

149 FERC ¶ 61,249  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;  
Philip D. Moeller, Tony Clark,  
and Norman C. Bay.

California Independent System Operator Corporation      Docket Nos. ER13-103-004  
ER13-103-005

ORDER ON REHEARING AND COMPLIANCE

(Issued December 18, 2014)

1. On March 20, 2014, the Commission issued an order accepting, subject to modifications,<sup>1</sup> the second compliance filing of the California Independent System Operator Corporation (CAISO). The second compliance filing was made to comply with an April 18, 2013 order accepting, subject to modifications,<sup>2</sup> a first compliance filing that CAISO made to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000.<sup>3</sup>

2. On April 18, 2014, LS Power Transmission, LLC and LSP Transmission Holdings, LLC (together, LS Power) filed a request for rehearing in Docket No. ER13-103-004 of the Second Compliance Order. On May 19, 2014, CAISO

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<sup>1</sup> *California Indep. Operator Corp.*, 146 FERC ¶ 61,198 (2014) (Second Compliance Order).

<sup>2</sup> *California Indep. Operator Corp.*, 143 FERC ¶ 61,057 (2013) (First Compliance Order).

<sup>3</sup> *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

submitted in Docket No. ER13-103-005, pursuant to section 206 of the Federal Power Act (FPA),<sup>4</sup> further revisions to its tariff to comply with the Second Compliance Order (CAISO Third Compliance Filing).<sup>5</sup> For the reasons discussed below, we deny the request for rehearing and accept CAISO's proposed tariff revisions.

## **I. Background**

3. In Order No. 1000, the Commission adopted a package of reforms addressing transmission planning and cost allocation that, taken together, are designed to ensure that Commission-jurisdictional services are provided at just and reasonable rates and on a basis that is just and reasonable and not unduly discriminatory or preferential. In particular, regarding regional transmission planning, Order No. 1000 amended the transmission planning requirements of Order No. 890<sup>6</sup> to require that each public utility transmission provider: (1) participate in a regional transmission planning process that produces a regional transmission plan; (2) amend its Open Access Transmission Tariff (OATT) to describe procedures for the consideration of transmission needs driven by public policy requirements established by local, state, or federal laws or regulations in the local and regional transmission planning processes; and (3) remove federal rights of first refusal from Commission-jurisdictional tariffs and agreements for certain new transmission facilities.

4. The regional cost allocation reforms in Order No. 1000 also required each public utility transmission provider to set forth in its OATT a method, or set of methods, for allocating the costs of new regional transmission facilities selected in a regional transmission plan for purposes of cost allocation. Order No. 1000 also required that each cost allocation method adhere to six cost allocation principles.

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<sup>4</sup> 16 U.S.C. § 824e (2012).

<sup>5</sup> We note that the tariff record CAISO submitted here in response to the Second Compliance Order also includes tariff provisions that CAISO separately filed on May 10, 2013 to comply with the interregional transmission coordination and cost allocation requirements of Order No. 1000. We address the tariff provisions CAISO submitted in its interregional compliance filing in a concurrently issued order. *See California Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,247 (2014).

<sup>6</sup> *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009).

5. On October 11, 2012, CAISO filed initial revisions to its tariff to comply with the local and regional transmission planning and cost allocation requirements of Order No. 1000 (First Compliance Filing). On April 18, 2013, the Commission accepted CAISO's compliance filing, subject to further modifications to be filed within 120 days of the date of issuance of the order.

6. On August 20, 2013, CAISO filed revisions to its tariff to comply with the First Compliance Order (Second Compliance Filing). On March 20, 2014, the Commission accepted CAISO's Second Compliance Filing, subject to further modifications to be filed within 60 days of the date of issuance of the order.

## **II. Notice of Filing and Responsive Pleadings**

7. Notice of CAISO's Third Compliance Filing was published in the *Federal Register*, 79 Fed. Reg. 30,114 (2014), with interventions and protests due on or before June 9, 2014. On June 9, 2014, Southern California Edison Company (SoCal Edison) filed a limited protest.

## **III. Discussion**

### **A. Substantive Matters**

8. As discussed below, we deny LS Power's request for rehearing, and we find that CAISO's Third Compliance Filing complies with the directives in the Second Compliance Order. Accordingly, we accept CAISO's compliance filing, effective October 1, 2013, as requested.

