123 FERC ¶ 61,283
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator Corporation Docket No. OA08-62-000

ORDER ON COMPLIANCE FILING

(Issued June 19, 2008)

1. On December 21, 2007, pursuant to section 206 of the Federal Power Act (FPA),[1] the California Independent System Operator Corporation (CAISO), submitted its transmission planning process as revisions to its existing Open Access Transmission Tariff (OATT), as required by Order No. 890.[2] In this order, we accept the CAISO's compliance filing, subject to a further compliance filing, as discussed below.

I. Background

2. In Order No. 890, the Commission reformed the *pro forma* OATT to clarify and expand the obligations of transmission providers to ensure that transmission service is provided on a non-discriminatory basis. One of the Commission's primary reforms was designed to address the lack of specificity regarding how customers and other stakeholders should be treated in the transmission planning process.[3] To remedy the potential for undue discrimination in planning activities, the Commission directed all

[1] 16 U.S.C. § 824e (2000 & Supp. V 2005).

[2] *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241, *order on reh'g*, Order No. 890-A, 73 Fed. Reg. 2984 (Jan. 16, 2008), FERC Stats. & Regs. ¶ 31,261 (2007).

[3] The Commission, among other things, also amended the *pro forma* OATT to require greater consistency and transparency in the calculation of Available Transfer Capability and standardization of charges for generator and energy imbalance services. The Commission also revised various policies governing network resources, rollover rights, and reassignments of transmission capacity. These reforms have been or will be addressed in other orders.

transmission providers to develop a transmission planning process that satisfies nine principles and to clearly describe that process in a new attachment (Attachment K) to their OATTs.[4]

3. As discussed more fully below, the nine planning principles each transmission provider was directed by Order No. 890 to address in its Attachment K planning process are: (1) coordination; (2) openness; (3) transparency; (4) information exchange; (5) comparability; (6) dispute resolution; (7) regional participation; (8) economic planning studies; and (9) cost allocation for new projects. The Commission also directed transmission providers to address the recovery of planning-related costs. The Commission explained that it adopted a principles-based reform to allow for flexibility in implementation of and to build on transmission planning efforts and processes already underway in many regions of the country. However, the Commission also explained that although Order No. 890 allows for flexibility, each transmission provider has a clear obligation to address each of the nine principles in its transmission planning process, and that all of these principles must be fully addressed in the tariff language filed with the Commission. The Commission emphasized that tariff rules must be specific and clear to facilitate compliance by transmission providers and place customers on notice of their rights and obligations.[5]

4. As for Regional Transmission Organizations (RTOs) and Independent System Operators (ISOs) with Commission-approved transmission planning processes already on file, such as the CAISO, the Commission explained that when it approved these processes, it had found them to be consistent with or superior to the existing *pro forma* OATT. Because the *pro forma* OATT was being reformed by Order No. 890, the Commission found that it was necessary for each RTO and ISO to either reform its planning process or show that its planning process is consistent with or superior to the *pro forma* OATT, as modified by Order No. 890.[6] RTOs and ISOs were also directed to

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[4] The CAISO labeled the attachment "EE."

[5] As the Commission explained in Order No. 890, not all rules and practices related to transmission service, or planning activities in particular, need be codified in the transmission provider's OATT. Rules, standards and practices that relate to, but do not significantly affect, transmission service may be placed on the transmission provider's website, provided there is a link to those business practices on its Open Access Same-Time Information System. *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 1649-55. Transmission providers could therefore use a combination of tariff language in Attachment K and a reference to planning manuals on their website, to satisfy their planning obligations under Order No. 890.

[6] *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 439; Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 174-75.

indicate in their compliance filings how all participating transmission owners (PTOs) within their footprints will comply with Order No. 890's planning requirements.[7]

5. On October 18, 2007, the Commission granted the CAISO's request to extend the compliance filing deadline to December 21, 2007, so that it could present its filing to the CAISO Board of Governors (Governing Board).

