of the CAISO Controlled Grid.”⁹³ The TCA separately defines maintenance activities and specifies that the Participating TOs are responsible for these activities. TCA Section 4.3 provides that the Participating TOs are responsible for operating and maintaining the transmission lines and associated facilities placed under the CAISO’s operational control in accordance with the TCA, applicable reliability criteria, and CAISO operating procedures and protocols. TCA Section 6.3 requires Participating TOs to inspect, maintain, repair, replace, and maintain the rating and technical performance of their facilities under the CAISO’s operational control in accordance with the applicable reliability criteria and performance standards established under the TCA. Appendix C of the TCA defines maintenance as “inspection, assessment, maintenance, repair, and replacement activities performed with respect to Transmission Facilities.” The TCA does not require approval of non-expansion, non-reinforcement maintenance projects through the CAISO’s transmission planning process.

The Commission’s orders on CAISO start-up recognized the CAISO’s transmission planning process applies to transmission facility planning and

⁹³ TCA Section 11. Section 24 of the CAISO tariff identifies the transmission needs the CAISO addresses through its transmission planning process. These needs include: reliability needs; economic needs; public policy requirements and directives; location-constrained resource interconnection facilities (which are radial generation tie facilities ultimately paid for by generators as they come on-line); maintaining the feasibility of long-term CRRs; and expansion of certain generator interconnection facilities.

expansion, in particular expansions to meet reliability and economic needs, whereas each Participating TO would continue to be responsible for maintaining its transmission lines.⁹⁴ As recently as 2018, the Commission re-affirmed this distinction, noting “[n]othing in the Commission’s orders accepting CAISO’s second Order No. 890 compliance filing or its Order No. 1000 compliance filing would require the CAISO to evaluate asset management and maintenance projects.”⁹⁵

Maintenance- and facility-related safety is within the domain of the Participating TOs, not the CAISO. The relief Complainants seek regarding asset management and maintenance projects would “turn the TCA on its head” and drastically modify the longstanding delineation of responsibilities assigned to the CAISO and the Participating TOs. Further, as discussed *infra*, the relief Complainants request would require the CAISO to develop expertise, processes, and personnel it does not have, drawing resources away from other important CAISO efforts to benefit its customers. Requiring the CAISO to review and approve transmission owner asset management and maintenance activities would require a significant increase in CAISO staffing to collect, verify, and analyze the condition of the transmission owners’ transmission facilities and their expected useful life and to prioritize maintenance and replacement activities. The extensive staff the CAISO would need to hire would be redundant of staff at

⁹⁴ *Pac. Gas & Elec. Co., et al.*, 81 FERC ¶ 61,122 at 61,486-87, 61,559 (1997). The CAISO subsequently added other categories of transmission need (e.g., public policy) that it evaluates in its transmission planning process.

⁹⁵ *PG&E*, 164 FERC ¶ 61,161 at P 66.

the Participating TOs, thus unnecessarily increasing costs to ratepayers.

In addition, making the CAISO responsible for asset management and maintenance decisions regarding existing transmission facilities potentially could subject the CAISO to significant increased litigation and liability risk. This is a major concern in California given the severe wildfire risk.

b. The Complaint Constitutes A Collateral Attack on Prior Commission Orders With No Showing of Changed Circumstances

i. The Commission Rejected Regional Planning for Asset Management Projects in Prior Proceedings Involving CAISO Participating TOs

To support their proposal to require the CAISO (and other ISOs and RTOs) to review and approve all asset management and maintenance projects down to 100 kV, Complainants raise arguments and request remedies the Commission has previously rejected. Complainants identify no changed circumstances that would require a different outcome now. As to the CAISO, Complainants' claims are not based on Complainants' direct experience with the CAISO or participation in the CAISO Participating TOs' Commission-approved asset management and maintenance processes. Rather, Complainants rely on the same evidence submitted in prior Commission proceedings to support requests that the Commission require the CAISO to review and approve asset management and maintenance projects.⁹⁶

In the PG&E Complaint Proceeding, complainants objected to the fact that a large percentage of PG&E's capital expenditures pertained to asset

⁹⁶ Complaint at 203, 251-53.

management and maintenance projects PG&E did not submit for review and approval in the CAISO's transmission planning process or the process for generator interconnection upgrades.⁹⁷ The CPUC Complaint identified the types of projects not being evaluated in the CAISO's transmission planning process as including, *inter alia*, line remediation, replacement of deteriorating equipment and management of existing line assets, automation infrastructure improvements, replacement of transformers, breakers, and switches, information technology infrastructure upgrades, projects to extend the useful life of facilities, substation and transmission line management, projects to remedy outdated or failing infrastructure, environmental work, and common expenditures such as procuring computers and office equipment.⁹⁸ These were not transmission projects that upgraded or expanded the capacity of the grid. Rather, they were projects that encompassed "the maintenance, repair, and replacement work done on existing transmission facilities as necessary to maintain a safe, reliable, and compliant grid based on existing topology."⁹⁹

The Commission soundly rejected claims the CAISO needed to review and approve asset management and maintenance projects or that the

⁹⁷ See Complaint of California Public Utilities Commission, *et al.* filed against PG&E on February 2, 2017 in Docket No. EL17-45 (CPUC Complaint). Interestingly, Complainants rely on the allegations in the CPUC Complaint to support their proposed remedy, which includes planning for all generator interconnection projects in the regional planning process; yet, they ignore the CPUC Complaint did not raise objections regarding the approval of projects in the separate generator interconnection process.

⁹⁸ *Id.* at 4, 28-30. See also *PG&E*, 164 FERC ¶ 61,161 at PP 12, 66, n. 119.

⁹⁹ *PG&E*, 164 FERC ¶ 61,161 at PP 66-67, n. 119; *PG&E Rehearing Order*, 168 FERC ¶ 61,171 at PP 3, 18-42.

Participating TOs' approval of such projects was unduly discriminatory.¹⁰⁰ For similar reasons, the Commission should summarily reject the Complaint, which offers no new arguments or changed circumstances to justify requiring the CAISO to review and approve asset management and maintenance projects at 100 kV and above.

In the PG&E Complaint Proceeding and elsewhere, the Commission rejected claims that Order No 890's principles apply to maintenance and asset management projects in the CAISO region that do not expand or upgrade the transmission system and require review and approval of the voluminous number of such projects in the CAISO's regional transmission planning process. In 2018 and 2019, the Commission issued a series of orders confirming that transmission-related asset maintenance and compliance activities are not subject to Order No. 890's transmission planning requirements and do not require review and approval in the CAISO's regional transmission planning process. In rejecting the CPUC Complaint, the Commission found:

Complainants' assertion that PG&E's TO tariff violates the transmission planning requirements of Order No. 890 is based on the premise that those requirements apply to any transmission-related projects and activities that are capitalized in a PTO's transmission rate base including the asset management projects and activities at issue here. We disagree. While Order No. 890 does not explicitly define the scope of "transmission planning," the Commission adopted the transmission planning requirements of Order No. 890 to remedy opportunities for undue discrimination in *expansion* of the transmission grid. As discussed above, the Commission was concerned that transmission providers may have a disincentive to remedy the increased congestion caused by

¹⁰⁰ PG&E, 164 FERC ¶ 61,161 at PP 65-74; PG&E Rehearing Order, 168 FERC ¶ 61,171 at PP 18-59.

insufficient transmission capacity, explaining that “[w]e cannot rely on the self-interest of transmission providers to *expand* the grid in a non-discriminatory manner.” Thus, the transmission planning reforms that the Commission adopted in Order No. 890 were intended to address concerns regarding undue discrimination in grid expansion. Accordingly, to the extent PG&E’s asset management projects and activities do not expand the grid, they do not fall within the scope of Order No. 890, regardless of whether they are capitalized in PG&E’s transmission rate base.¹⁰¹

Similarly, the Commission order approving SCE’s transmission asset management and maintenance program noted that

the Commission adopted the transmission planning requirements in Order No. 890 to remedy opportunities for undue discrimination in *expansion* of the transmission grid...Thus, the transmission planning reforms that the Commission adopted in Order No. 890 were intended to address concerns regarding undue discrimination in grid expansion. Accordingly, to the extent that SoCal Edison’s asset management projects and activities do not expand the grid, they do not fall within the scope of Order No. 890.¹⁰²

Thus, the framework in the CAISO planning region for reviewing and approving maintenance and asset management projects does not contravene the intent of Order Nos. 890 and 1000.

Consistent with these prior decisions, the Commission should reject Complainants’ further attempt to require regional transmission planners to review

¹⁰¹ *PG&E*, 164 FERC ¶ 61,161 at P 66. The Commission affirmed this determination on rehearing stressing that the Order No. 890 transmission planning principles and regional transmission planning processes were intended to address the need for **expansion** and ensure that system **expansions** were done on a non-discriminatory basis, not to require that mere asset management and maintenance projects be approved through the regional planning process. *PG&E Rehearing Order*, 168 FERC ¶ 61,171 at PP 19-50.

¹⁰² *SCE*, 164 FERC ¶ 61,160 at P 31. The Commission affirmed this decision on rehearing finding that SCE’s asset management projects and activities do not fall within the scope of Order No. 890’s transmission planning reforms. *SCE Rehearing Order*, 168 FERC ¶ 61,170 at P 20. The Commission explain thoroughly why excluding these types of projects and activities from Order No. 890 transmission planning requirements does not result in undue discrimination, violate EPA 2005 requirements, or is inconsistent with Commission precedent. *Id.* at PP 20-58.

and approve asset management and maintenance projects at and above 100 kV. Complainants' assertion that the decision in *PG&E* "provide[s] self-interested transmission owners a roadmap to thwart the Commission's regional planning goals, and the interests of transmission customers, entirely by rebuilding yesterday's grid" is misplaced. Contrary to Complainants' pejorative descriptions, transmission owner asset management and maintenance projects do not – and cannot – thwart regional planning in the CAISO; they complement it.¹⁰³ In particular, if an asset management or maintenance project is not located in an area of the grid where the CAISO has identified a transmission need, such project in no way can "thwart" the CAISO's regional planning efforts or preclude approval of a regional project. On the other hand, if an asset management or maintenance project is located in an area of the grid where the CAISO has identified a transmission need, the CAISO has the authority to determine whether it can modify such a project to meet the need (as well as maintain exiting service expectations). Thus, the CAISO need not review and approve all asset management projects down to 100 kV. Further, as discussed *infra*, the regional transmission planner is not the appropriate entity to perform this responsibility.

