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STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

February 22, 2007

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: *California Independent System Operator Corporation*
Docket No. EL07-33-000

Dear Ms. Salas:

Enclosed for filing in the above-docketed matters, please find an original electronic filing of the attached document entitled **"NOTICE OF INTERVENTION AND COMMENTS OF THE CALIFORNIA PUBLIC UTILITIES COMMISSION**."

Thank you for your cooperation in this matter.

Sincerely,

/s/ *Laurence G. Chaset*

Laurence G. Chaset
Staff Counsel

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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	Docket No. EL07-33-000

NOTICE OF INTERVENTION AND COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

I. INTRODUCTION

Pursuant to Rule 214(a)(2) of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or "Commission") and the FERC's Notice of Filing dated February 5, 2007, and its Notice Shortening Comment Period dated February 9, 2007, the Public Utilities Commission of the State of California ("CPUC") hereby intervenes in the above-docketed proceeding.

On January 25, 2007, the California Independent System Operator Corporation ("CAISO") filed with the Commission a Petition for Declaratory Relief seeking approval in concept of a plan whereby the costs of transmission trunk lines to remote locations where there are multiple potential producers of renewable energy could be partially financed by transmission ratepayers. By this filing, the CAISO is seeking to implement a new financing mechanism that will remove existing barriers to the efficient development of transmission facilities needed to connect to new generation resources that are constrained as a result of their location, relative size and the immobility of their fuel source. In the filing, such resources are referred to as "location constrained resources."

II. NOTICE OF INTERVENTION

The CPUC is a constitutionally established agency charged with the responsibility for regulating electric corporations within the State of California. In addition, the CPUC has a statutory mandate to represent the interests of electric consumers throughout California in proceedings before the FERC.

Communications to the CPUC in this proceeding should be addressed to:

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This intervention serves to make the CPUC a party to these proceedings.

III. COMMENTS

The CPUC strongly supports the CAISO's Petition. Since 2001, the CPUC has been actively working toward the goal of assuring that the transmission needed to access location constrained resources is developed. The CAISO, as well as other stakeholders, have been collaboratively working with the CPUC toward the achievement of this goal.

However, significant barriers exist to the efficient development of the transmission infrastructure that is needed to connect location constrained resources to the grid. For example, the areas in which location constrained resources are located are often remote from the grid and load centers and, as such, require the construction of relatively long (and expensive) high-voltage interconnection transmission lines. Further, the pattern of resource development in identified renewable resource areas (many of which are location constrained) is such that multiple individual generation projects will be developed by multiple competing developers, the individual generation resources will generally be smaller than typical fossil fuel projects, and the generation resources will come on-line in relatively small increments over a period spanning many years.

The CPUC accordingly agrees with the CAISO that FERC must take advantage of the opportunity provided by this Petition to grant a variation from its default interconnection policies whereby it would recognize the unique circumstances associated with the transmission infrastructure required to connect location constrained resources and provide for a new and innovative financing mechanism that facilitates needed transmission investment that recognizes these unique circumstances.

A. Background

The potential exists today for the development of significant quantities of renewable resources in certain regions of the State of California that are not readily accessible to the CAISO-controlled transmission grid. The development of these resources and the transmission infrastructure necessary to access such resources in an efficient manner is a matter of some urgency because: (1) additional generation resources are needed to meet growing energy demand in California, and (2) California has accelerated from 2017 to 2010 the Renewable Energy Portfolio Standard ("RPS") requirement that 20 percent of the energy to serve California customers must come from renewable resources.

The current default interconnection policy of the FERC, which is reflected in the CAISO's tariff, requires a generation developer to pay for the cost of generation tie ("gen-tie") lines. This policy constitutes a barrier to the efficient development of transmission necessary to connect location constrained renewable resources to the grid. Moreover, location constrained resources will not be developed to their full potential until the barriers that exist to the financing and construction of the transmission facilities necessary to connect such resources are removed.

B. The CAISO's Petition

In its Petition, the CAISO requests FERC to provide general conceptual approval for the financing mechanism proposed, as well as to provide additional guidance regarding the eligibility criteria that should apply for the financing mechanism. Following issuance of a Commission order, the CAISO would commence a stakeholder process and develop (and file) tariff language to implement the new financing mechanism.