II. CAISO's Compliance Filing

6. The CAISO states that it has revised its Business Practice Manual (BPM)[8] and its existing tariff to comply with the transmission planning process requirements set forth in Order No. 890. The CAISO also indicates that its existing tariff will expire upon the effective date of the Market Redesign and Technology Upgrade (MRTU) tariff, at which time the CAISO will transfer the transmission planning process tariff language into the MRTU tariff.[9]

7. The CAISO requests an effective date of December 21, 2007 and seeks waiver of the Commission's 60-day prior notice requirement. The CAISO also requests waiver of the Commission's Order No. 614 requirements.[10]

III. Notice of Filing and Responsive Pleadings

8. Notice of the CAISO's filing was published in the *Federal Register*, 73 Fed. Reg. 2236 (2008), with interventions and protests due on or before January 11, 2008. On January 7, 2008, the Commission extended the date for interventions and protests to January 25, 2008.

9. Motions to intervene were filed by PPM Energy, Inc., the Electric Power Supply Association, California Department of Water Resources State Water Project (SWP), NRG Companies, the Metropolitan Water District, the Alliance of Retail Energy Markets, Southern California Edison Company (SoCal Ed), and Powerex Corporation. The

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[7] *See* Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 440.

[8] "BPM" in this order refers to the CAISO's BPM for the Transmission Planning Process, filed by the CAISO in this docket. *See* CAISO December 21, 2007 Filing at Att. C.

[9] On December 21, 2007, the CAISO incorporated its transmission planning process revisions, as filed here, into its proposed replacement version of the MRTU tariff filed in Docket No. ER06-615-016, in preparation for its transition to the MRTU tariff.

[10] *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs., Regulations Preambles July 1996-December 2000 ¶ 31,096 (2000) (Order No. 614).

California Public Utilities Commission (California Commission) filed a notice of intervention and comments. Motions to intervene and comment and/or protest were filed by Citizens Energy Corporation (Citizens), California Municipal Utilities Association (CMUA), Turlock Irrigation District, Imperial Irrigation District (Imperial), the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside (the Six Cities), the California Wind Energy Association, Abengoa Solar Incorporated, Ausra Incorporated, and Brightsource Energy (California Wind), Northern California Power Agency (NCPA), Transmission Agency of Northern California (TANC),[11] M-S-R Public Power Agency, Modesto Irrigation District, the Sacramento Municipal Utility District (SMUD), Pacific Gas and Electric Company (PG&E), and the Bay Area Municipal Transmission Group (BAMx). On February 27, 2008, Citizens Energy filed a motion for leave to supplement its prior intervention.[12]

10. On February 4, 2008, SWP submitted a late-filed protest. On February 11, 2008, and February 20, 2008, PG&E, SoCal Ed, and San Diego Gas & Electric (SDG&E) filed answers to the protests. On February 14, February 21, and March 19, 2008, the CAISO filed answers to the protests.[13] On February 27, 2008, NCPA filed an answer to these answers.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,[14] the notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant SWP's late-filed motion to intervene, given its interest in this proceeding, the early stage of this proceeding, and the lack of any prejudice or delay.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2007) prohibits an answer to a protest or an answer unless otherwise

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[11] Turlock Irrigation District, M-S-R Public Power Agency, NCPA, SMUD and Modesto Irrigation District state that they support TANC's position on each issue. NCPA also states that it supports CMUA's positions.

[12] On April 4, 2008, Citizens withdrew its intervention and supplemental intervention in this proceeding. Accordingly, we will not discuss its comments, or the CAISO's answer to its comments.

[13] In its February 14, 2008 Answer, the CAISO adopted the PG&E, SoCal Ed, and SDG&E Answers to NCPA's Protest. In its February 21, 2008 Answer, the CAISO responded to SWP's Protest.

[14] 18 C.F.R. § 385.214 (2007).

ordered by the decisional authority. We will accept the CAISO's answers to the protests and answers of PG&E, SoCal Ed, and SDG&E because they have provided information that has helped us in the decision-making process; for the same reason, we accept NCPA's answer to the CAISO's answers.