#### **1. Overview of CAISO Transmission Planning Process**

9. The Commission accepted CAISO's three-phase regional transmission planning process, which is summarized below. In phase 1, CAISO develops its unified planning assumptions and study plan with stakeholder input and determines what technical studies it will conduct during the current transmission planning cycle.<sup>7</sup>

10. In phase 2, CAISO conducts technical studies and other assessments necessary to develop its comprehensive transmission plan. Following the publication of technical studies, CAISO opens a request window wherein interested parties can submit proposed

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<sup>7</sup> CAISO, eTariff, § 24.3.3 (Stakeholder Input – Unified Planning Assumptions/Study Plan).

transmission solutions to the identified needs.<sup>8</sup> In this phase, CAISO determines which transmission solutions will be included in a draft comprehensive transmission plan by considering the degree to which a regional transmission facility may be substituted for one or more local transmission facilities as a more efficient or cost-effective solution to identified needs.<sup>9</sup> The draft comprehensive transmission plan, along with stakeholder comments, is presented to the CAISO Board for consideration and approval. Following Board approval, CAISO posts the final comprehensive transmission plan to the CAISO website.<sup>10</sup>

11. In phase 3, CAISO conducts an open solicitation in which all interested parties, including independent transmission developers and existing participating transmission owners, may submit proposals to finance, own, and construct the regional transmission solutions selected in phase 2 of the transmission planning process for inclusion in the comprehensive transmission plan for purposes of cost allocation. CAISO provides key selection factors to assist transmission developers in the preparation of their bids and to highlight specific topics to which particular attention should be paid in the bid, given their importance in connection with a particular regional transmission facility that has been selected in the regional transmission plan for purposes of cost allocation. Proposed project sponsors<sup>11</sup> submit information as part of the project sponsor application to demonstrate that they are physically, technically, and financially capable of completing

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<sup>8</sup> *Id.* § 24.4.3 (Phase 2 Request Window). Proposing a solution does not confer ownership rights to the solution.

<sup>9</sup> CAISO will consider various categories of transmission solutions including merchant transmission facility proposals, reliability driven solutions, solutions to maintain the feasibility of long term congestion revenue rights and network upgrades associated with large generator interconnection projects and policy driven transmission solutions. *See id.* § 24.4.6 (Categories of Transmission Solutions).

<sup>10</sup> *Id.* § 24.4 (Transmission Planning Process Phase 2).

<sup>11</sup> A project sponsor is defined as a market participant, group of market participants, a participating transmission owner, or a project developer who is not a market participant or participating transmission owner that proposes to construct a transmission addition or upgrade in accordance with CAISO's transmission planning process. CAISO Tariff, Appendix A. CAISO's transmission planning process is a competitive bid model, rather than a sponsorship model; therefore, the term "project sponsor" as used in this order refers to transmission developers who submit proposals to finance, own, and construct the regional transmission facilities identified in the comprehensive transmission plan subject to competitive solicitation.

the regional transmission project in a timely and competent manner and to demonstrate their ability to operate and maintain the facilities, consistent with good utility practice and applicable reliability criteria. Where two or more project sponsors meet the qualification requirements, CAISO will determine which project sponsor should build and own the transmission project and recover the associated costs through CAISO's transmission access charge. CAISO makes its determination based on a comparative analysis of the degree to which each project sponsor meets the evaluation criteria specified in the tariff.<sup>12</sup>

2. **Evaluation Process for Transmission Proposals Selected in the Regional Transmission Plan for Purposes of Cost Allocation**

a. **Request for Rehearing**

i. **Second Compliance Order**

12. In the Second Compliance Order, the Commission held that CAISO met the directive in the First Compliance Order to change the standard for evaluating identified reliability needs and identified needs to maintain the feasibility of long-term congestion revenue rights. Specifically, the Commission found that CAISO complied with the directive to change the standard in section 24.4.5 from "in the most prudent and cost-effective manner" to "the more efficient or cost-effective manner," the standard required by Order No. 1000 and used in other provisions in CAISO's tariff.<sup>13</sup>

13. Also, the Commission held that CAISO's tariff revisions complied with the directives from the First Compliance Order addressing the Order No. 1000 requirement to describe a transparent and not unduly discriminatory process for evaluating whether to select a proposal in a regional transmission plan for purposes of cost allocation. Most notably, in the First Compliance Order, the Commission held that CAISO's individual selection criteria were in compliance with Order No. 1000, but that it was "*concerned* that CAISO's proposal to post key selection factors<sup>14</sup> did not go far enough in explaining how CAISO will measure the relative efficiency and cost-effectiveness of a proposed

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<sup>12</sup> *Id.* § 24.5 (Transmission Planning Process Phase 3).