Complainants also point to the objections in the CPUC Complaint that PG&E's asset management and maintenance projects were developed and

¹⁰³ Maintaining the existing transmission system at existing operating levels is a necessity as the CAISO and other transmission planners plan for future system upgrades and expansions. The existing transmission system is the foundation on which transmission planners plan the future transmission system. If the transmission system assumed to be in existence for expansion and upgrade planning purposes is not adequately maintained and does not function at assumed levels, efficient effective transmission planning and future expansion could be foiled. The Participating TOs are far-and-away in the best position to undertake this work.

reviewed through an entirely internal process with no transparency.¹⁰⁴

Complainants fail to acknowledge that following the PG&E Complaint Proceeding each of the CAISO's investor owned utilities (IOUs) subsequently implemented Commission-approved asset management and maintenance processes to provide greater transparency and inform and involve stakeholders and regulators in their asset management and maintenance processes (*see discussion supra* in Section I.B.1). The IOUs subsequently terminated these processes following issuance of CPUC Resolution 5252, which established the TPR process to provide some transparency into, and an opportunity for review of, IOU capital projects, including asset management projects.¹⁰⁵

ii. In Order No. 1920, the Commission Again Rejected Requests to Require Review and Approval of Asset Management Projects in the Regional Planning Process

The Complaint also constitutes an impermissible collateral attack on, and

¹⁰⁴ Complaint at 251, citing CPUC Complaint at 3 (emphasis in original).

¹⁰⁵ In Docket No. AD22-20, where the Commission is examining transmission cost management issues, the Commission recognized some public utility transmission providers have processes that provide stakeholders with some transparency into their asset management decisions. Specifically, the Commission noted PG&E's Pacific Transmission Asset Review (STAR) Process and SCE's Stakeholder Review Process (SRP) provide stakeholders with the opportunity to engage in a review of PG&E's and SCE's five-year plan for capital transmission projects so that stakeholders can understand the need for and anticipated costs of projects that are not reviewed in the CAISO's transmission planning process. Notice Inviting Post-Technical Conference Comments, Docket No. AD22-8 (Dec. 23, 2022). The Commission inquired whether it should require public utility transmission providers to provide transparency concerning their asset management decisions and whether there were any aspects of PG&E's or SCE's SRP that would be beneficial to consider. Complainants neither acknowledge these Commission-approved asset management processes (or the CPUC's process that superseded them), nor offer any reasons or evidence why such processes are no longer just and reasonable or are inadequate for purposes of addressing asset management and maintenance issues, especially when considered in conjunction with the CAISO's sole authority over all transmission upgrades and expansions at all voltage levels.

out-of-time request for rehearing of, Order No. 1920. Despite the requests of numerous parties, in the Order No. 1920 rulemaking, the Commission again declined to apply regional transmission planning requirements to asset management projects. The Commission's actions in Order No. 1920 were consistent with its prior decisions in *PG&E* and *SCE* Orders. Complainants acknowledge that in the Order No. 1920 rulemaking proceeding and in requests for rehearing of Order No. 1920 parties, including CAISO stakeholders, raised issues regarding asset management projects and the need for the types of reforms they propose in the Complaint.¹⁰⁶ Complainants state, however, that the Commission did not adopt changes to local transmission planning processes in Order No. 1920 because reforms other than those proposed in the Notice of Proposed Rulemaking (NOPR) that ultimately resulted in Order No. 1920 were beyond the scope of the final rule.¹⁰⁷

Complainants seem to imply their Complaint does not constitute a collateral attack on the local transmission planning components of Order Nos. 1920 and 1920-A. To the contrary, those orders show the Commission (1) sought comments on local transmission planning issues, (2) actively considered parties' comments regarding local transmission planning (including asset management projects) – the same comments Complainants raise in their Complaint, and (3) declined to adopt more extensive local planning and asset management reforms like those Complainants seek here.¹⁰⁸ In other words, the

¹⁰⁶ Complaint at 10, 69-70.

¹⁰⁷ *Id.*, citing Order No. 1920 at P 247.

¹⁰⁸ Order No. 1920 at PP 109-11, 247, 1567-1624; Order No. 1920-A at PP 804-12, 847-94.

local planning remedies Complainants seek were not beyond the scope of the Order No. 1920 rulemaking, they merely were beyond the Commission's proposed remedy in the NOPR for Order No. 1920 and the modified measures the Commission ultimately adopted in the final rule.

In the ANOPR in Docket No. RM21-17 (*i.e.*, the proceeding that resulted in Order No. 1920), the Commission sought comments on several local transmission planning issues.¹⁰⁹ In its subsequent NOPR for Order No. 1920, the Commission acknowledged this¹¹⁰ and noted the many comments it received regarding the increased investment in local transmission and the replacement of transmission facilities at the end of operational life.¹¹¹ To address concerns regarding the issues regarding local transmission planning processes raised by stakeholders, the NOPR provided two proposals: (1) an iterative stakeholder

¹⁰⁹ ANOPR for Order No. 1920 at PP 37, 162, 171.

¹¹⁰ In particular, the Commission recognized that in its ANOPR for Order No. 1920 the Commission sought comment on whether individual incumbent transmission provider practices regarding replacement of existing transmission facilities sufficiently align with the directive to ensure evaluation of alternative transmission solutions and whether these practices sufficiently consider the more efficient or cost-effective ways to serve future needs. Additionally, the Commission sought comment on whether sufficient transparency exists around replacement decisions made by transmission providers to allow an assessment of these decisions in the regional transmission planning process. *Building for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation & Generator Interconnection*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,028, at P 387 (2022) (NOPR for Order No. 1920).

¹¹¹ NOPR for Order No. 1920 at PP 387-400. In the NOPR, the Commission defined "in-kind" replacement as a new transmission facility that does not expand the capacity of the existing transmission that is being replaced unless the incidental increase in capacity occurs as a function of advancements in technology of the replaced equipment, *i.e.*, an asset management project. *Id.* at P 385 and n. 610. The NOPR acknowledged the Commission's prior orders finding that replacement projects that do not expand the capacity of the grid are not subject to the planning requirements of Order Nos. 890 and 1000. *Id.* at n. 611. The NOPR also acknowledged the CPUC's (and others') comments regarding transmission owners' authority over like-for-like replacement of transmission facilities. *Id.* at P 391.

meeting process; and (2) a separate “right-sizing” process.¹¹² In the NOPR, the Commission found that “in-kind replacement transmission facilities that will operate at or above 230 kV are the most likely candidates for right-sizing, *i.e.*, are most susceptible to modification that could more efficiently or cost effectively meet transmission needs identified through Long-Term Regional Transmission Planning.¹¹³ The Commission stressed: “nothing in the reforms we propose here alters existing law concerning a public utility transmission provider’s existing rights and responsibilities with respect to maintaining, and when necessary replacing, existing transmission facilities.”¹¹⁴

The Commission ultimately adopted these proposals in Order No. 1920, with some modifications. In doing so, the Commission rejected comments on the NOPR espousing broader local transmission planning reforms similar to those Complainants raise. In that regard, Commission stated

we also reject requests to incorporate local transmission planning into Long-Term Regional Transmission Planning specifically or regional transmission planning more generally, as well as requests to require transmission providers to evaluate and approve local transmission facilities in regional transmission planning. This final rule sets forth requirements that will enhance the transparency of local transmission planning and examine opportunities for right-sizing in-kind replacements of existing transmission facilities, including local transmission facilities, but the Commission in the NOPR did not propose other changes to local transmission planning processes and therefore these requests are beyond the scope of this final rule.¹¹⁵

¹¹² *Id.* at PP 387-415.

¹¹³ *Id.* at P 406.

¹¹⁴ *Id.* at P 411.

¹¹⁵ Order No. 1920 at P 247.

This statement and others, clearly demonstrate the Commission considered local transmission planning and in-kind replacement reforms, and parties' comments and proposed broader reforms on those topics, in the Order No. 1920 rulemaking proceeding. However, the Commission adopted a different set of measures to address such concerns than Complainants desire. Thus, any suggestion that broader local planning reforms were beyond the scope of the Order No. 1920 rulemaking proceeding must fail.

