

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Devers-Palo Verde No. 2 Transmission Line Project.

Application 05-04-015

Order Instituting Investigation on the Commission's Own Motion into Methodology for Economic Assessment of Transmission Projects.

Investigation 05-06-041

**COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR REGARDING THE
ALTERNATE PROPOSED DECISION**

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Dated: October 30, 2006

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PRESIDENT PEEVEY**

I. INTRODUCTION

This combined docket considers a) whether Southern California Edison Company (SCE) should be granted a Certificate of Public Convenience and Necessity (CPCN) for the proposed Devers-Palo Verde No. 2 (DPV2) transmission project, and b) the methodologies that should be used in this and future CPCN proceedings when a transmission project is proposed for its economic benefits. In this case the California Independent System Operator (CAISO) conducted a comprehensive economic evaluation of the DPV2 project using its Transmission Economic Assessment Methodology (TEAM) process and found that the project produces significant economic and reliability benefits for the ratepayers of California.

The Commission's investigation focused on the reasonableness of the CAISO's TEAM methodology and whether the TEAM approach should provide the guiding principles for subsequent Commission proceedings, thus coordinating and streamlining the efforts of the CAISO and CPUC. Integral to this consideration is the level of deference to be given the findings of the CAISO in CPCN proceedings. In that regard,

the CAISO proposed that where the CAISO has conducted an economic analysis and concluded that a project produces economic benefits, the project proponent may rely on the study underlying the CAISO's determination to trigger a rebuttable presumption that the project is cost effective. This rebuttable presumption would shift the burden of proof on this issue to parties opposing the project to prove by some evidentiary level that the proposal is not cost justified or that the standards embodied in Public Utility Code §§1001 and 1002 compel denial of the project. The CAISO pointed out that by affording special weight to its study results, the Commission's CPCN proceeding will likely be focused on the cost efficiency of the project and not whether the CAISO reasonably followed the guidelines and principles adopted in this investigation.

On June 20, 2006 ALJ TerKeurst issued a Proposed Decision (PD) adopting many aspects of the TEAM methodology as general principles and guidelines for economic evaluations to be submitted in CPCN proceedings. However, the ALJ did not adopt the CAISO's proposal that its economic analysis of a proposed transmission project be granted a rebuttable presumption of reasonableness, stating that it would be "counter to the public interest" to shift the burden of proof from the applicant in transmission in CPCN proceedings.

In contrast, the Alternate Proposed Decision (AD) issued by President Peevey on October 10, 2006 adopts the CAISO's rebuttable presumption proposal, with certain modifications that address the concerns raised in the PD concerning this procedure. Needless to say, the CAISO is pleased that the AD recognizes the importance of this issue and urges the Commission to adopt the AD in lieu of the PD as set forth below.

II. THE ALTERNATE PROPOSED DECISION APPROPRIATELY BALANCES THE PUBLIC INTEREST CONCERNS RAISED IN THE PROPOSED DECISION WITH THE EFFICIENCIES ACHIEVED BY THE ADOPTION OF A REBUTTABLE PRESUMPTION TRIGGERED BY A CAISO DETERMINATION OF ECONOMIC EFFICIENCY.

At pages 2-5 and 36-41 of its Opening Brief (filed March 10, 2006 in this proceeding), the CASIO set forth not only the procedural details of adopting a rebuttable presumption, but also the legal and public policy underpinnings. In particular, the CAISO noted that by allowing the results of the CAISO's economic analysis to trigger a

presumption that can be overcome by parties opposing the “need” for a transmission project, the Commission would not be delegating to the CAISO its authority to ultimately decide whether a project should be granted a CPCN in accordance with §§1001 and 1002 of the Public Utilities Code. Rather, opponents would have the same opportunities to challenge reasonableness of a transmission project for a host of reasons, including its economic efficiency, and the Commission would remain the arbiter of these considerations.