Specifically, the new mechanism proposed by the CAISO will facilitate the financing and development of transmission facilities, referred to as "Multi-User Resource Trunklines," which are designed primarily to connect multiple location constrained resources to the CAISO-Controlled Grid. The CAISO proposes the following rate treatment for Multi-User Resource Trunklines:

- Participating Transmission Owners ("PTOs") that construct Multi-User Resource Trunklines will be permitted to reflect in their Transmission Revenue Requirement ("TRR") and in the CAISO's Transmission Access Charge ("TAC") the costs of trunkline facilities that are not being directly recovered from generation resources.

- As new generation resources are constructed and interconnected to a Multi-User Resource Trunkline, the costs of the capacity required by those resources will be directly recovered from such resources, thereby reducing the impact on transmission ratepayers by reducing the costs of the Multi-User Resource Trunkline included in the PTOs' TRR and the TAC.

- When all of the capacity of the Multi-User Resource Trunkline is utilized and paid for by generators, transmission ratepayers would no longer face any cost responsibility for these facilities.

In addition, the CAISO proposes the following eligibility criteria for the proposed rate treatment for Multi-User Resource Trunklines:

- The costs of the Multi-User Resource Trunkline would not otherwise be eligible for inclusion in the TAC.

- The transmission project must provide access to an energy resource area in which the potential exists for the development of a significant amount of location constrained energy resources.

- The transmission project must be turned over to the CAISO's operational control.

- The transmission project must be a high-voltage transmission facility designed primarily to serve multiple location constrained resources that will be developed over a period of time.

- To be eligible for the proposed financing treatment, a transmission project would have to be evaluated and approved by the CAISO in the context of a CAISO transmission planning process, thereby ensuring that the project will result in a cost-effective and efficient interconnection of resources to the grid.

- To limit the cost impact of the proposal on ratepayers, there would be an aggregate cap on the total dollars associated with Multi-User Resource Trunklines that could be included in TAC rates. Specifically, the total investment in Multi-User Resource Trunklines that can be included in TRRs and the TAC cannot exceed 15 percent of the sum total of the net high-voltage transmission plant of all PTOs, as reflected in their TRRs and in the TAC; and

- To limit the risk of stranded costs due to abandoned investment, the transmission project must demonstrate adequate commercial interest by satisfying the following two-prong test before actual construction can commence: (a) a minimum percentage of the capacity of the new Multi-User Resource Trunkline – on the order of 25 to 30 percent -- must be subscribed; and (b) there must be a tangible demonstration of additional interest in or support for the project -- on the order of 25 to 35 percent -- above and beyond the subscribed capacity.

The foregoing eligibility criteria are intended to assure that the costs borne by ratepayers and the CAISO's wholesale customers in connection with the CAISO's proposed financing mechanism will be just and reasonable, and the CPUC strongly supports these eligibility criteria.

C. The Southern California Edison Petition in Docket EL05-80

The issues raised in the CAISO's Petition were, in part, the subject of an earlier FERC filing, in March of 2005, by Southern California Edison Company ("SCE"). In that filing (FERC Docket No. EL05-80-000), SCE petitioned FERC for a declaratory order relating to three proposed transmission segments needed to interconnect future wind projects in the Tehachapi Mountains, some 100 miles north of metropolitan Los Angeles. SCE categorized segments 1 and 2 as high-voltage network upgrades and segment 3 as a high-voltage, bulk transfer gen-tie.

In that Petition, SCE sought: (1) rolled-in rate treatment for costs incurred for all three segments; (2) full recovery of all prudently-incurred costs for each segment, regardless of whether the wind generation develops or SCE abandons the projects; and (3) the creation of a new category of "trunkline" transmission facilities that would allow rolled-in rate treatment.

By Order dated July 1, 2005, FERC rejected rolled-in rate treatment for segment 3 of SCE's proposed transmission project and denied SCE's request to establish a new category of transmission facilities. In doing so, the FERC declined, at that time, to alter its traditional *rate* treatment of gen-tie facilities, which precludes the costs of those facilities from being rolled-into transmission rates.

Significantly, in that decision, FERC found it important that the CAISO had not determined whether it would assume operational control of the facilities. In this regard, in a concurring opinion, then-Commissioner Brownell stated, "I believe that this proposal would have satisfied the independent entity variation standard in Order No. 2003, had it been made by the CAISO." Moreover, then-Chairman Wood dissented stating that "[a]lthough I would have granted the request on Segment 3 today, and therefore dissent on our denial of such a ruling, I would have preferred to address this issue in the context of a California ISO Section 205 filing to establish a region-wide cost allocation policy."