To address parties' concerns regarding local transmission planning and in-kind replacement projects, in Order No. 1920 the Commission adopted several measures to enhance the transparency of local transmission planning in those regions that – unlike the CAISO – have separate local planning process in addition to the ISO/RTO regional planning process. The measures the Commission adopted in Order No. 1920 included a requirement to conduct three stakeholder meetings: (1) an Assumptions Meeting to review, criteria, assumptions, and models related to each transmission provider's local planning; (2) a Needs Meeting to review identified reliability criteria and other transmission needs that drive each transmission provider's local planning; and (3) a Solutions Meeting to review potential solutions to the identified reliability criteria violations and other transmission needs.¹¹⁶ The Commission also required that a part of each Long-Term Regional Transmission Planning Cycle, transmission providers evaluate whether there are any 200 kV or above transmission facilities they

¹¹⁶ *Id.* at P 1625.

anticipate replacing in-kind during the next 10 years that can be “right-sized” to address a need identified in Long-Term Regional Transmission Planning.¹¹⁷ To implement this, Order No. 1920 required that sufficiently early in each Long-Term Regional Transmission Planning cycle, each transmission provider submit its in-kind replacement estimates for use in Long-Term Regional Transmission Planning.¹¹⁸ The Commission clarified that transmission providers may propose on compliance a threshold lower than 200 kV for considering right-sizing transmission facilities.¹¹⁹

Importantly, in addressing parties’ comments, the Commission stressed that these new requirements only applied to any local transmission planning that is within the scope of Order No. 890 and thus did not apply to asset management projects.¹²⁰ Several parties sought rehearing of Order No. 1920, claiming the Commission erred in not applying the local planning transparency requirements of Order No. 1920 to asset management projects or adopting other local transmission planning requirements.¹²¹ The Commission rejected these rehearing requests, stating:

We sustain the determination in Order No. 1920 to exclude asset management projects from the information on local transmission planning inputs that transmission providers must include for stakeholder review as part of the Assumptions, Needs, and Solutions Meetings. We reiterate that planning for asset management projects, which do not increase transmission capacity or only do so incidentally, is not required to be included

¹¹⁷ *Id.* at P 1677.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at PP 1684, 1692.

¹²⁰ *Id.* at PP 1569, n.3359, 1625.

¹²¹ Order No. 1920-A at PP 856-58.

within the scope of local transmission planning that is subject to Order No. 890 and as such, it was reasonable for the Commission to exclude them from the requirements in Order No. 1920. Moreover, the Commission did not propose in the NOPR to require transmission providers to include information related to asset management projects in the information that they provide as part of the Assumptions, Needs, and Solutions Meetings. Instead, to enhance stakeholders' visibility into local transmission planning inputs as they are integrated into the regional transmission planning process, the Commission proposed in the NOPR – and adopted in the final rule – requirements to enhance the transparency of such inputs, which are already subject to the local transmission planning transparency requirements of Order No. 890, in the regional transmission planning process.....

As such, we find that the scope of the relevant reforms required by Order No. 1920 is sufficient to remedy the deficiencies in local transmission planning that the requirements” and does not apply to asset management projects.¹²²

Thus, to the extent Complainants seek to apply expanded requirements to asset management projects, their Complaint constitutes an improper collateral attack (without any evidence of changed circumstances) on Order No. 1920. Complainants raised the local transmission planning proposals and arguments regarding asset management projects in their comments on the ANOPR and NOPR for Order No. 1920 and in their requests for rehearing, and presumably they will do so in their petitions for review of Order Nos. 1920 and 1920-A. Furthermore, allowing Complainants to seek similar relief in a new Complaint proceeding where they rely on the same arguments and evidence previously submitted to the Commission constitutes an impermissible out-of-time request for rehearing of Order No. 1920.

¹²² *Id.* at P 856 (footnotes omitted). As discussed above, the CAISO's Participating TOs already have Commission-approved asset management processes that enhance transparency regarding inputs, assumptions, and potential in-kind replacement projects.

iii. The Commission Declined to Impose the Replacement Reforms Adopted in Order No. 1920 to Transmission Facilities Below 200 kV

Another remedy Complainants seek is to require each owner of transmission facilities above 100 kV to (1) identify on a minimum 10-year forward-looking basis transmission facilities likely to reach the end of operational life and (2) provide final notification to the regional planner that the end of operational life of the facility will occur seven years in advance of that happening.¹²³ Despite comments requesting a voltage threshold lower than 200 kV, Order No. 1920 only required 10-years' advance notice for facilities at 200 kV and above. The Commission noted that this threshold "ensure[s] the in-kind replacement facilities that are most susceptible to modification that could more efficiently or cost-effectively address Long-Term Transmission Needs are considered for right-sizing."¹²⁴ Thus, Complainants requested relief would modify the notification rule the Commission adopted in Order No. 1920 with a new rule. Complainants admit this fact by stating "if the Commission grants this component of the Complaint, the Commission will need to square the requirement regarding the identification of end-of-life facilities with the Commission determination in Order No. 1920 (and any court precedent developed in response to the petition for review of Order No. 1920)."¹²⁵ Complainants identify no changed circumstances since issuance of Order Nos. 1920 and 1920-A to warrant a change in the 200 kV notification threshold adopted in the final rule.

¹²³ Complaint at 233.

¹²⁴ Order No. 1920 at P 1684.

¹²⁵ Complaint at 232, n. 1019.

Procedurally, Complainants' attempt to modify Order No. 1920 in this manner constitutes an out-of-time request for rehearing of Order No. 1920 and, as such, the Commission should reject it.

In any event, transmission planners including the CAISO have even implemented Order No. 1920's transmission planning reforms yet. Experience should first be gained with the reforms adopted in Order No. 1920, and time allowed to assess the results, before immediately pursuing modifications to the final rule. The "paint has not yet even dried on Order No. 1920," and Complainants already seek to modify it.

c. Requiring Evaluation and Approval of Asset Management and Maintenance Projects in the Regional Planning Process Is Unnecessary and Highly Problematic

It is incorrect for Complainants to suggest that because the CAISO does not approve every asset management and maintenance project 100 kV and above, the CAISO has no involvement whatsoever in asset management and maintenance projects. As discussed above, the CAISO coordinates with Participating TOs on asset management and maintenance projects and has the authority to modify/expand a proposed asset management project to meet a transmission need identified in the CAISO planning process. Order No. 1920 imposes some additional, more formal notification measures regarding asset management and maintenance projects that the CAISO will also implement.

Requiring the CAISO to review and approve all maintenance and asset management projects in its regional transmission planning process is unnecessary and highly problematic. It would constitute a dramatic change in

the CAISO's role and the planning framework that has been in place since CAISO start-up. It would impose significant additional burdens and costs on the CAISO without any corresponding benefits. Requiring the CAISO to undertake this role would shift the duties and responsibilities of the CAISO and transmission owners fundamentally and inappropriately. It would greatly and unnecessarily expand the CAISO's scope of activities and require staffing, skills, and additional time well beyond the CAISO's current capabilities. Participating TOs have detailed and extensive knowledge in the maintenance of the transmission facilities they own. Participating TOs, not the CAISO, therefore are the appropriate entities to oversee transmission asset management and maintenance, and it should remain that way.

Requiring the CAISO to review and approve asset management projects would greatly add to the volume and complexity of the transmission planning process. Among other things, it would require new processes to collect, monitor, analyze, and report on all local transmission information. This is a cost, time-consuming, and resource-intensive responsibility. The CAISO is not in a position—and does not have the information, expertise, or staff resources—necessary to review, assess, and approve the entirety of transmission asset management and maintenance activities in a comprehensive, efficient, and effective manner. The CAISO is neither well positioned, nor well suited, to make these assessments because it is not “on the ground” day-to-day, and it does not constantly monitor and assess the physical condition of all transmission resources. Unlike Participating TOs, the CAISO does not have a physical

presence near the expansive transmission facilities that constitute the CAISO controlled grid.

Unlike the CAISO, the Participating TOs have regional and local offices near their transmission facilities and are better able to collect the relevant information, make informed decisions, and provide information to stakeholders regarding the need for transmission maintenance on their respective facilities. The Participating TOs have entire teams dedicated to these matters – the CAISO does not have that capacity– and the Participating TOs can use their in-depth knowledge of their facilities and their transmission maintenance expertise to manage risks appropriately. Thus, any processes for review and approval of Participating TO maintenance and asset management activities should involve the Participating TOs directly; it should not occur in the CAISO’s regional transmission planning process. The CAISO can continue to coordinate with the Participating TOs to ensure alignment of planned maintenance activities and any CAISO-approved transmission expansion or reinforcement needs, but the Commission should not require the CAISO to review and approve all maintenance and asset management projects. As discussed above, in evaluating solutions to meet identified transmission needs in its regional planning process, the CAISO already assesses whether it can modify an expected asset management or maintenance project to meet the need. The measures adopted in Order No. 1920 will further enhance this effort.

There is no overriding need for the CAISO to review and approve asset management projects that by their mere nature do not address identified regional

transmission needs or expand the transmission system. If the CAISO identifies no transmission need in an area, then there is no compelling reason for the CAISO to review and approve annually asset management projects needed to maintain existing service levels. Further, adding a layer of CAISO review beyond the transmission owner review could unduly delay the transmission planning process, thus delaying approval of projects needed to meet identified regional transition needs.

d. Asset Management and Maintenance Projects Do Not Present the Problems Complainants Raise and the Evidence Complainants Provide Does Not Show Otherwise

Complainants allege that existing local planning constructs create the perverse incentive for transmission owners to concentrate investment in local facilities, precluding the construction of more cost-efficient regional solutions.¹²⁶ Complainants also allege that allowing transmission owners to plan for rebuilding transmission at the end of operational life is unduly discriminatory.¹²⁷ Further, Complainants express concern about the prudence of costs resulting from approval of projects in local planning processes without independent oversight and approval by a regional transmission planner.¹²⁸

These claims are misplaced as to asset management and maintenance projects and do not require approval of asset management projects in the regional transmission planning process. First, for the reasons discussed above,

¹²⁶ Complaint at 11, 233.

¹²⁷ *Id.* at 202, 203.

¹²⁸ *Id.* at 187, 229.

maintenance and asset management projects, including end-of-life replacement projects, do not compete with – and cannot supplant – any transmission facility the CAISO approves in its regional planning process to meet a regional transmission need. Stated differently, asset management and maintenance projects designed merely to maintain the existing transmission system and existing service levels are not “precluding the construction of more cost efficient regional solutions” necessary to meet needs identified in the regional transmission planning process. Further, Participating TOs cannot “prioritize” asset management and maintenance projects at the expense of projects the CAISO would otherwise approve in its regional planning process or “divert investment” to asset management and maintenance projects expansion instead of projects approved in the regional planning process. Approved Project Sponsors and Participating TOs are obligated to act in good faith to construct the facilities the CAISO awards them they in the transmission planning process.¹²⁹ Participating TOs are obligated to construct any transmission solution approved in the transmission plan for which there is no approved project sponsor coming out of the competitive solicitation process.¹³⁰

Second, Complainants’ concern that lack of oversight over local transmission projects creates ripe opportunities for the incumbent utility to engage in unduly discriminatory and preferential treatment and can lead to unduly discriminatory and preferential outcomes, is inapplicable to asset management and maintenance projects. Indeed, the Complaint provides no real-

¹²⁹ CAISO tariff section 24.6.