<sup>13</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 23 (citing First Compliance Order, 143 FERC ¶ 61,057 at P 54).

<sup>14</sup> The key selection factors were defined in section 24.5.2.3(d) as those factors and considerations that CAISO believes are key for purposes of selecting a transmission developer. First Compliance Order, 143 FERC ¶ 61,057 at PP 52-53 (citing CAISO October 11, 2012 Transmittal Letter, Docket No. ER13-103-000).

bid;”<sup>15</sup> therefore, the Commission *directed* CAISO to explain, among other things, (1) how it will determine which are the key selection factors for each transmission project selected in the regional transmission plan for purposes of cost allocation and (2) how it will ensure that these key selection factors will result in a regional transmission plan with the more efficient or cost-effective transmission solutions.<sup>16</sup> In the Second Compliance Order, the Commission determined that CAISO’s explanation was reasonable and, therefore, CAISO complied with the Commission’s directive from the First Compliance Order.<sup>17</sup>

14. Since, however, CAISO proposed other tariff changes that did not appear to be in response to a directive from the First Compliance Order, the Commission directed CAISO to either delete the new provisions or describe how the provisions are consistent with the compliance directives from the First Compliance Order and how it will select from among multiple proposed solutions.<sup>18</sup>

15. Lastly, the Commission rejected LS Power’s protest regarding CAISO’s tariff provisions that set forth how it will evaluate project proposals. In its protest, LS Power contended that CAISO’s tariff should clarify that cost factors should outweigh non-cost factors. In rejecting this protest, the Commission held that in addition to cost and cost containment factors, it is important to allow transmission providers to consider the unique needs of policy goals and to minimize the risk of abandoned projects. Further, the Commission stated that Order No. 1000 provides that non-cost factors may be considered.<sup>19</sup>

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<sup>15</sup> First Compliance Order, 143 FERC ¶ 61,057 at P 230.

<sup>16</sup> *Id.* P 230 (emphasis added).

<sup>17</sup> The Commission accepted CAISO’s explanation that (1) the key selection factors will not replace or act as a substitute for the qualification and selection criteria that it uses to comparatively assess proposals and (2) the key selection factors will be posted during phase 3 and will not have an effect of the previous determination in phase 2 of the most efficient or cost-effective transmission solution. Second Compliance Order, 146 FERC ¶ 61,198 at PP 129-130.

<sup>18</sup> CAISO’s proposed tariff provisions permitting it to move multiple projects from phase 2 to phase 3 for competitive bidding. *Id.* P 133.

<sup>19</sup> *Id.* P 134.

ii. **Request for Rehearing**

16. LS Power seeks rehearing on the Commission's decision in the Second Compliance Order accepting CAISO's tariff provisions setting forth how a project sponsor or proposal is selected in its regional transmission planning process and how CAISO will determine the most efficient or cost-effective solution.<sup>20</sup> First, LS Power asserts that in the Second Compliance Order, the Commission accepted tariff provisions that do not comply with its earlier directive requiring CAISO to explain (1) how CAISO will use key selection factors to measure the relative efficiency and cost-effectiveness of a proposed bid, and (2) how it will ensure that key selection factors for each transmission facility will result in a regional transmission plan with the more efficient or cost-effective transmission solutions.<sup>21</sup> Rather than address these requirements, LS Power argues, the Commission "back-tracked" on these requirements<sup>22</sup> and instead added that CAISO should select a developer that is, among other things, prudent and reliable, which is not mandated by Order No. 1000 and, therefore, should not be considered as equivalent to CAISO's obligation to determine whether a proposal is more effective or cost-efficient.<sup>23</sup> Second, LS Power asserts that in CAISO's Second Compliance Filing, CAISO states that it cannot identify all of the most efficient or cost-effective solutions in phase 2 because its proposed tariff provisions allowing it to make that determination, for specific circumstances, during phase 3, the competitive bidding process.<sup>24</sup> Thus, LS Power concludes, the Commission erred by holding that phase 2 meets the Order No. 1000 requirement to identify the most efficient or cost-effective solutions.<sup>25</sup>

17. Next, LS Power asserts that the Commission should require CAISO to revise its tariff to provide that the process for evaluating project sponsors and solutions weighs cost factors more heavily than non-cost factors. LS Power explains that based on the dictionary definition of the terms efficient or cost-effective, Order No. 1000 requires that CAISO must select the project sponsor or proposal that yields the lowest rate impact.<sup>26</sup>

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<sup>20</sup> LS Power Rehearing Request at 6-10.