B. Substantive Matters

13. We find that the CAISO's transmission planning process, with certain modifications, complies with each of the nine planning principles and other planning requirements adopted in Order No. 890. Accordingly, we accept the CAISO's planning process, to be effective December 21, 2007 subject to a further compliance filing as discussed below. The CAISO is directed to file the compliance filing within 90 days of the date of issuance of this order.

14. While we accept the CAISO's transmission planning process, we nevertheless encourage further refinements and improvements to the CAISO's planning process as the CAISO and its customers and other stakeholders gain more experience through actual implementation of this process. Commission staff will also periodically monitor the implementation of the planning process to determine if adjustments are necessary and will inform the transmission provider and the Commission of any such recommendations. Specifically, beginning in 2009, the Commission will convene regional technical conferences similar to those conferences held in 2007 leading up to the filing of the Attachment K compliance filings. The focus of the 2009 regional technical conferences will be to determine the progress and benefits realized by each transmission provider's transmission planning process, obtain customer and other stakeholder input, and discuss any areas which may need improvement.

C. CAISO Planning Process and the Role of PTOs

15. At the outset, we believe it is useful to address the mechanics of the planning process that the CAISO has proposed in its compliance filing. Many of the protests raise issues regarding the clarity of the process and the respective roles of the CAISO, the PTOs, and other participants. The foundation of the planning process is a tariff that provides a sufficient level of detail for customers and other stakeholders to understand how the transmission provider will perform transmission planning and the method by which they can participate in decisions regarding expansion of the system to serve their needs. And a central element of Order No. 890 is that all elements of the planning process must be open and transparent, including the planning performed by transmission owners within an RTO or ISO. We therefore begin with a discussion of the process proposed by the CAISO.

16. As described by the CAISO, its planning process begins with a so-called "request window" during which time market participants may propose economic planning studies and transmission upgrades or additions or other resources for inclusion in the annual

transmission plan.[15] Subsequent to the close of the request window, a three-stage planning process is initiated.[16] According to the CAISO, its transmission planning process requires it to conduct at least one stakeholder meeting during each stage of the planning process. Based on language in various places in the tariff, BPM, and the CAISO's pleadings in this proceeding, however, it appears that the bulk of the transmission planning for the CAISO-controlled grid may be initiated outside this process by the PTOs.[17] We recognize that the CAISO has revised its planning process to allow for a "more coherent consideration of relevant information and projects during the planning cycle"[18] and to permit a rational assessment of competing alternatives to resolve transmission problems. The CAISO is, of course, free to structure its planning process in the way that best suits its needs and those of its members and customers. We are concerned, however, that the tariff and BPM do not clearly describe the relationship between its PTOs and the CAISO, how stakeholders can participate in the PTOs' development of needed expansions, how and when PTO projects are evaluated by the CAISO, how those projects are assimilated into the CAISO transmission plan, and the ability of non-PTOs to offer alternatives to PTO projects given the apparent difference between the treatment of PTOs and non-PTOs. Customers and stakeholders must not be excluded from the development of PTO-sponsored projects and PTO plans should not be incorporated into the CAISO plan using criteria and standards that are different from those used to assess alternative projects.

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[15] The CAISO indicates that its transmission planning process is comprised of 18-month overlapping cycles with a ten-year horizon. *See* CAISO BPM at Att. C, section 2.1.2.

[16] *See* CAISO transmittal letter at 19; *see also* CAISO BPM at Att. C, section 2.1.2.4 (stating that larger transmission projects will be "presented independently of the Transmission Plan"); *see also* CAISO BPM at Att. C, sections 2.1.2, 2.3; *see also* CAISO tariff at Att. A, sections 24.2.2.2, 24.2.4.1, 24.2.4.2, 24.2.4.3, 24.2.5.1, 24.2.5.2.