¹³⁰ *Id.*

life examples in the CAISO (or in any other planning region) of undue discrimination occurring in the context of specific asset management and maintenance projects or explains how it can even occur. The two specific examples of purported undue discrimination Complaints point to were not asset management or maintenance projects and were not in ISO or RTO regions. In any event, there are no Commission findings of undue discrimination regarding asset management and maintenance projects.

One project the Complaint references was a new 560 mile, 345 kV line “local” project planned by Public Service Company of Colorado (PSCo).¹³¹ The second example of purported undue discrimination is a complaint filed against Florida Power and Light Company (FP&L) regarding a new 176 mile, 161 kV transmission line that was locally planned by FP&L.¹³² Complainants assert the “decisions” in the Florida and Colorado cases” provide evidence of undue discrimination.” To the contrary, not only did the Commission order as to PSCo find no evidence of undue discrimination, Complainants’ reference to FP&L is not to a Commission decision but to allegations in a filed complaint (that ultimately was settled and the complaint withdrawn). Merely asserting that undue discrimination is occurring does not make it so. In any event, these two examples fail to show the potential for undue discrimination in asset

¹³¹ Complaint at 122-25, 292-203. Complainants then admit that the Commission denied a subsequent complaint filed against PSCo finding that “Colorado Cities had not met their burden to show that the assignment of a portion of the costs of the Project was inconsistent with the cost causation principle or otherwise unjust and unreasonable or unduly discriminatory or preferential.” *Id.* at 125, citing *Muni. Energy Agency of Neb. & Colo. Cities v. Pub. Serv. Co. of Colo.*, 189 FERC ¶ 61,099 (2024).

¹³² Complaint at 203, citing Complaint filed by Duke Energy Florida against FP&L on August 6, 2021 in Docket No. EL21-93.

management and maintenance projects as both projects were significant expansion projects.

Complainants also rely on allegations in the PG&E Complaint Proceeding as evidence of undue discrimination in connection with asset management and maintenance projects.¹³³ However, neither Complainants nor the complainants in the PG&E Complaint Proceeding identified a single example of a specific asset management project that was unduly discriminatory or preferential. Most importantly, the Commission, in rejecting the complaint against PG&E, expressly found that because asset management projects do not involve expansion of the grid, they do not present the potential for undue discrimination targeted by the Commission's transmission planning orders; therefore, excluding them from regional planning processes does not perpetuate the undue discrimination those orders sought to eradicate, *i.e.*, discrimination in transmission access.¹³⁴ Notably, CAISO Participating TOs are not evaluating and choosing between incumbent and non-incumbent projects in their asset management and maintenance processes. Under Order No. 1000, transmission owners are assigned replacements of existing transmission facilities. Further, Participating TOs cannot approve an asset management project to displace a project the CAISO might consider in its planning process. Complainants' mere expression of an unsupported belief that undue discrimination is occurring in connection with

¹³³ Complaint at 203, 251-52.

¹³⁴ *PG&E*, 164 FERC ¶ 61,060 at PP 65-67; *PG&E Rehearing Order*, 168 FERC ¶ 61,171 at PP 7, 18-39.

asset management projects falls far short of the evidence required to justify the drastic mandate that transmission planners be required to review and approve asset management projects in the regional planning process.¹³⁵ Indeed, it is not evidence at all; it is innuendo. Complainants thus fail to carry their burden of proof to justify a FPA section 206 change to the CAISO's regional transmission planning process.¹³⁶

Third, Complainants fail to justify that regional planner review and approval of asset management and maintenance projects is necessary to ensure the prudence of such projects and just and reasonable rates. Complainants fail to identify a single, specific utility-approved repair or replacement project in the CAISO region (or in any other region) that has been imprudent. Rather, they generally object to the total costs being incurred for such projects, without recognizing the aging of the existing grid.¹³⁷ However, adjudicating prudence and ensuring just and reasonable rates is the Commission's role, not the role of a regional transmission planner. The Commission has expressly found that concerns about self-interest as a cause of imprudent investments, the expenditure of significant dollars in asset management projects, and the compensation in rates for such investments are properly matters for review in the

¹³⁵ See PG&E Rehearing Order at P 38.

¹³⁶ See, e.g., *Californians for Renewable Energy, Inc., et al. v. Pac. Gas & Elec. Co., et al.*, 142 FERC ¶ 61,143, at P 18 ("Rather than bald allegations, [a complainant] must make an adequate proffer of evidence including pertinent information and analysis to support its claims."); *Californians for Renewable Energy, Inc. v. Nat'l Grid*, 137 FERC ¶ 61,113, at P 36 (2011) ("In short, the complaint in this proceeding fails to meet the requirements of the Commission's Rules of Practice and Procedure to lay out a case before the Commission and with evidentiary support rather than bare allegations.").

¹³⁷ Complaint at 10-11.

ratemaking process at the Commission and are not part of the transmission planning process.¹³⁸ The Commission has rejected the argument that public utility investments pursued through local processes without third-party review in a regional planning process eviscerates the Commission's obligation to ensure just and reasonable transmission rates.¹³⁹ The Commission found two errors in this argument. First, because the costs of asset management and maintenance projects are included in transmission rates, they are subject to Commission review in an FPA section 205 proceeding, and any interested party can intervene and challenge such costs.¹⁴⁰ Second, regional transmission planning processes are not ratemaking processes, and requests to consider the prudence and justness and reasonableness of expenditures are inconsistent with the nature and purpose of such planning processes.¹⁴¹ Regional planners such as the CAISO are not ratemaking bodies, do not have extensive rate experience, and as discussed above, are not well suited to determine the prudence of the multitude of asset management and maintenance projects.

Complainants fail to explain why the process of information sharing and review in appropriately designed local asset management processes will not address concerns about transparency, cost prudence and other issues. In the PG&E Complaint Proceeding, the Commission recognized the value of this approach and "strongly encourage[d] PG&E to continue its efforts to work with

¹³⁸ *PG&E Rehearing Order* at PP 34-35.

¹³⁹ *Id.* at PP 43-44.

¹⁴⁰ *Id.* at P 44.

¹⁴¹ *Id.*

the Complainants and other stakeholders to develop a process to share and review information with interested parties regarding asset management projects and activities that are not considered through the TPP [transmission planning process].”¹⁴² The Commission stated such a process would (1) provide additional transparency that would help parties understand the need for specific asset management projects and activities and (2) allow stakeholders to express, and PG&E to address, concerns before capital expenditures related to these projects and activities are included in a rate filing, which could help narrow the scope of disputes before the Commission.¹⁴³ On rehearing, the Commission found that complainants failed to explain why their concerns were not addressable through the process of information sharing and review the Commission had encouraged PG&E to develop.¹⁴⁴

Complainants likewise fail to state why such appropriately designed, dedicated, individual utility-focused asset management processes are inadequate or explain how they would fail to achieve the Commission’s desire for increased transparency. If there is a need for separate asset management processes, such processes should occur at the individual transmission-owner level, not in an ISO/RTO regional planning process. Conducting a separate, “localized,” and targeted asset management process with the active involvement of state regulatory commissions and transmission owner stakeholders is a much more manageable, efficient, reasonable, and effective approach than requiring

¹⁴² *PG&E*, 164 FERC ¶ 61,161 at P 74.

¹⁴³ *Id.*

¹⁴⁴ PG&E Rehearing Order, 168 FERC ¶ 61,171 at P 42.

the review and approval of asset management projects in the regional transmission planning process. If a stakeholder objects to a specific decision arising from one of these processes, it can file an FPA section 206 complaint with the Commission or, where applicable, a challenge under formula rate protocols. There is no reason to involve the CAISO in asset management and maintenance project issues that are not within the CAISO's specific area of responsibility and for which the CAISO has no special expertise or experience. If a Participating TO is considering an asset management or maintenance project in an area of the grid where the CAISO has identified a transmission need, the CAISO already will be aware of the project and will consider whether the project can be modified or expanded to meet the identified transmission need. There is no legitimate need (or tangible benefit) for the CAISO to evaluate and approve asset management and maintenance projects located in a part of the system where there is no identified transmission need simply because the work is occurring on a 100 kV line.

Complainants also argue that current local transmission planning is insufficient for the "grid of tomorrow" because it will merely rebuild the existing grid, thus preventing holistic, coordinated regional planning to meet long-term transmission needs, accommodate significant expected load growth, and connect remote renewable resource to load centers.¹⁴⁵ These arguments do not apply to asset management and maintenance projects. Because asset management projects do not involve expansion of the transmission system, they are not the

¹⁴⁵ Complaint at 198-99.

type of projects that will connect remote resources to load, upgrade the system to accommodate large load growth, facilitate power transfers between zones, or reduce congestion. Instead, the asset management and maintenance projects transmission owners pursue involve maintaining the existing transmission system and maintaining service to existing customers. Accordingly, asset management projects in no way preclude regional planners from planning the grid of tomorrow; they complement regional transmission planning because the existing transmission system is the baseline from which regional transmission planners plan the future grid.