<sup>21</sup> *Id.* at 10 (citing First Compliance Order, 143 FERC ¶ 61,057 at P 230).

<sup>22</sup> *Id.* at 16.

<sup>23</sup> *Id.* at 20.

<sup>24</sup> *Id.* at 11-13.

<sup>25</sup> *Id.* at 15-16; 22-25.

<sup>26</sup> *Id.* at 26-28.

LS Power asserts that contrary to this requirement, CAISO considers several non-cost factors, rather than focusing primarily on costs factors; therefore, CAISO is not able to show that it has selected the most efficient or cost-effective project sponsor or proposal.<sup>27</sup> LS Power asserts that the other non-cost factors, such as the developer's ability to finance, license and successfully construct transmission facilities, are already required of all developers. Thus, LS Power argues, the only relevant factors in the competitive bidding process are related to monetary or identifiable efficiency benefits to ratepayers.<sup>28</sup>

18. Moreover, LS Power asserts that the Commission's findings with regard to how a project sponsor or solution is selected varies according to how much information the transmission provider offers, not on whether it complies with Order No. 1000. LS Power explains that unlike CAISO's sponsor selection process, the selection process conducted by the Midcontinent Independent System Operator (MISO) assigns specific weights to each selection criterion and had proposed to assign a greater weight to non-cost factors. LS Power states that the Commission subsequently determined that MISO's sponsor selection process (assigning greater weight to non-cost factors) may not properly measure the relative efficiency and cost-effectiveness of a proposed bid.<sup>29</sup> Further, LS Power explains, the Commission found that certain non-cost factors, weighed at 30 percent, "may be better used as a separate assessment of determining whether a transmission developer is qualified..."<sup>30</sup> In contrast, LS Power argues, in the Second Compliance Order, the Commission allows CAISO to consider similar non-cost factors and to weight each selection factor at its full discretion, without disclosing how it prioritizes each factor and, therefore, preventing the Commission from determining whether CAISO's process is in compliance with Order No. 1000.<sup>31</sup>

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<sup>27</sup> *Id.* at 9.

<sup>28</sup> LS Power Rehearing Request at 28.

<sup>29</sup> *Id.* at 29 (citing *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,215, at P 338 (2013) (MISO First Compliance Order).

<sup>30</sup> *Id.* at 28 (citing MISO First Compliance Order, 142 FERC ¶ 61,215 at P 338) (such as a project sponsor's abilities to implement, maintain, and repair transmission facilities).

<sup>31</sup> *Id.* at 30-31 (the non-cost factors at issue include a transmission developer's ability to finance, license, and successfully construct transmission facilities).

19. Third, LS Power argues that the Commission erred by stating that CAISO should “consider,” rather than “ensure,” the efficiency and cost-effectiveness of each developer’s proposal.<sup>32</sup>

20. Finally, LS Power contends that the Commission erred by not requiring CAISO to determine a sponsor’s qualification status before the sponsor is required to submit a bid or project proposal.<sup>33</sup> LS Power explains that the First Compliance Order directed CAISO to determine whether a transmission developer qualifies to construct, own, and operate a project before the sponsor is required to participate in the competitive bidding process.<sup>34</sup>

**b. Commission Determination**

21. We disagree with LS Power’s assertion that the Commission erred in accepting CAISO’s tariff provisions addressing how it selects project sponsors or proposals. First, CAISO adequately explained in the Second Compliance Filing that it uses key selection factors to evaluate each project sponsor’s bid. Specifically, CAISO revised its tariff to clarify that, during its competitive bidding analysis, it considers all selection and qualification criteria.<sup>35</sup> For certain projects,<sup>36</sup> however, CAISO proposes to highlight specific components of the qualification and selection criteria that are “key” to its analysis.<sup>37</sup> In addition, CAISO clarified that the key selection factors are disclosed within 30 days of the date when the regional transmission plan is published, giving transmission developers and stakeholders adequate notice with respect to how CAISO will evaluate each proposal.<sup>38</sup>

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<sup>32</sup> *Id.* at 20 (citing Second Compliance Order, 146 FERC ¶ 61,198 at P 20).