The CAISO Petition in this case is totally consistent with the thinking of Commissioner Brownell and Chairman Wood as reflected in the Commission's decision in Docket EL05-80. The CAISO, which has been recognized by the Commission as an independent entity, is seeking to establish a region-wide cost allocation policy. In this regard, it is important to note that, unlike the SCE proposal, the CAISO's new proposal provides for the direct assignment of a proportionate share of trunkline costs to generation resources as they come on line. Accordingly, the CAISO's proposal comprises a much smaller departure from existing FERC policy and would have a much smaller impact on the ultimate cost responsibility of transmission ratepayers than the SCR Petition that FERC denied in 2005.

The CAISO filing is a dramatic improvement on the SCE filing, and, moreover, incorporates a number of important features that will both actively support the development of new transmission needed to accommodate the development of renewable resources, while at the same time will limit the exposure of ratepayers and the CAISO's other stakeholders to the costs of Multi-User Resource Trunklines, which, under FERC's default policy, would be the cost responsibility of generators.

D. Key Reasons Why the CAISO's Petition Should Be Granted

In addition to the reasons provided in the more general discussion above, there are several compelling reasons why the CAISO's Petition offers a reasonable, prudent and well-crafted solution to the problem of interconnecting remote, location constrained energy resources in California.

1. <u>The CAISO's proposed approach to funding "Multi-User Resource Trunklines" is needed to remove very real barriers to developing important, remote, location-dependent energy resources and to achieving State (and national) renewable and diverse energy goals.</u>

In California, we have seen it occur that some promising location-constrained resource areas might have to be served by non-network transmission expansions. In these cases, the need for potential generation facilities to finance extensive transmission facilities, as well as their own generating facilities, has been a serious roadblock to the development of the needed new generation facilities.

For example, in the Tehachapi Wind Resource Area, there was less than 1000 MW of wind generation in the CAISO's interconnection queue halfway through 2004. Then, the CPUC (1) ordered SCE to file applications for transmission expansions serving this area (which SCE filed in December 2004), and (2) initiated the Tehachapi Collaborative Study Group which produced its first report on transmission options in March of 2005. Since March of 2005, over 4,000 MW of wind projects in the Tehachapi area have entered the CAISO's interconnection queue.

It is true that some physical and cost recovery aspects of this transmission expansion are still being worked out, but the CAISO's proposed "Multi-User Resource Trunkline" proposal potentially addresses some important remaining loopholes in connection with the development of the transmission needed to access this tremendous new energy resource. However, the main message of this Tehachapi experience is clear: enabling transmission planning for remote, concentrated resource areas to proceed -- without being bogged down by generator-by-generator allocation of transmission upgrades and their costs -- makes it dramatically more likely that the generation projects will develop.

2. The CAISO's proposal supports an efficient and rational process for expanding and operating the grid.

Effective transmission planning must take an integrated, rational view of supply, demand and transmission options and possibilities. Accessing remote, location-dependent generation resources to meet renewable and other energy goals presents new challenges. The planning process will be handicapped and less than fully rational if the CAISO and transmission owners are required to draw artificial distinctions between bulk, high voltage transmission expansions for accessing new supply that technically qualify as "network" versus those that do not so qualify. The CAISO's proposal reduces such distortions by permitting the planning process to consider, compare and integrate "network" upgrades along with multi-user resource trunklines.

Furthermore, the CAISO's proposal provides for integration and consistency in overall transmission services, by providing that the CAISO would have operational control of such trunklines, and also providing that when interconnecting generators assume their pro rata share of cost responsibility, they will obtain financial transmission rights. Such rights are fully compatible and consistent with both the CAISO's present, Commission-approved Large Generator Interconnection Procedures (where an interconnecting generator can obtain transmission rights in lieu of being reimbursed for network upgrades), and with upcoming CAISO market redesign, "MRTU," which relies on financial transmission rights.

In these respects, *i.e.*, operational control and financial rights, the CAISO's proposal would effectively integrate certain trunklines into the CAISO's independently operated open access transmission system.