[17] *See* CAISO transmittal letter at 15; *see also* CAISO tariff at Att. A, sections 24.2.5.3; *see also* CAISO tariff at Att. A, section 24.2.2 (indicating that certain projects need not be submitted through the request window); *see also* CAISO BPM at Att. C, section 2.1.2.1 (indicating that the request window may, but need not apply to, reliability projects proposed by participating transmission owners); *see also* CAISO BPM at Att. C, section 2.1.2.4 (stating that larger transmission projects will be "presented independently of the Transmission Plan"); *see also* CAISO February 14, 2008 Answer at 22.

[18] Memorandum from CAISO Planning and Infrastructure Development to CAISO Board of Governors, *Decision on Authorization for FERC Order No. 890 Transmission Planning Process*, at Att. D, 3.

17. As discussed in greater detail below, we find that the CAISO's compliance filing and tariff lack sufficient clarity and specificity with respect to the planning conducted by its PTOs and we accordingly direct a compliance filing to address this matter.

D. Compliance With Order No. 890's Planning Principles

1. Coordination

18. In order to satisfy the coordination principle, transmission providers must provide customers and other stakeholders the opportunity to participate fully in the planning process. The purpose of the coordination requirement, as stated in Order No. 890, is to eliminate the potential for undue discrimination in planning by opening appropriate lines of communication between transmission providers, their transmission-providing neighbors, affected state authorities, customers, and other stakeholders. The planning process must provide for the timely and meaningful input and participation of customers and other stakeholders regarding the development of transmission plans, allowing customers and other stakeholders to participate in the early stages of development. In its planning process, each transmission provider must clearly identify the details of how its planning process will be coordinated with interested parties.[19]

a. CAISO's Filing

19. The CAISO's filing indicates that it has addressed the coordination principle by providing for a committee process for interested parties to participate in and to develop and revise, as necessary, the procedures governing how the transmission planning process is structured and implemented. Specifically, the CAISO's filing indicates that it will maintain a CAISO Planning Standards Committee (Planning Committee) in which any interested parties may review, provide advice on, and propose modifications to its planning standards for consideration by the CAISO management and the Governing Board.

20. In addition, the CAISO has provided a description of how it coordinates with stakeholders throughout its multi-stage transmission planning process. Specifically, the CAISO indicates that the planning cycle contains a 90-day request window during which time market participants may propose economic planning studies and transmission upgrades or additions for inclusion in the annual transmission plan.[20] Subsequent to the close of the request window, a three-stage planning process is initiated. According to the

[19] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 451-54.

[20] The CAISO indicates that its transmission planning process is comprised of 18-month overlapping cycles with a ten-year horizon. *See* CAISO BPM at Att. C, section 2.1.2.

CAISO, its transmission planning process requires it to conduct at least one stakeholder meeting during each stage of the planning process. Finally, the CAISO states that it will participate in regional and sub-regional planning committees and meetings.[21]

b. Commission Determination

21. We have reviewed the CAISO's filing and find that the CAISO's proposed transmission planning process tariff language clearly identifies the details of how it coordinates with interested parties, with the exception discussed below. For example, section 24.2.1 of the tariff indicates that the Planning Committee is chaired by the CAISO Vice President of Planning and Infrastructure Development (Chair) who must seek approval from the Governing Board prior to the modification of any planning standard. As part of this process, the Chair must include in a report to the Governing Board a summary of the positions of parties with respect to the proposed modifications to the planning standards and the grounds for rejecting any proposed modifications. Section 24.2.1 also sets forth that the Planning Committee meets on at least an annual basis, meetings are noticed on the CAISO website and teleconference capability is available for all meetings. In addition, section 24.2.1 of the tariff indicates that all materials addressed at or related to planning meetings, including agendas, presentations, background papers, party comments, and minutes are posted to the CAISO website.

22. In addition, with respect to stakeholder participation in the development of the annual transmission plan, the CAISO indicates that its planning process is a multi-stage process in which stakeholders and market participants may participate at various intervals.[22] Sections 24.2.4.1 through 24.2.5.3 of the tariff indicate that the transmission planning process includes: (1) developing uniform assumptions and a study plan;[23] (2) performing technical studies; and (3) developing a transmission plan. Section 24.2.4.3(c) of the tariff indicates that at least one stakeholder meeting will be

[21] Further details on the CAISO's coordination with regional entities are provided below in the Regional Participation section (see section IV(D)(7), *infra*).