<sup>33</sup> *Id.* at 31-33.

<sup>34</sup> LS Power Rehearing Request at 32.

<sup>35</sup> Second Compliance Filing at P 110.

<sup>36</sup> *Id.* P 109 (citing CAISO Tariff Section 24.5.1., Competitive Solicitation Process).

<sup>37</sup> *Id.* PP 109-110.

<sup>38</sup> *Id.* P 116.

22. Second, we disagree with LS Power's assertion that the Commission erred by accepting CAISO's explanation<sup>39</sup> that the key selection factors are not used to determine the more efficient or cost-effective transmission solution. LS Power argues that CAISO does not comply with the Commission's directive in the First Compliance Order to explain how it will ensure that key selection factors for each transmission facility will result in a regional transmission plan with the more efficient or cost-effective transmission solutions because CAISO selects the more efficient or cost-effective transmission project during phase 2 of its transmission planning process, while the key selection factors are not considered until phase 3. CAISO has implemented a competitive bidding approach to comply with the requirements of Order No. 1000 pursuant to which it selects the more efficient or cost-effective transmission project in phase 2 of its transmission planning process and then selects the transmission developer eligible to use the regional cost allocation method for that transmission project in phase 3, considering, among other factors, the demonstrated cost containment capability of each project sponsor and its team.<sup>40</sup> Order No. 1000 explicitly permits the use of such a competitive bidding approach.<sup>41</sup> The Commission's directive in the First Compliance Order with

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<sup>39</sup> CAISO clarified that the key selection factors are not used during phase 2, the planning phase that determines whether a transmission facility will result in a regional transmission plan with more efficient or cost-effective transmission solutions. Instead, CAISO explained that during phase 2 it uses, among other factors, planning level costs to determine which solution is the most efficient or cost-effective for its regional transmission plan during the planning phase. *Id.* P 110 (citing CAISO, eTariff, § 24.5.1, Competitive Solicitation Process).

<sup>40</sup> Specifically, CAISO will consider binding cost control measures that the project sponsor agrees to accept, including any binding agreement by the project sponsor and its team to accept a cost cap that would preclude costs for the transmission solution above the cap from being recovered through CAISO's transmission rates, and, if none of the competing project sponsors proposes a binding cost cap, the authority of the selected siting authority to impose binding cost caps or cost containment measures on the project sponsor, and its history of imposing such measures. CAISO, eTariff, § 24.5.4 (Project Sponsor Selection Factors and Comparative Analysis).

<sup>41</sup> Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 321 (stating that Order No. 1000 permits a region to use or retain an existing mechanism that relies on a competitive solicitation to identify preferred solutions to regional transmission needs, and such an existing process may require little or no modification to comply with the framework it adopts). Furthermore, "the Commission has found that competitive solicitation processes can provide greater potential opportunities for independent

(continued...)

respect to the key selection factors did not require that CAISO reconsider during phase 3 of its transmission planning process the transmission facilities that it selects in its regional transmission plan as more efficient or cost-effective or otherwise adopt an approach besides its proposed competitive bidding approach. We thus affirm our decision that, by explaining how it uses the key selection factors for each transmission facility in phase 3 of its transmission planning process, CAISO has complied with the directives of the First Compliance Order, and continue to find that no further revisions to CAISO's competitive bidding approach, including those that CAISO proposed in its Second Compliance Filing that would have allowed CAISO to select more than one potential transmission solution in phase 2 of its transmission planning process, are necessary.