Despite these assurances, the ALJ in the PD expressed concern that shifting the burden of proof to opponents of the project would somehow diminish the Commission’s ability to scrutinize the CAISO’s evaluation. For example, at Section IV.B., pages 21-23 of the PD, the ALJ notes that the baseline resources and the identification and analysis of feasible alternatives are critical components of an economic analysis, and that because of the proprietary nature of the CAISO’s system model and database, the Commission and other parties may be unable to verify the data and information used by the CAISO. The ALJ also expressed concern that the adoption of a rebuttable presumption would eliminate the applicant’s burden to justify the reasonableness of the construction and operating costs of the project. Additionally, because certain aspects of the TEAM methodology were not adopted as mandatory requirements for economic evaluations, the ALJ believed that TEAM might not be sufficiently developed to ensure reliable economic evaluations. Finally, the ALJ expressed a concern that, in light of the presumption of reasonableness and absent a strong showing by opponents, the Commission would be unable to deny a CPCN request even if not persuaded by the evidence presented by the applicant.

The ALJ’s concerns regarding the Commission’s diminished role in approving a CPCN application are understandable. However, as noted in the CAISO’s opening brief, the CAISO’s study (or a study conducted by the applicant using the TEAM methodology), will be tested through the Commission’s evidentiary process and must be defensible. All of the areas of concern expressed by the ALJ go to the weight to be afforded the evidence submitted by other parties to the case, not the rebuttable presumption itself. The Commission’s ability to ascribe the appropriate level of

importance to the evidence presented by all of the parties to the case (including the applicant) would remain unchanged by the adoption of the presumption.

Nonetheless, the AD has taken steps to address the issues cited by the ALJ and to provide certain safeguards to protect the public interest. In the first place, the AD mandates that the CAISO's economic evaluation must be approved by the CAISO Board and submitted in a CPCN proceeding with sufficient time to include it in the scope of the proceeding. Provided that the safeguards are met, the parties opposing the transmission project will bear the burden of demonstrating either that: 1) the Board-approved study does not comply with the principles and minimum requirements adopted in the decision in this case; or 2) that the project is not cost-effective. The safeguards include:

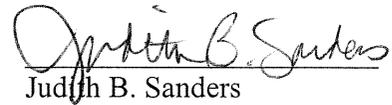
- A public participation process that requires the CAISO to hold at least two public meetings to discuss the scope of the proposed economic assessment (including identification of the base case and alternatives) and, later in the process, to take public comment on the draft economic evaluation prior to its submission to the Board. Interested parties must be provided sufficient time to adequately review and comment on the draft evaluation.
- A requirement that the final economic evaluation submitted to the Board include reasoned responses to all public comment by explaining how the comments were met in the final evaluation.
- The final Board-approved evaluation must meet all of the requirements of the decision in this proceeding, as amended by future Commissions, as set forth in Attachment A.
- The final Board-approved evaluation must determine that the proposed project constitutes a cost-effective upgrade to the CAISO-controlled grid based on clearly defined information and assumptions.
- To the extent that material facts used in the final Board-approved evaluation become outdated or inaccurate, the applicant must submit additional information and explain the impact on conclusions and assumptions.

(AD, pages 24-25).

The CAISO supports the direction taken by the AD and believes that these safeguards will serve to alleviate the public policy concerns expressed by the ALJ in the PD. The suggested safeguards provide a reasonable means by which to incorporate public participation and scrutiny into the process.

For these reasons, the CAISO urges the Commission to adopt the AD in lieu of the PD.

Respectfully submitted,

A handwritten signature in black ink that reads "Judith B. Sanders". The signature is written in a cursive style with a horizontal line underneath the name.

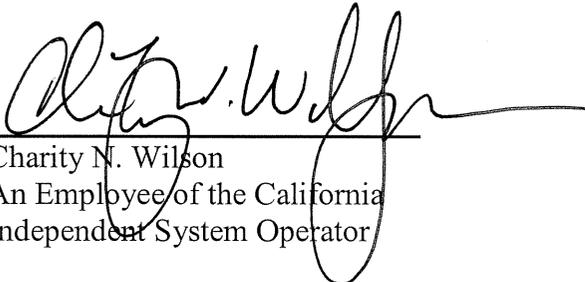
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CERTIFICATE OF SERVICE

I hereby certify that I have served, by electronic and United States mail, a copy of the foregoing Comments of The California Independent System Operator Regarding the Alternate Proposed Decision of President Peevey to each party in Docket Nos. A.05-04-015 and I.05-06-041.

Executed on October 30, 2006 at Folsom, California.



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