3. The CAISO's proposal provides prudent ratepayer/stakeholder protections.

The CAISO's proposal for funding Multi-User Resource Trunklines is not a rash or risky "giveaway" or subsidization. First, it retains locational signals, because when new generators actually interconnect to and use such a trunkline, they will ultimately assume their pro rata cost responsibility, which is not the case when a transmission upgrade is classified as a "network" facility. Second, as noted above, the CAISO would cap the total amount of trunkline assets being rolled into the TAC at 15% of the total high-voltage transmission assets in the TAC. Additionally, the CAISO would require that approximately 25-30% of a trunkline's capacity be subscribed by generators having completed Interconnection Agreements, and that an additional

25-30% of the line's capacity be accounted for by high-potential future subscribers, such as generators that file letters of intent, respond to an open season, or are in the interconnection queue.

Collectively, these conservative principles that are embedded in the CAISO's proposal provide a high degree of likelihood that any such trunklines that are ultimately built will ultimately be fully subscribed. In this way, the CAISO's proposal provides substantial protection against the possibility that the limited ratepayer/stakeholder funding of Multi-User Resource Trunklines that this proposal will authorize could result in any significant stranded costs.

4. The CAISO's proposal provides added value beyond "backstop" renewable transmission cost recovery provided by a recent CPUC Decision.

Subsequent to FERC's denial in 2005 of SCE's request in Docket No. EL05-80-000 for rolled-in treatment of certain renewable trunk line costs, and pursuant to California Public Utilities Code §399.25, the CPUC issued Decision D.06-06-034.[1] This Decision provided, in pertinent part, that for transmission expansions accessing demonstrated renewable resource areas that are necessary for the achievement of the state's RPS goals, if a particular expansion would serve multiple renewable energy projects and is likely to be fully utilized after a reasonable period of time, then those costs not allocated pro rata to individual interconnecting generation projects and not approved by FERC for recovery in general transmission rates may be recovered via CPUC jurisdictional retail rates.

Thus, the CPUC has itself recognized, and sought to address, the challenge of funding "renewable trunklines." However, this remedy is limited by the CPUC's jurisdiction: the roll-in

[1] This Decision can be accessed via the following link: http://www.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/57298.htm

of costs is limited to CPUC-jurisdictional ratepayers, whereas CAISO's proposal more efficiently and equitably spreads the costs of such trunklines over all California-based users of the CAISO-controlled grid, all of whom are subject to California's RPS requirements.

Furthermore, funding the initially unsubscribed capacity of such trunklines via the TAC, rather than CPUC jurisdictional retail rates, puts these transmission options on a more consistent planning and funding basis relative to other transmission options that may technically qualify as "network" facilities. Such a cost allocation is fundamentally more fair than allocating the initially unsubscribed capacity of trunklines exclusively to retail ratepayers. Of equal importance, however, is the fact that such a cost allocation will improve the CAISO's ability to conduct a rational, integrated transmission planning process, especially for accessing new supply.

5. <u>It is necessary to break the logjam, and the CAISO's proposal does so in a prudent and reasonable manner.</u>

California state energy policy and, for that matter, national energy policy require that we access remote energy resources in a manner that is efficient, predictable, not unduly discriminatory, and prudent. The CAISO's balanced proposal accomplishes all this. It supports more efficient transmission planning and provides meaningful transmission certainty for generation developers. Yet, it also preserves the locational pricing (transmission cost) signals for those generators that do emerge, and limits stranded costs risk faced by transmission ratepayers.

IV CONCLUSION

FERC's favorable action on the CAISO's Petition on file in this proceeding is a key, indeed an indispensable, step in assuring that California will be able to develop the transmission facilities needed to access many of the very important location constrained energy resources that we have identified as existing in our State. Indeed, without the ability to provide a limited amount of up-front funding for the development of transmission facilities needed to access existing, identified, location-constrained resources, California's electricity users may never be able to benefit from these very important potential sources of energy.

For the foregoing reasons, the CPUC actively supports the CAISO's Petition for Waiver of Tariff Provision, and strongly urges the FERC to grant this Petition.

Dated: February 22, 2007

Respectfully submitted,

RANDOLPH L. WU
HARVEY Y. MORRIS
LAURENCE G. CHASET

By: /s/ *Laurence G. Chaset*

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused the foregoing document to be served upon all known parties in this proceeding by e-mail upon each party identified in the official service list compiled by the Secretary in this proceeding.

Dated at San Francisco, California, this 22nd day of February, 2007.

/s/ Laurence G. Chaset

Laurence G. Chaset

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