[22] The term "stakeholder" does not appear to be defined by the CAISO. A "market participant" is defined by the CAISO as an entity, including a scheduling coordinator, who either: (1) participates in the CAISO markets through the buying, selling, transmission, or distribution of energy, capacity, or ancillary services into, out of, or through the CAISO controlled grid; or (2) is a congestion revenue rights (CRR) holder or candidate CRR holder.

[23] The unified planning assumptions are assumptions such as demand, transmission system topology, generation assumptions and imports to be developed in performing technical studies identified in the study plan as part of the annual transmission planning process. The study plan sets forth the technical studies that will be performed during the annual transmission planning process.

held subsequent to the CAISO's posting the draft unified planning assumptions and study plan to provide opportunities for interested parties to discuss and recommend modifications to it. Similarly, sections 24.2.5.1(a) and 24.2.5.2(a) of the tariff indicate that the CAISO will conduct at least one stakeholder meeting to provide stakeholders with the opportunity to comment on the preliminary technical study results and the draft transmission plan.

23. However, we find that the CAISO's tariff is unclear with regard to which entities can propose a project or study for inclusion in the transmission plan and the process by which they may do so. For example, section 24.1 of the tariff indicates that a PTO, market participant, the CAISO, California Commission, or the California Energy Commission may propose a transmission system addition or upgrade. Section 24.1.1(b) of the tariff describes the determination of need for projects proposed by the California Commission, the California Energy Commission, PTOs, and project sponsors. Section 24.2.2 describes the request window and indicates that market participants may propose economic planning studies and transmission system upgrades and additions for inclusion in the transmission plan during the request window. We find the inconsistent terminology to be unclear. As a result, we direct the CAISO to address this issue in the compliance filing ordered below. We also direct the CAISO to re-examine its transmission planning process tariff and BPM language to ensure that the terminology used throughout is consistent and clear.

2. Openness

24. The openness principle requires that transmission planning meetings be open to all affected parties, including but not limited to all transmission and interconnection customers, state authorities, and other stakeholders. Although the Commission recognized in Order No. 890 that it may be appropriate in certain circumstances to limit participation in a meeting to a subset of parties, such as a particular meeting of a sub-regional group, the Commission emphasized that the overall development of the transmission plan and the planning process must remain open.[24] Transmission providers, in consultation with affected parties, must also develop mechanisms to manage confidentiality and Critical Energy Infrastructure Information (CEII) concerns, such as confidentiality agreements and password protected access to information.[25]

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[24] The Commission stated in Order No. 890-A that any circumstances under which participation in a planning meeting is limited should be clearly described in the transmission provider's planning process, as all affected parties must be able to understand how, and when, they are able to participate in planning activities. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 194.

[25] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 460.

a. **CAISO's Filing**

25. In response to the Order No. 890 requirements regarding openness, the CAISO indicates that the Grid Planning Committee is open to all market participants.[26] The CAISO also states that the transmission planning meetings are open to stakeholders.[27]

26. In addition, the CAISO states that the tariff describes what constitutes confidential information and CEII used in the transmission planning process, and the criteria by which the CAISO will determine such status. Specifically, section 20.2 of the tariff indicates that individual bids for ancillary services, adequacy plans, demand forecasts, and CEII, among other things, are considered confidential. Also, section 20.4 of the tariff sets forth the requirements for access to such information. The CAISO also indicates that section 9.2 of the BPM sets forth additional detail regarding the determination of, and procedures for, obtaining confidential information and CEII.

b. **Protests/Comments**

27. TANC contends that section 20.2(h) of the tariff should be revised to indicate that the nature of the information, not the type of entity that submits the information, is the basis for determining whether or not the information is confidential information.