In conclusion, the CAISO's longstanding model that bifurcates review and approval of transmission expansion projects from maintenance and asset management projects strikes a reasonable, efficient, and effective balance. It best reflects the respective capabilities of the CAISO and its transmission owners. Transmission owners are unable to approve expansion projects and thus cannot evade regional planning and competitive processes, discriminate against non-incumbents, favor maintenance projects over expansion projects, or undermine efforts to build out the grid to meet climate goals. In addition, the transmission owners provide transparency to the CAISO and stakeholders regarding their capital asset management and maintenance programs. Accordingly, the Commission should reject the Complaint to the extent it would require the CAISO and other regional transmission planners to review and approve in the regional planning process all non-expansion maintenance and asset management projects on lines 100 kV and above. If the Commission feels

compelled to take any action in this proceeding, it should focus its efforts on enhancing planning frameworks that allow for the approval of transmission upgrade and expansion projects in local planning processes. The Commission should not require non-expansion maintenance and asset management processes be reviewed in regional transmission planning processes.

D. There Is No Basis to Allocate the Costs of Transmission Facilities on the CAISO System Under 200kV on a Regional Basis

Complainants state the “Complaint requests no changes to the existing cost allocation methodologies for existing project categories except to the extent that certain qualifying local project categories would now be planned regionally and allocated across benefitting zones in a manner that is roughly commensurate with benefits.”¹⁴⁶ Subsequently, Complainants also state “[b]oth today and in the future it is entirely possible and appropriate for independently and regionally planned projects to be locally and entirely cost allocated to one zone if that zone is the sole beneficiary. All cost causation rules remain and apply, even if transmission 100 kV and above is planned under the Independent Transmission Planner standard.”¹⁴⁷

The Commission should find there is no basis to modify the CAISO’s existing cost allocation paradigm whereby all facilities below 200 kV and located in a single Participating TO’s service territory are allocated to that Participating TO, which recovers those costs through a local transmission access charge

¹⁴⁶ Complaint at 231.

¹⁴⁷ *Id.* at 243.

assessed solely to the users of those local facilities. As discussed above, transmission facilities in the CAISO below 200 kV perform a local transmission function, not a regional transmission function. Complainants offer no CAISO-specific evidence to the contrary and thus provide no basis to modify the CAISO's existing cost allocation approach. Further, any attempt to allocate the costs of transmission facilities operating at 100-200 kV regionally would be contrary to California State law. The Commission has accepted this explanation and the resulting cost allocation methodology repeatedly, including as part of the CAISO's Order No. 1000 compliance filing.¹⁴⁸

The CAISO is concerned about the potential implications of defining transmission facilities operating at 100-200 kV as Regional Transmission Facilities for purposes of transmission planning and competitive solicitation even though the costs of such facilities are allocated solely to a single transmission owner. Transmission facilities in the CAISO below 200 kV, with extremely limited and specified exceptions, are not Regional Transmission Facilities, and it is a misnomer to call them such. Complainants fail to explain how a transmission facility can be considered a Regional Transmission Facility for planning and competitive solicitation purposes, but not for cost allocation purposes. The CAISO is concerned that stakeholders desiring to shift costs to others will consider Complainants' definition of Regional Transmission Facilities to be a "crack in the door" and wrongly seek to allocate the costs of the CAISO's lower-voltage transmission facilities to other ratepayers even though they are not truly

¹⁴⁸ See *Cal. Indep. Sys. Operator Corp.*, 143 FERC ¶ 61,057, at PP 285, 297-305 (2013).

regional facilities and do not provide regional benefits. The Commission should not adopt proposals that create greater uncertainty and could prompt parties to seek to undo longstanding, well-functioning cost allocation methodologies and effect dramatic cost shift across regions.¹⁴⁹

E. The Commission Should Not Expand the Requirements for Competitive Solicitation Processes

Complainants would require regional transmission planners to revise their tariffs to adopt competitive solicitation rules that would take into consideration all transmission projects 100 kV and above, including local projects whose costs are allocated to a single transmission owner.¹⁵⁰ For the reasons explained below, the Commission should reject Complainants' proposal.

By way of background, in Order No. 1000, the Commission eliminated the right of first refusal (ROFR) for an incumbent transmission provider for all transmission facilities selected in a regional transmission plan for regional cost allocation.¹⁵¹ The Commission did not eliminate the ROFR for local transmission facilities the costs of which are not allocated regionally. Order No. 1000 defined a local transmission facility as "a transmission facility located solely within a public utility's service territory or footprint that is not selected in the regional transmission plan for purposes of cost allocation."¹⁵² The CAISO's

¹⁴⁹ Changing the definition of Regional Transmission Facilities is unnecessary to effectuate Complainants' proposal to evaluate transmission facilities at and above 100 kV in the regional planning process. The CAISO already does this without calling such lower-voltage facilities Regional Transmission Facilities.

¹⁵⁰ Complaint at 236.

¹⁵¹ Order No. 1000 at P 313.

¹⁵² *Id.* at PP 63, 318.

implementation of Order No. 1000 eliminated the ROFR for (1) all new regional transmission facilities, which are facilities 200 kV and above (even if they are located solely within the footprint or service territory of a Participating TO), and (2) all new transmission facilities, regardless of voltage, that span two (or more) Participating TO systems or span the CAISO BAA and another BAA. Consistent with Order No. 1000, a ROFR applies to local transmission facilities whose costs are not allocated regionally and to upgrades or improvements to, additions on, and replacements of, a part of an existing Participating TO facility.¹⁵³

The CAISO has long been a proponent of competitive solicitation processes for regional transmission facilities. The CAISO implemented competitive solicitations for regional economic and public policy-driven transmission projects even before the Commission issued Order No. 1000.¹⁵⁴ The CAISO has awarded numerous regional transmission projects to independent transmission developers. For the reasons explained below, however, the Commission should reject Complainants' proposal to make transmission projects between 100 kV and 200 kV on the CAISO system subject to competitive solicitation.

1. Complainants Fail to Address the Implications of Making Local Transmission Facilities Subject to Competitive Procurement

In Order No. 1000, the Commission (1) recognized that incumbent transmission providers may have reliability needs or service obligations, and (2)

¹⁵³ CAISO Tariff Section 24.5.1; see Order No. 1000 at P 319.

¹⁵⁴ *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010).

stated that Order No. 1000 did not harm the ability of an incumbent transmission provider to meet its reliability needs or service obligations because the incumbent could choose to build new transmission facilities that are located solely within its retail distribution service territory and the costs of which are allocated solely to customers of the transmission provider.¹⁵⁵ The Complaint's fixation on the need for regional planning of facilities 100 kV and above ignores both (1) the Commission-established link between cost allocation and competitive procurement and (2) the Commission's recognition that transmission providers are generally responsible for building local transmission facilities to meet reliability needs and service obligations within their own service territories.¹⁵⁶

The U.S. Court of Appeals for the District of Columbia Circuit, in upholding Order No. 1000, relied in part upon the fact Order No. 1000 sought to minimize potential reliability harms to incumbent transmission providers "by limiting the [ROFR] ban's scope, permitting incumbents to retain rights of first refusal for upgrades to their existing transmission facilities and for 'local' facilities."¹⁵⁷ Local transmission facilities directly affect service to the transmission providers' retail and wholesale customers, not regional customers. The Complaint ignores the possible implications of other developers constructing and operating transmission facilities on the local transmission system, including facilities needed to meet the transmission owner's local service obligations and to ensure local system reliability.

¹⁵⁵ See Order No. 1000 at P 262; Order No. 1000-A at P 425.

¹⁵⁶ Order No. 1000 at PP 318, 329; Order No. 1000-A at PP 366-430.

¹⁵⁷ *S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41, 79 (D.C. Cir. 2014).

The CAISO's experience shows there can be much greater complexity and challenges in developing projects and obtaining permits on the lower-voltage transmission system than on the higher-voltage transmission system, because the CAISO's low-voltage transmission system is intertwined and integrated closely with existing transmission owners' distribution system. In addition, the distribution system is much more dynamic and has a much shorter planning horizon, because the distribution system must be upgraded and reconfigured more frequently to address distribution system connections. Although the higher-voltage system interconnects with distribution facilities in some locations, the lower-voltage system has more extensive interconnections with the distribution system, and the two are more integrated. Conditions on the distribution system can more directly affect the lower-voltage transmission system and vice versa. Operating and maintaining these lower-voltage facilities thus requires greater coordination between the transmission and distribution systems, which becomes more difficult when different entities operate the systems.

Opening the local transmission system to competitive procurements could cause a proliferation of transmission owners operating bits and pieces of an otherwise single, integrated local system that intersects with the transmission owner's distribution system. Such a patchwork arrangement would raise potential coordination issues and fragment the local grid by increasing seams within an individual utility's transmission and distribution systems. The Complaint fails to address these coordination issues.

The CAISO's Estrella 230/70 kV substation project provides one telling example of how the complexities of distribution system issues, coupled with transmission system issues, can make competitive procurement processes problematic even when there is a supportive Participating TO and the transmission facilities are at higher voltages. Over a decade ago, the CAISO approved the Estrella project to address two sets of concerns – (1) the risk of thermal overloads and voltage concerns on the 70 kV system during contingency conditions on the 70 kV system and (2) potential contingency conditions on the 230 kV system. The Estrella project still has not been built.

The CAISO Governing Board approved the project in March 2014, the CAISO completed the competitive solicitation process in March 2015, and the proponents submitted the application for a permit to construct and the associated environmental assessment in January 2017.¹⁵⁸ The target in-service date for the Estrella project was May 2019. The competitive part of the Estrella project involved constructing a new 230/70 kV substation and related work. The non-competitive part of the project involved installing a 45 MVA 230/12 kV distribution transformer and related work. The combined project contemplated two yards at the substation – a transmission yard and a distribution yard for the PG&E distribution facilities.

The facilities subject to competitive solicitation were at the intersection of the transmission and distribution systems, and the environmental review process

¹⁵⁸ See Joint Application of Horizon West Transmission, LLC (U222E), formerly known as Nextera Energy Transmission West, LLC, and Pacific Gas and Electric Company (U39E) for Permits to Construct the Estrella Substation and Paso Robles Reinforcement Project. California Public Utilities Commission proceeding A.17-01-023.

delved deeply into distribution system-related issues and examined alternative distribution-level alternative solutions. It also created significant coordination issues between the transmission component of the project and the distribution component of the project.