23. Also, we disagree with LS Power's assertion that the Commission erred by not requiring CAISO to weight cost factors more heavily than non-cost factors when selecting a project sponsor or proposal because Order No. 1000 does not impose this requirement. LS Power's protest is a collateral attack on the Commission's determination in Order No. 1000. There, the Commission previously declined LS Power's request to impose this requirement and held that the rule does not "set certain minimum standards for the criteria used to select a transmission facility in a regional transmission plan for purposes of cost allocation other than to require that these selection criteria be transparent and not unduly discriminatory."<sup>42</sup> Further, we are unpersuaded by LS Power's assertion that qualification factors that overlap the selection process are irrelevant. While CAISO uses some of the same factors both to evaluate whether a project sponsor satisfies CAISO's qualification criteria and to conduct its comparative analysis of each project sponsor's bid, the information is relevant in both cases given that it is used for different purposes. CAISO's objective in its qualification process is to determine whether a project sponsor is capable of completing, operating, and maintaining the proposed transmission solution, and the non-cost factors that LS Power references provide the information necessary for CAISO to make this determination. However, it is reasonable for CAISO to consider these same factors in its selection process because the information there is being used not to again determine whether each project sponsor meets the minimum threshold established by the qualification requirements, but rather in a comparative analysis to determine which project sponsor's bid should be selected.

24. In addition, LS Power incorrectly asserts that the Commission's determination in the MISO First Compliance Order establishes a precedent that requires CAISO to assign

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transmission developers to build new transmission facilities." *Id.* P 321 n.302 (citing, for example, *California Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,224 (2010)).

<sup>42</sup> Order No. 1000-A, 139 FERC ¶ 61,132 at P 455.

specific weights to each selection criterion. Order No. 1000 allows flexibility in how each region evaluates a project sponsor's proposal.<sup>43</sup> Here, CAISO uses, among other things, cost containment measures to evaluate a sponsor's ability to adhere to the costs identified during Phase 2 of its planning process, and we find that this approach is reasonable even though CAISO does not assign specific weights as MISO does. Further, although the Commission did not require CAISO to assign specific weights to its selection criteria, the Commission did require, similar to MISO, that CAISO explain how it uses key selection criteria.<sup>44</sup>

25. Lastly, we find that LS Power misinterprets the Commission's directive in the First Compliance Order requiring CAISO to further define its qualification requirements. Since CAISO proposes to determine a transmission developer's qualification status during the competitive bidding phase, the Commission directed it to "*explicitly state* what qualification requirements a potential transmission developer must satisfy..."<sup>45</sup> The intent of this directive is to provide transmission developers with sufficient detail about what information they must provide for CAISO to determine their eligibility to finance, own and construct a regional transmission facility, not to require CAISO to pre-qualify transmission developers before they submit bids. Thus, we affirm our decision that CAISO's revised proposal adequately addressed the Commission's directives from the First Compliance Order.<sup>46</sup>

### **3. Cost Allocation Compliance Directive**

#### **a. Second Compliance Order**

26. In the Second Compliance Order, the Commission directed CAISO to revise its tariff to clarify that mitigation costs associated with a required upgrade on a neighboring system that CAISO agrees to bear would be the responsibility of the approved project sponsor that will construct and own the transmission facilities that necessitated such upgrades, and that such mitigation costs would be recovered through the participating

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<sup>43</sup> First Compliance Order, 143 FERC ¶ 61,057 at P 134.

<sup>44</sup> MISO First Compliance Order, 142 FERC ¶ 61,215 at PP 340, and 334-344 (allowing MISO to continue to use its proposed weights provided that it can "explain and justify why its proposed weighting of costs in the evaluation process complies with the requirements of Order No. 1000").

<sup>45</sup> First Compliance Order, 143 FERC ¶ 61,057 at P 148 (emphasis added).

<sup>46</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 82.

transmission owner's transmission revenue requirement, which in turn is subject to approval by the Commission.<sup>47</sup>

**b. Third Compliance Filing**

27. CAISO proposes to revise its tariff to state that any costs in connection with required solutions in neighboring transmission systems associated with regional transmission facilities that CAISO agrees to bear will be the responsibility of the project sponsor who will construct and own the Regional Transmission Facilities that necessitated the solution or on the neighboring transmission system, and that such mitigation costs may be recovered through CAISO's regional access charge, subject to Commission approval, and all relevant tariff provisions pertaining to the calculation, billing, and recovery of the regional access charge, and any related applicable provisions, shall apply.<sup>48</sup>

**c. Protest**

28. SoCal Edison argues that according to the definition of transmission revenue requirement in CAISO's tariff, the only costs that may be recovered in rates are costs of facilities under CAISO's operational control or approved projects "not yet in operation." SoCal Edison states that neighboring transmission systems will never be under CAISO's operational control and such facilities, once operational, do not fit under the "not yet in operation" component of the definition. Consequently, SoCal Edison argues that the definition of transmission revenue requirement does not provide for the inclusion of neighboring transmission system upgrade costs in rates. SoCal Edison maintains that the definition of transmission revenue requirement intends that only costs incurred by participating transmission owners are to be recovered in rates and therefore the tariff does not allow for costs incurred by CAISO to be recovered in rates.<sup>49</sup>