28. CMUA claims that section 20.2(h)(2) of the tariff, which provides that the CAISO may treat as confidential "information, the release of which may harm competitive markets, as determined by the CAISO's Department of Market Monitoring," grants the CAISO unfettered discretion to withhold information. Further, CMUA contends that the

[26] CAISO transmittal letter at 21. Although the CAISO refers to the Grid Planning Committee, it also references section 24.2.1 of the tariff (entitled "CAISO Planning Standards Committee"). As a result, we believe the CAISO intended to refer to the CAISO Planning Standards Committee, or Planning Committee, as set forth in the Coordination Principle section (see section IV(D)(1), *supra*). In addition, the CAISO transmittal letter indicates that the Grid Planning Committee is open to all market participants, with market participants defined as set forth above. *See* CAISO transmittal letter at 20-1. Based on our assumption that the CAISO's reference to the Grid Planning Committee was intended to reference the Planning Committee in section 24.2.1, we note that the referenced section of the tariff allows "any other interested parties" to participate in the Planning Committee and does not limit participation to "Market Participants," as defined by the CAISO tariff. The Commission finds that this tariff language, not the language in the CAISO transmittal letter, is controlling.

[27] Section 24.1 of the CAISO's tariff indicates that a participating transmission owner, market participant, the California Commission, or the California Energy Commission may propose a transmission upgrade. *See* CAISO tariff at Att. A, section 24.1.

discretion accorded the CAISO is compounded by the CAISO's ability to withhold the data under section 20.4(e) of the tariff, notwithstanding the willingness of an entity to execute a non-disclosure agreement. CMUA offers two alternative sets of revisions that would satisfy its concerns. CMUA also notes that section 20.4(e) of the CAISO's tariff contains an incorrect cross-reference to section 20.2(f) which should be corrected to reference section 20.2(h).

29. PG&E states that it is unclear why the CAISO would solicit certain information from load serving entities pursuant to section 24.2.3.3 (Information Requested from Load Serving Entities) of the tariff. For example, PG&E states that it is unclear why bid information is required for transmission planning purposes. According to PG&E, bid information contains highly sensitive market and pricing data and its disclosure could harm both the bidder and the load serving entity. As a result, PG&E contends that the Commission should require the CAISO to more narrowly tailor section 24.2.3.3 so that it only calls for information that the CAISO can demonstrate a clear need for in the transmission planning process. If the Commission does not direct the CAISO to modify section 24.2.3.3 as PG&E requests, then PG&E requests that the Commission eliminate the ability of other market participants to gain access to data provided by load serving entities upon the execution of a non-disclosure agreement.

30. The Six Cities state that section 20.4(e)(ii) provides that confidential transmission planning information may be disclosed to an individual "designated by a Market Participant" upon execution of a nondisclosure statement and certification "that the individual is or represents a non-Market Participant.…" According to the Six Cities, the CAISO should delete the phrase "or represents," or modify this section to eliminate the ambiguity associated with the phrase since the representative referred to in that section may be an employee, consultant, or attorney that represents a market participant but who is not involved in the marketing, sales, or brokering function and may have access to confidential information.

31. The Six Cities also note that while the CAISO references in the BPM a *pro forma* non-disclosure agreement for obtaining access to confidential transmission planning information, it has not included the *pro forma* non-disclosure agreement in its Order No. 890 filing or in the BPM. The Six Cities request that the Commission direct the CAISO to file this form with the Commission so that stakeholders can have an opportunity to challenge any proposed restrictions that are inconsistent with Commission policy or the intent of Order No. 890.

c. Answer

32. With regard to TANC's comment, the CAISO states that subsection 20.2(h) sets forth a list of categories of information received through the transmission planning process entitled to confidential treatment. The CAISO also notes that the language preceding each subsection in 20.2 indicates that the "following information provided to the ISO by Scheduling Coordinators shall be treated by the ISO as confidential." As a

result, the CAISO agrees with TANC that section 20.2(h) causes confusion and submits that it is the characteristics of the information, not the source, which dictates whether or not it is entitled to protection.