The project has been delayed for years due in large part to regulatory delays associated with environmental review, consideration of alternative solutions, and the resulting Permit to Construct (PTC) process. The approval process took over seven years from application to final decision, from 2017 to 2024, and construction has yet to commence. There was extensive discussion in the PTC's environmental review process regarding alternatives and the potential for non-transmission storage to meet all or part of the distribution and/or transmission system reliability needs. This included five rounds of deficiency letters and six rounds of data requests in that California regulatory review process.¹⁵⁹ Depending on the different options to meet distribution system needs, the CPUC then considered other alternatives for meeting the transmission system need, e.g., upgrading existing substations rather than developing a new injection point into the 70 kV distribution system (which was the aim of the competitively procured project). The extensive delays resulted in significant project cost increases. The in-service date for this project is projected to be 2029, ten years after the originally identified in-service date of 2019.

The experience with the Estrella project highlights the challenges in the permitting process, and coordination generally, associated with awarding a

¹⁵⁹ See <https://ia.cpuc.ca.gov/environment/info/horizonh2o/estrella/index.html>.

project to a non-incumbent transmission developer when the permitting process raises distribution-related issues and issues about upgrading existing facilities. It puts most of the burden on rationalizing the need for the project and the acceptability of various alternatives (including distribution alternatives and upgrades to existing facilities) on the incumbent transmission owner. This experience highlights the complexities of moving forward with an integrated solution directly affecting, and affected by, distribution system planning, that also requires exploring a host of alternatives in the permitting process that may not involve the competitively awarded solution ultimately moving forward. These challenges will become even more pronounced and prevalent by making local projects down to 100 kV subject to competitive solicitation. Given the dependence on the incumbent utility to address the distribution issues and other alternatives, it becomes increasingly challenging for a non-incumbent project sponsor to manage the overall permitting process effectively, raising concerns about delays and the efficacy of the competitive process (including the firmness of cost caps) in such circumstances.

2. Competitive Solicitations for Local, Low-Voltage Projects Are Not a Cure-All

In addition to creating the problems associated with a “Swiss-cheese” local grid that intersects with the distribution system, competitive solicitations for lower-voltage transmission projects may not provide the significant benefits Complainants desire. Local lower-voltage transmission projects in the CAISO provide less opportunity for cost savings than higher-voltage, regional projects because they typically are smaller in scale and have relatively lower capital

costs. Thus, the margin for any potential cost savings is less (but as discussed *infra* the burdens associated with conducting competitive solicitations for local, lower-voltage facilities are not less than they are for higher-voltage, regional facilities).¹⁶⁰

Moreover, a cost cap agreed to in a competitive solicitation process is no guarantee the project sponsor will construct the project at or below that cost or seek to have ratepayers bear costs above the cap. Cost caps often permit upward adjustment when costs increase due to such complications as changes in project scope and design, schedule delays, changes in interconnection costs, route changes, force majeure, increased environmental mitigation costs, required undergrounding of proposed overhead lines, and other reasons. This calls into question the benefit of running costly and time- and resource-consuming competitive solicitations for lower-voltage, local transmission facilities that provide less opportunity for cost savings when these factors can affect the firmness of the cost cap.

In addition, conditions on the grid are changing rapidly due to potential significant load growth (e.g., due to data centers), the changing resource mix, the circumstances surrounding offshore wind, and other factors. This can require the CAISO to modify the scope of a project previously awarded in a competitive solicitation. The CAISO has already had to modify the scope of two awarded projects due to compelling changed circumstances. For one of the projects,

¹⁶⁰ Local facilities are also generally located closer to existing transmission owner maintenance facilities and staff.

these modifications resulted in a drastic reduction in the scope of the facilities required for the modified project and the planning cost of such facilities compared with what the original competitive solicitation contemplated. Problems can arise (especially if there is an immediate need for the project due to changed circumstances), and ratepayers do not benefit, if a change in project scope occurs that significantly reduces project costs, and the project sponsor declines correspondingly to modify its now extremely excessive (and meaningless) cost cap.

Another example of the lack of firmness of any cost cap for an awarded project is the possibility a project sponsor will claim force majeure every time its expected costs significantly exceed its cost cap. The CAISO already is involved in litigation because one project sponsor is seeking to recover costs incurred to build an awarded project far in excess of its agreed-to cost cap, claiming that a large portion of the cost increases result from numerous force majeure events. Other project sponsors have intimated about the potential need to claim force majeure (for tenuous reasons) because their costs might exceed the cost cap. The CAISO (and stakeholders) will incur significant costs and expend significant time and resources if required to litigate force majeure claims every time project costs significantly exceed the agreed-to cost cap. Expanding the number of facilities eligible for competitive solicitation will only increase this risk.

3. Complainants Do Not Address the Potential Burdens, Costs, and Delays Associated with Making Projects Below 200 kV Subject to Competitive Solicitation

The CAISO expends significant costs, staff time, and resources conducting competitive solicitations for regional transmission facilities at or above 200 kV. There are constraints on CAISO staff and the consultants it engages in the competitive solicitation process. CAISO staff involved in the competitive solicitation process have numerous other responsibilities. Similarly, consultant options are limited because of industry conflicts, and, like CAISO staff, they have other responsibilities. Oftentimes CAISO staff and resources required to focus on planning challenges and other matters are diverted to support competitive solicitations. The CAISO has had to outsource other work to contractors while its staff are working on competitive solicitations.

Complainants' attempt to make projects below 200 kV subject to competitive solicitation would only increase these burdens and present additional challenges, without any evidence of corresponding benefits to customers. The CAISO already faces significant challenges in meeting the deadlines for competitive solicitations. When faced with multiple competitive solicitations, the CAISO has had to stagger them, delaying the approval process for some projects. Complainants' proposal to make all projects down to 100 kV subject to competitive solicitation will increase – in some cases substantially – the number of competitive solicitations the CAISO must conduct in a given cycle, thus causing even greater delays and potentially jeopardizing the on-time delivery of needed projects. Complainants offer no evidence that such an expansion of burdens on the CAISO will produce any net benefits to customers, instead offering only assumptions and conclusory statements. The Commission should

take no action that would make this process more challenging than it already is and foster greater delays.

Complainants also ignore the potential complications and significant time commitments (and costs) associated with the CAISO's administration of projects after it awards them in the competitive solicitation process. These activities include, but are not limited to, contracting and monitoring project status, processing needed amendments, considering necessary project and schedule changes, participating in CPCN proceedings, and addressing (and possibly litigating) cost increases under the APSA.

Finally, the CAISO has so far avoided having to seek a ROFR for "immediate need" projects where there is a reliability need within a few years, which the Commission has accepted in other ISOs and RTOs. However, if the Commission expands the eligibility requirements for competitive solicitations, the CAISO will need to consider seeking approval for such a mechanism.

F. Complainants' Arguments for Their Independent Transmission Planner Proposal Are Flawed

Complainants request the Commission impose an Independent Transmission Planner (ITP) requirement on all planning regions.¹⁶¹ Complainants would task the ITP with conducting all transmission planning processes, generator interconnection studies, competitive solicitations, and

¹⁶¹ Complaint at 232-43.

coordination with other regions.¹⁶² Complainants state that the ITP “would likely need to have separate FPA Section 205 filing rights and a separate governing tariff.”¹⁶³ The Complaint specifies seven criteria for certification of an ITP.¹⁶⁴ One requirement is that the ITP tariff be subject to a governance and voting process, including necessary changes to both the tariff and operating agreement regarding planning rules without undue transmission owner influence.¹⁶⁵ Another requirement is there can be no common interest agreements or other agreements that are unknown to other regional stakeholders between the planning entity and regional stakeholders.¹⁶⁶ The Complaint states “it is expected that **certain** RTO/ISO regions will be able to establish that the required independence is in place once the local planning opportunities for 100 kV and above transmission facilities are removed from individual transmission owner tariffs.”¹⁶⁷ The Complaint further states that “[i]f the RTO/ISO will also serve as the ITP, then the Commission must direct the revision of any RTO/ISO governing documents, including agreements between the RTO/ISO and the owners of the

¹⁶² *Id.* at 237. Complainants assert that the ITP can ensure that alternatives are adequately considered and there is strong support for the cost-effectiveness of the project, including benefits metrics. *Id.* at 234. ISOs/RTOs already do this in their Order No. 1000 planning processes.

¹⁶³ *Id.*

¹⁶⁴ *Id.* at 234-35.

¹⁶⁵ *Id.* at 235.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* (emphasis added)

transmission facilities to ensure those governing documents do not impede, restrain, or hamper the RTO/ISO from truly planning independently.”¹⁶⁸

For the reasons discussed herein, the Commission should reject Complainants’ ITP proposal. Although the requested relief is somewhat vague, it appears Complainants are essentially reformulating the Independent Transmission Monitor concept the Commission explored in the Order No. 1920 rulemaking proceeding and ultimately did not adopt in that proceeding.¹⁶⁹ The Commission noted it might address independent transmission monitor issues in a future proceeding such as Docket No. AD22-8.¹⁷⁰ Indeed, transmission planning oversight and the potential role of an independent market monitor are the subject of the proceedings in that docket.¹⁷¹ If the Commission were to address independent transmission monitor issues, the most appropriate forum to do so would be in the ongoing proceeding in Docket No. AD22-8 so as not to duplicate efforts.¹⁷²

1. RTOs/ISOs Already Are Independent

Complainants’ suggestion that only “certain” ISOs and RTOs may be able “to establish that the required independence is in place” to qualify as an ITP is

¹⁶⁸ *Id.* 241-42.