29. SoCal Edison further argues that CAISO should not have unchecked discretion to accept neighboring transmission system upgrade costs. Moreover, SoCal Edison contends that Commission review after the costs are included in rates is insufficient. Rather, SoCal Edison believes that before the decision is made to pay costs for upgrades

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<sup>47</sup> *Id.* at 174. CAISO offered to make these changes in its response to concerns raised by SoCal Edison. *Id.*

<sup>48</sup> CAISO, eTariff, § 24.10 (Operational Review and Impact Analysis).

<sup>49</sup> SoCal Edison Comments at 3.

located outside of CAISO, the decision should be reviewed by the Commission to ensure CAISO stakeholders will not be paying inappropriate or unjust and unreasonable costs.<sup>50</sup>

30. Finally, SoCal Edison contends that the varying approaches being proposed by neighboring planning regions are problematic. SoCal Edison explains that the WestConnect transmission planning region does not provide for any responsibility for costs that its transmission owners impose on a neighboring transmission system, whereas CAISO customers may be required to assume costs for upgrades. SoCal Edison maintains that inconsistent approaches across neighboring planning regions could result in inequitable results for some ratepayers.<sup>51</sup>

**d. Commission Determination**

31. We find that CAISO has complied with the directive to further clarify whether the region agrees to bear the mitigation costs associated with a required upgrade on a neighboring system.<sup>52</sup> Specifically, CAISO proposes to revise its tariff to state that mitigation costs that CAISO agrees to bear associated with a required upgrade on a neighboring system would be the responsibility of the approved project sponsor who will construct and own the transmission facilities that necessitated such upgrades and such mitigation costs would be recovered through the participating transmission owner's transmission revenue requirement, which in turn is subject to approval by the Commission.

32. SoCal Edison argues that CAISO should not have discretion to assume cost responsibility for neighboring transmission system upgrades. SoCal Edison also argues that before the decision is made to pay costs for upgrades located outside of CAISO, the decision should be reviewed by the Commission. We find that the issues raised by SoCal Edison are a matter of cost recovery – i.e., how costs allocated to a transmission owner are to be recovered from its customers – and thus are outside the scope of Order No. 1000. We therefore deny SoCal Edison's request to require that CAISO's tariff require prior Commission review of mitigation costs associated with an upgrade on a neighboring system.

33. SoCal Edison requests further tariff revisions due to concerns that the definition of transmission revenue requirement in CAISO's tariff does not provide for the inclusion of

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<sup>50</sup> *Id.* at 4.

<sup>51</sup> *Id.*

<sup>52</sup> CAISO, eTariff, § 24.5.3.1(c) (Project Sponsor Qualification).

neighboring transmission system upgrade costs in rates. We find that SoCal Edison's concern is outside the scope of this proceeding. To the extent that there is an inconsistency in the definition of transmission revenue requirement, CAISO will need to resolve that inconsistency if and when it agrees to bear the costs associated with a required upgrade on a neighboring system, and CAISO will ultimately need to submit it to the Commission in a section 205 filing.

34. SoCal Edison also urges the Commission to promote a uniform approach to assuming costs across neighboring planning regions. We disagree with this approach because Order No. 1000 gives transmission providers the option to voluntarily bear the costs associated with a neighboring region's transmission facilities, provided that it identify the circumstances in which it will assume a neighboring region's transmission facility costs and how such costs will be allocated to the beneficiaries in its region.<sup>53</sup> Accordingly, we deny SoCal Edison's request as it is inconsistent with Order No. 1000. Further, we encourage the continuation of existing voluntary arrangements,<sup>54</sup> as well as considering new opportunities to work together to address any issues relating to the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation on other transmission systems that are not a part of that transmission planning region that might arise. Order No. 1000 was not intended to disrupt or impede any such arrangements.

#### **4. Other Compliance Directives**

35. In the Second Compliance Order, the Commission directed CAISO to make the following tariff revisions. First, the Commission directed CAISO to clarify how a decision not to consider a previously identified transmission need driven by public policy requirements will be provided to stakeholders (e.g., by posting such explanation on its website or by some other means).<sup>55</sup> On compliance, CAISO proposes to revise its tariff

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<sup>53</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 152 (citing Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 657).