33. The CAISO also states that it agrees with CMUA and proposes to adopt one of the two alternative tariff revisions proposed by CMUA. Specifically, the CAISO proposes to revise section 20.4(e) of the tariff so that it reads: "Notwithstanding the provisions of Section 20.2(h), information submitted through the transmission planning process shall be disclosed as follows." In addition, the CAISO states that it will correct the cross-reference pointed out by CMUA.

34. In response to the concerns raised by PG&E, the CAISO notes that section 24.2.3.3 states that the "CAISO will solicit…information," and, thus, the submittal of the information by the load serving entity is voluntary. Notwithstanding that, the CAISO states that to encourage voluntary disclosure of the information by load serving entities, it proposes to modify sections 20.2(h) and 20.4(e) to make it clear that it will not disclose information received under section 24.2.3.3 except in a composite form that does not reveal the confidential information of a particular load serving entity.

35. Regarding Six Cities' concerns about section 20.4(e)(ii), the CAISO states that "by eliminating the potential for disclosure of granular Load Serving Entity data received under Section 24.2.3.3, it also vitiates the need for the CAISO [to] adopt procedures, as requested by Six Cities, to shift the burden of the submitting entities to justify application of confidential treatment of particular data."

36. In addition, the CAISO responds to Six Cities' request that it include a *pro forma* non-disclosure agreement in its proposed tariff or in its BPM by stating that such a form is available on the CAISO website.[28]

d. Commission Determination

37. We find that the CAISO should revise section 24.2.3.3 so that it only calls for information for which the CAISO can demonstrate a clear need for in the transmission planning process. While CAISO has not explained why bid information would be necessary for the transmission planning process, in its answer it has committed that it will not disclose information received under section 24.2.3.3 except in a composite form that does not reveal the confidential information of a particular load serving entity. Accordingly, we direct the CAISO to revise the tariff to clearly demonstrate how it intends to use bid information in the planning process and include the commitment to release it only in a composite form.

[28] CAISO February 14, 2008 Answer at 13, n.7.

38. We agree with the protestors that sections 20.2 and 20.4 of the tariff contain references that must be corrected and the provisions require clarification. While the CAISO has proposed revisions, it is unclear how they address the concerns raised. As a result, the CAISO must revise these sections to correct the references and explain how the revisions address the protestors' concerns.

39. We find that it is unnecessary for the CAISO to file the non-disclosure agreement with the Commission. The CAISO has posted the form on its website and no party has raised any specific issue with the terms of the agreement.

3. Transparency

40. The transparency principle requires transmission providers to reduce to writing and make available the basic methodology, criteria, and processes used to develop transmission plans, including how they treat retail native loads, in order to ensure that standards are consistently applied. To that end, each transmission provider must describe in its planning process the method(s) it will use to disclose the criteria, assumptions and data that underlie its transmission system plans.[29] The Commission specifically found that simple reliance on Form Nos. 714 and 715 failed to provide sufficient information to provide transparency in planning because those forms were designed for different purposes. Transmission providers also were directed to provide information regarding the status of upgrades identified in the transmission plan.

41. The Commission explained that sufficient information should be made available to enable customers, other stakeholders, and independent third parties to replicate the results of planning studies and thereby reduce the incidence of after-the-fact disputes regarding whether planning has been conducted in an unduly discriminatory fashion. The Commission explained in Order No. 890 that simultaneous disclosure of transmission planning information should alleviate Standards of Conduct concerns regarding disclosure of information. The Commission also specifically addressed consideration of demand response resources in transmission planning. Where demand resources are capable of providing the functions assessed in a transmission planning process, and can be relied upon on a long-term basis, they should be permitted to participate in that process on a comparable basis.[30]

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[29] In Order No. 890-A, the Commission stated that this includes disclosure of transmission base case and change case data used by the transmission provider, as these are basic assumptions necessary to adequately understand the results reached in a transmission plan. *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

[30] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 471-79.

a. **CAISO's Filing**

42. The CAISO states that its planning provisions adequately inform market participants and stakeholders of their rights and obligations under the transmission planning process, and provide a full description of the planning cycle and the criteria that the CAISO applies in making decisions.