¹⁶⁹ Complainants admit their use of the term “independent transmission planner incorporates elements of what the Commission initially sought comments on in the ANOPR for Order No. 1920 including the need for an independent review of the planning process and costs of transmission facilities before construction starts.” Complaint at 233.

¹⁷⁰ Order No. 1920 at P 1618; Order No. 1920-A at PP 858, 880 n. 2195.

¹⁷¹ *Transmission Planning & Cost Mgmt.*, Docket No. AD22-8-000, Supplemental Notice of Technical Conference (Oct. 4, 2022) and Notice Inviting Post-Technical Conference Comments (Dec. 23, 2022).

¹⁷² See, e.g., *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224, at P 62 (2010).

baseless. In the case of the CAISO, there is no record evidence whatsoever to suggest that the CAISO is not already an independent entity. As indicated above, Complainants have no firsthand knowledge of the CAISO, are not CAISO stakeholders, and rely solely on claims the Commission previously rejected regarding transmission owner asset management and maintenance projects as a basis for seeking any relief involving the CAISO. There are no actual instances to support even a preliminary finding that the CAISO (and other ISOs and RTOs) are not independent.

To receive and maintain Commission authorization as an RTO or ISO, and entity must adhere to independence principles adopted by the Commission, including the Commission's finding their governance is independent. As part of these principles, RTOs/ISOs maintain financial independence from their market participants, including entities seeking to develop transmission. RTOs/ISOs perform their transmission planning processes ultimately to benefit transmission customers. Furthermore, the CAISO is a not-for-profit corporation. In particular, Complainants offer no specific examples where the CAISO has made biased decisions in favor of incumbents or not been transparent in the planning process.

Evidence of Complainants' failure even to make a preliminary case against ISOs and RTOs appears in the rationale they provide regarding the need for transmission planning conducted independent of transmission owner self-interest. Specifically, Complainants state that

in the decade since the Commission required the development of a regional plan there has not been a single regional transmission project in those Order No. 1000 regions where the incumbent transmission planner controls both local and regional planning. The

current regulatory regime incentivizes transmission owners to overinvest in local projects while potentially underinvesting in more efficient regional solutions. Further, the lack of regional planning in non-RTO/ISO regions lead to the constant threat by transmission owners in RTO/ISO regions, often leading the RTO/ISO to favor incumbent interests.¹⁷³

Complainants' reliance on the fact no non-ISO/RTO planning region has built a regional transmission project, cannot serve as the basis for a complaint against ISO and RTOs. Further, Complainants' innuendo and blanket, conclusory allegations that RTO/ISO regions favor incumbent interests cannot constitute the basis for action under FPA section 206.¹⁷⁴ If an individual transmission planning entity engages in undue discrimination or undue preference in its transmission planning process, does not follow its transmission planning tariff provisions, or does not adhere to the requirements of Order Nos. 890 and 1000, the appropriate course of action is to file an FPA section 206 complaint against that specific planning entity alleging specific instances of undue discrimination based on record evidence. Any such individualized practice does not justify a "blunderbuss-style" complaint against every planning region under the Commission's jurisdiction.¹⁷⁵

¹⁷³ Complaint at 233.

¹⁷⁴ See, e.g., *Californians for Green Nuclear Power, Inc. v N. Am. Elec. Reliability Corp., et al*, 174 FERC ¶ 61,203 at P 49 (2021), citing *Ill. Muni. Elec. Agency v. Cent. Ill. Pub. Serv. Co.*, 76 FERC ¶ 61,084, at 61,482 (1996).

¹⁷⁵ The Complaint states that to be eligible as an ITP an entity may have "[n]o Common Interest Agreement or other agreements that are unknown to other regional stakeholders between the planning entity and the transmission owners." Complaint at 235. The Complaint identifies no such actual agreements that affect transmission planning, nor is it apparent how such secretive agreements could exist as they would constitute jurisdictional contracts that must be filed with or reported to the Commission. This is a further example of Complainants relying on innuendo to support their filing, rather than specific examples of undue discrimination or tariff violations in connection with any particular ISO/RTO planning process.

Complainants further state that, even where regional planning occurs today “existing transmission owners are capable of exerting undue influence over outcomes by selective disclosure of generation investment plans, customer load forecasts, and the life expectancy of existing assets.”¹⁷⁶ These statements are untrue as to the CAISO and demonstrate Complainants’ ignorance of the CAISO’s planning process. The CAISO has a Memorandum of Understanding with the CPUC and the California Energy Commission (CEC) that sets forth the obligations of each in connection with the CAISO’s transmission planning process. The CEC provides the load forecasts the CAISO uses in the transmission planning process. The CPUC provides the resource portfolios the CAISO uses in the transmission planning process. Further, the CPUC’s TPR process provides some transparency regarding IOU transmission projects, including asset management projects. Importantly, the IOUs’ end-of-life projects cannot displace regional transmission projects.

Complainants’ proposed ITP tariff language further demonstrates their ignorance of the CAISO. Specifically, tariff requirement a) proposed by Complainants provides: “The planning for Order No. 1000 region may only be composed of entities with directly interconnected existing transmission 100 kV and above unless the Order No. 1000 region is an RTO.”¹⁷⁷ The CAISO is not an RTO as Order No. 2000 defines that term; the CAISO is an independent system operator, and the Commission has found that the CAISO meets all

¹⁷⁶ *Id.* at 234 (internal quotation marks and brackets omitted).

¹⁷⁷ *Id.* at 239.

mandated independence requirements for an ISO.¹⁷⁸ Further, the Commission has not required ISOs to become RTOs. Despite this fact, under Complainants' proposal the CAISO would not qualify as an ITP because it has Participating TOs with facilities and entitlements not directly connected to the remainder of the CAISO grid, and it is not an RTO. This is a perverse and wholly unjustifiable result.

Complainants offer no evidence to demonstrate that the CAISO's planning process is insufficiently open and transparent or that the CAISO has made biased decisions. The transmission planning work the CAISO performs occurs through a transparent, unbiased process that allows stakeholders to provide input and review the results of the CAISO's draft transmission plans.

Specifically, the CAISO's transmission planning process incorporates demand forecasts developed in coordination with the CEC that reflect established energy policies. The CAISO works with the CPUC and stakeholders to incorporate CPUC-developed resource portfolios into its transmission planning process to inform the need for transmission upgrades or additions. At the outset of its transmission planning process, the CAISO presents a draft study plan to stakeholders and accepts comments before finalizing this plan. The CAISO fully vets input assumptions and a study plan with stakeholders. Similarly, the CAISO explains the results of its studies, which capital projects it approves, and which capital projects it does not approve. The CAISO makes the study results

¹⁷⁸ See *Cal. Indep. Sys. Operator Corp.*, 112 FERC ¶ 61,010 (2005); *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,067 (2010); <https://www.ferc.gov/understanding-and-participating-california-iso-caiso-processes>.

available to stakeholders, including modeling work performed by the CAISO.

The CAISO also considers alternatives to transmission when assessing the need for transmission projects, including non-wires alternatives. The CAISO considers the cost and benefits of transmission projects and selects the more efficient or cost-effective solution” as required by Order No. 1000.¹⁷⁹ The CAISO has approved non-wires solutions in its transmission planning process.

Additionally, the CAISO Tariff-based competitive solicitation process has resulted in the CAISO awarding projects both to incumbent and non-incumbent entities. The process is highly competitive. The CAISO has selected project sponsors from competing applicants in 17 competitive solicitations and has awarded 11 projects to independent transmission developers, two projects to incumbent Participating TOs, three projects to collaborations between incumbent Participating TOs and independent developers, and one project to a public power entity that was not an existing Participating TO. The CAISO’s reassessment of transmission needs through its annual planning process has also resulted in the CAISO canceling transmission projects assigned to incumbent transmission owners when resource development and reductions in load forecasts addressed the identified need. The CAISO also has been transparent regarding the total costs of transmission approved through its transmission planning process. In its transmission plan, the CAISO estimates the impact of the capital projects identified in the CAISO’s annual transmission planning processes on its High

¹⁷⁹ See CAISO Tariff Section 24 *et seq.*

Voltage Transmission Access Charge.¹⁸⁰ As part of this effort, the CAISO forecasts the High Voltage Transmission Access Charge trend over the period covered by the transmission plan. The CAISO has made its model to complete this cost estimate available to stakeholders.

In sum, the Complaint identifies no examples of undue discrimination, undue preference, inadequate information sharing, or planning-related tariff violations by the CAISO.

2. Complainants' Proposal to Grant a Stand-Alone ITP Section 205 Rights Is Impermissible Under the FPA

The Complaint states the ITP would likely need to have separate FPA section 205 filing rights.¹⁸¹ The Commission must reject this proposal. Under the FPA, only public utilities have section 205 rights. To be a public utility under the FPA, an entity must own or operate interstate transmission facilities or make sales at wholesale in interstate commerce. Unless the ITP is a transmission owner, wholesaler of electricity, ISO, or RTO, it does not qualify as a public utility under the FPA and, thus, the Commission cannot grant it section 205 filing rights. Public utilities may voluntarily cede their section 205 rights to other entities or voluntarily condition the exercise of those rights, but no

¹⁸⁰ See 2023-2024 Transmission Plan at 165-67 (May 23, 2024), available at <https://www.aiso.com/generation-transmission/transmission/transmission-planning> (CAISO webpage regarding its transmission planning process).

¹⁸¹ Complaint at 237.

one can force them to cede such rights involuntarily.¹⁸² There is nothing voluntary about the Commission action requested in the Complaint.