<sup>54</sup> CAISO has successfully resolved issues pertaining to reliability impacts of new transmission facilities in neighboring systems by following the WECC Project Coordination and Path Rating Process. Second Compliance Order, 146 FERC ¶ 61,198 at P 172.

<sup>55</sup> *Id.* PP 32, 35.

to clarify that it will post on its website an explanation of any decision not to consider a previously identified transmission need driven by public policy requirements.<sup>56</sup>

36. Next, the Commission directed CAISO to clarify that credit ratings or audited financial statements are examples of information to be submitted to demonstrate a potential transmission developer's financial capability.<sup>57</sup> CAISO has made this clarification.<sup>58</sup>

37. The Commission directed CAISO to specify the information that a potential transmission developer should provide to demonstrate that it has the ability to assume liability for major losses resulting from failure of the transmission facility.<sup>59</sup> The Commission found that the additional information CAISO provided in its October 4 Answer provided clarity for potential transmission developers and directed that this information be included in the tariff. Accordingly, CAISO has revised its tariff to include audited financial statements or other financial indicators as specified in the October 4 Answer.<sup>60</sup>

38. The Commission directed CAISO to clarify that a potential transmission developer need only demonstrate that it has a plan to assemble a sufficiently sized team with the manpower, equipment, knowledge, and skill required to undertake the design, construction, operation, and maintenance of the transmission solution in the event that its transmission solution is selected.<sup>61</sup> CAISO has made this clarification in tariff section 24.5.3.1(a).<sup>62</sup>

39. The Commission directed CAISO to revise its tariff to allow a potential transmission developer to submit a detailed plan for constructing, operating, and maintaining transmission facilities in the absence of a previous record regarding

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<sup>56</sup> CAISO, eTariff, § 24.3.3(f) (Stakeholder Input – United Planning Assumptions/Study Plan).

<sup>57</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 75.

<sup>58</sup> CAISO, eTariff, § 24.5.3.1(b) (Project Sponsor Qualification).

<sup>59</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 76.

<sup>60</sup> CAISO, eTariff, § 24.5.3.1(c) (Project Sponsor Qualification).

<sup>61</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 80.

<sup>62</sup> CAISO Transmittal Letter at 3.

construction, operation, and maintenance of transmission facilities.<sup>63</sup> CAISO has revised its tariff to include this change.<sup>64</sup>

40. The Commission gave CAISO the option to either delete the provision permitting CAISO to select more than one potential solution to a transmission need in phase 2 of its transmission planning process or to further explain in sufficient detail why the revision is consistent with the compliance directives in the First Compliance Order and further describe how CAISO will select from among multiple proposed solutions.<sup>65</sup> CAISO has deleted the proposed provision.<sup>66</sup>

41. The Commission directed CAISO to revise its tariff to state that if CAISO determines that an abandoned transmission project is no longer needed, CAISO will not direct a participating transmission owner to backstop the continued development of the project. Accordingly, CAISO has revised its tariff to state that if it determines that the transmission solution is no longer needed, CAISO will not pursue the solution and will not direct a participating transmission owner to backstop the continued development of the solution.<sup>67</sup>

42. Lastly, the Commission directed CAISO to delete the use of the word “not” in tariff section 24.6 that CAISO agreed in its October 4 Answer was a clerical error. CAISO has made the revision and deleted the word.<sup>68</sup>

43. We find that CAISO has complied with the above directives.

The Commission orders:

(A) LS Power’s request for rehearing is hereby denied, as discussed in the body of this order.

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<sup>63</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 94.

<sup>64</sup> CAISO, eTariff, § 24.5.2.1(j) (Project Sponsor Qualification).

<sup>65</sup> Second Compliance Order, 146 FERC ¶ 61,198 at P 133.

<sup>66</sup> CAISO, eTariff, § 24.5.1 (Competitive Solicitation Process).

<sup>67</sup> CAISO, eTariff, § 24.6.4 (Inability to Complete the Transmission Solution).

<sup>68</sup> *Id.* § 24.6 (Obligation to Construct Transmission Solutions).

(B) CAISO's compliance filing is hereby accepted, effective October 1, 2013, as requested.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.