3. The Commission Should Reject Complainants' Drastic Proposal to Revise the Regional Planning Process to Include Generator Interconnection and Require the ITP to Conduct All Interconnection Studies

In Order No. 1920, the Commission required transmission providers to evaluate for selection, in their existing Order No. 1000 regional transmission planning processes, regional transmission facilities to address certain interconnection-related transmission needs identified in the generator interconnection process by meeting four qualifying criteria. Specifically, the Commission required transmission providers to evaluate interconnection-related network upgrades where: (1) the transmission provider has identified interconnection-related network upgrades in interconnection studies to address those interconnection-related transmission needs in at least two interconnection queue cycles during the preceding five years (looking back from the effective date of the Commission-accepted tariff provisions proposed to comply with this reform, and the later-in-time withdrawn interconnection request occurring after the effective date of the Commission-accepted tariff provisions); (2) an interconnection-related network upgrade identified to meet those interconnection-related transmission needs has a voltage of at least 200 kV and an estimated cost of at least \$30 million; (3) such interconnection-related network upgrade(s) have not been developed and are not currently planned to be developed because

¹⁸² *Atlantic City Electric Co., et al. v FERC*, 295 F.3d 1 (D.C. Cir. 2002).

the interconnection request(s) driving the need for the network upgrade(s) has been withdrawn; and (4) the transmission provider has not identified an interconnection-related network upgrade to address the relevant interconnection-related transmission need in an executed generator interconnection agreement or in a generator interconnection agreement that the interconnection customer requested that the transmission provider file unexecuted with the Commission.¹⁸³

Complainants request the Commission require regional planners to revise their regional planning process to implement exclusive regional planning of **all** transmission facilities 100 kV and above for all needs, including generator interconnection.¹⁸⁴ Further, Complainants would require the conduct of such process without the involvement of transmission owners. Thus, the proposed ITP would conduct all generator interconnection studies.¹⁸⁵

Complainants essentially object to the eligibility criteria the Commission adopted in Order No. 1920 for consideration of generator interconnection-related transmission needs in the regional transmission planning process and request the Commission to modify such criteria such that all generator interconnection-related transmission 100 kV and above would now be considered in the regional planning process. One party – Clean Energy Associations – sought rehearing of the Commission’s determination in Order No. 1920 seeking less restrictive (*i.e.*, more expansive) eligibility criteria;¹⁸⁶ no Complainant sought rehearing of this

¹⁸³ Order No. 1920 at P 1152.

¹⁸⁴ Complaint at 229.

¹⁸⁵ *Id.* at 237.

¹⁸⁶ Order No. 1920-A at PP 532-37.

issue. Complainants' arguments and proposed remedy thus constitute an impermissible, out-of-time request for rehearing of Order No. 1920.

Moreover, the Commission rejected the Clean Energy Associations' rehearing request to expand the criteria for considering generation-related transmission upgrades in the transmission planning process, stating:

We disagree with Clean Energy Associations' requests for rehearing and decline to revise the cost-and-voltage criterion and the repeat identification criterion. We continue to find that it is necessary to limit the scope of the requirement to those interconnection-related transmission needs that are likely to persist, are not unique to a single interconnection request, and might be addressed by regional transmission facilities that have the potential to provide more widespread benefits to transmission customers. We reiterate the Commission's stated purpose of this reform, which is to address the narrow issue of interconnection-related transmission needs being repeatedly identified yet continuing to go unresolved through the generator interconnection process, even though more efficient or cost-effective regional transmission solutions could be achieved if such needs were evaluated through the regional transmission planning and cost allocation process.¹⁸⁷

The Commission further concluded:

We disagree with Clean Energy Associations' argument that the Commission acted arbitrarily and capriciously in adopting the requirement to meet both the cost threshold and the voltage threshold. In Order No. 1920, the Commission explained how the cost threshold is intended to capture interconnection-related network upgrades that cause underlying interconnection requests to withdraw (i.e., are likely to persist), and the voltage threshold is intended to capture interconnection-related transmission needs that are likely to produce more widespread benefits. These explanations for requiring that previously identified interconnection-related network upgrades meet both of these thresholds for an interconnection-related transmission need to satisfy the cost-and-voltage criterion are consistent with the Commission's stated purpose and the necessary scope of this reform. Namely, the cost threshold identifies interconnection-related transmission needs associated with prohibitive interconnection-related network upgrade

¹⁸⁷ Order No. 1920-A at P 538 (footnotes omitted).

costs that contribute to a barrier to accessing the transmission system, and the voltage threshold identifies interconnection-related transmission needs with the potential for transmission benefits that extend beyond the interconnection customer.¹⁸⁸

The Commission also expressed concern that relaxing the qualifying criteria would create greater burdens on transmission providers by increasing the number of interconnection-related transmission needs that transmission providers must evaluate in their Order No. 1000 regional transmission planning and cost allocation processes without widespread benefits to transmission customers.¹⁸⁹ The Commission stated:

We disagree with Clean Energy Associations' claim that the requirement to meet both the cost threshold and the voltage threshold unduly limits the universe of transmission solutions in a manner that jeopardizes transmission providers' ability to evaluate transmission solutions that might be more efficient or cost-effective than other options. Clean Energy Associations conflate transmission needs and transmission solutions to address those needs. The purpose of the qualifying criteria adopted in Order No. 1920 is to limit the number of interconnection-related transmission needs that transmission providers must evaluate to those that merit consideration.¹⁹⁰

Complainants do not address these findings, identify no changed circumstances since issuance of Order No. 1920 that would necessitate a lower threshold, and offer no specific reasons why Order No. 1920's reforms regarding the enhanced coordination between the transmission planning and generator interconnection processes are insufficient or why the Commission should require all generator interconnection-related transmission 100 kV and above to be

¹⁸⁸ *Id.* at P 539 (footnotes omitted).

¹⁸⁹ *Id.* at P 541.

¹⁹⁰ *Id.* at P 542.

considered in the regional planning process. Complainants provide no examples of how the existing generation interconnection process for projects below 230 kV and costing less than \$30 million results in undue discrimination, the denial of open access, or imprudent transmission development in all planning regions. As such, Complainants fail to make any case regarding the need for evaluating and approving all generator interconnection-related transmission down to 100 kV and fail to acknowledge the significant additional burden this would impose on regional planners.

Thus, not only does the Complaint constitute an out-of-time request for rehearing of Order No. 1920, it fails to satisfy the FPA section 206 burden of proof. The Commission should allow time to assess the performance of the new generator interconnection-related requirements and not change the approved requirements before transmission planners have even implemented them.

Furthermore, Complainants' base their arguments on the false premise that Participating TOs alone select all interconnection-related upgrades below the thresholds established by the Commission. In reality, the CAISO publishes all interconnection study results after either conducting the interconnection studies itself (for all Delivery Network Upgrades) or after reviewing the Participating TO's recommended results (for Reliability Network Upgrades). In either case, the

study assumptions,¹⁹¹ methodologies,¹⁹² cost tables,¹⁹³ and results are all transparent to the interconnection customer. Moreover, developers are free to challenge any result they believe is unfair, first with the CAISO and Participating TO, and then with the Commission in a section 206 complaint. The latter has not occurred in over a decade because the CAISO's study results are accurate, or developers successfully convinced the CAISO to modify the study results.¹⁹⁴

The Complaint also is based on the false premise that the transmission planning process and the generator interconnection studies are somehow siloed. This is far from the case for the CAISO. Both processes share base cases, engineers, and study results. The generator interconnection studies inform the transmission plan, and the transmission plan informs the generator interconnection studies. In fact, most of the public policy upgrades the CAISO transmission plan has identified since Order No. 1000 went into effect have been Area Delivery Network Upgrades designed to enable new generators. Once the CAISO transmission plan includes new Area Delivery Network Upgrades, those new lines and substations become among the most popular new points of interconnection for new generation, principally because the interconnection

¹⁹¹ Any party that executes a non-disclosure agreement can access the CAISO base cases, which are the same (and shared) for generator interconnection studies and transmission planning processes. See Section 2.3 of Appendix DD to the CAISO Tariff.

¹⁹² See Section 6.3.2.1 of Appendix DD to the CAISO Tariff; CAISO On-Peak Deliverability Assessment Methodology, available at <https://www.caiso.com/documents/on-peak-deliverability-assessment-methodology.pdf>.

¹⁹³ Section 6.4 of Appendix DD to the CAISO Tariff; Per Unit Cost Guides, available at <https://www.caiso.com/library/participating-transmission-owner-per-unit-costs>.

¹⁹⁴ Obviously developers have only ever sought less expensive upgrades so they are more attractive to potential off-takers.

customers themselves can access the capacity but do not have to finance the upgrades.¹⁹⁵

Finally, Complainants' recommendation is wildly impractical. The CAISO receives hundreds of interconnection requests every year, which trigger thousands of new network upgrades and interconnection facilities. These can range from small telecommunications arrays to entire substations. Neither the CAISO nor any other ISO/RTO has sufficient staff to assume all the interconnection study work the transmission owners conduct today. Even if it were possible for the ISOs and RTOs to increase their staffing massively to perform all of the interconnection study work themselves, conducting interconnection studies through the transmission planning process would grind the interconnection studies to a halt. The transmission planning process is designed specifically for large, expensive, system-level upgrades. Although the interconnection process can trigger some larger upgrades, it typically deals with the smaller, bespoke upgrades for each new generator. In fact, interconnection customers that trigger large, expensive upgrades generally withdraw at the highest rate because they will not be cost-competitive with generators that sited their facilities where they would not trigger expensive upgrades. The Commission should reject this proposal of Complainants along with all their others for the reasons explained in this Answer.

¹⁹⁵ As transmission plan upgrades, the transmission owner or approved project sponsor finances the upgrades.

III. CONCLUSION

Complainants have failed to satisfy their burden of proof under FPA as it applies to the CAISO, its transmission planning process, and its Participating TOs. For the foregoing reasons, the Commission should reject the Complaint in its entirety.

Respectfully submitted,

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Dated: March 20, 2025

CERTIFICATE OF SERVICE

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

Dated at Folsom, California this 20th day of March, 2025

By: *Anna Pascuzzo*
Anna Pascuzzo