43. As set forth above in the section on coordination, the CAISO has developed a multi-stage planning process that provides for stakeholder involvement throughout each stage of the process. Subsequent to the close of the request window, the CAISO begins the first stage of its planning process and develops a draft unified planning assumptions and study plan using the information received through the request window, information required to be submitted by PTOs (e.g., demand at each substation, interruptible loads), information solicited from other market participants (e.g., long-term resource plans, demand forecasts), and information solicited from interconnected control areas, regional and sub-regional planning groups within the Western Electricity Coordinating Council (WECC) (e.g., long-term transmission and resource plans, demand forecasts). The draft unified planning assumptions and study plan also includes the assumptions, software and technical studies to be used in the process and it is posted on the CAISO website, to the extent that the information is not confidential. The CAISO issues a market notice to provide market participants with an opportunity to provide comments, and schedules at least one stakeholder conference. Subsequently, the CAISO posts a final unified assumption and study plan to the CAISO website.

44. The second stage of the process requires the CAISO to perform the technical studies, post the preliminary results on the website, conduct at least one stakeholder conference, and provide an opportunity for comments. To the extent that additional stakeholder conferences, web conferences, or teleconferences are necessary, a notice will be posted on the CAISO website. After the CAISO considers the comments on the preliminary results, it will complete the technical studies and post the final results on the CAISO website.

45. The third stage requires the CAISO to develop and then post a draft transmission plan. The CAISO then holds a stakeholder conference regarding the draft transmission plan and solicits comments. To the extent that additional stakeholder conferences, web conferences or teleconferences are necessary, the CAISO will post a notice on its website. The CAISO will also post its final transmission plan after receiving comments on the draft transmission plan.[31]

[31] *See* CAISO tariff at Att. A, section 24.2.5.2(a).

b. Commission Determination

46. We find that the CAISO's proposed tariff and BPM revisions address transparency and generally comply with the transmission planning requirements of Order No. 890. However, we find that further modifications are needed for full compliance with the transparency principle. Below, we discuss and provide determinations on the six aspects of the CAISO's proposal to meet the transparency principle: (1) Transmission Planning Process Timeline; (2) Study Requests and the Request Window; (3) Screening Process; (4) Benefits and Justification; (5) CAISO discretion; and (6) Tariff versus Business Practice Manual.

(i) Transmission Planning Process Timeline

47. Section 2.1.3 of the BPM contains a table detailing the proposed timelines and milestones for the CAISO's transmission planning process. The table indicates that stakeholders can submit proposed projects through the request window from August 15th to November 15th each year. By February 15th, the CAISO will identify the high priority economic planning studies and transmission projects that it will include in the study plan. The CAISO subsequently publishes a draft unified planning assumptions and study plan by March 31st, which is followed by a stakeholder meeting held on April 30th to discuss the draft unified planning assumptions and study plan.

48. The table indicates that by May 31st the CAISO plans to respond to stakeholder comments regarding the unified planning assumptions and study plan, hold additional meetings/teleconferences as necessary, complete any separate stakeholder process regarding specific transmission projects, and finalize and publish the final unified planning assumptions and study plan. By October 31st the technical analyses identified in the study plan are performed. In addition, by the same date, stakeholders will have the opportunity to meet and discuss the results of the system performance assessment studies and potential transmission alternatives to mitigate the problems identified in their studies. By the end of January, the CAISO makes the transmission plan recommendations to its Governing Board.

49. BAMx, the Six Cities and CMUA argue that the timelines for the transmission planning process do not allow enough time for market participants to fully contribute to the transmission planning process and adequately analyze the results of the process. Specifically, BAMx, the Six Cities and CMUA argue that the process should specify the time by which results of technical studies should be published and allow for a one-month

period between the publication of the technical analyses and/or results of technical studies and the close of the request window.[32]

50. In addition, the commenters state that there is no date for publication of the draft transmission plan, and, as a result, it is unclear if stakeholders will have a reasonable opportunity for comments prior to adoption of the final transmission plan. Six Cities' also contends that unless the CAISO makes congestion data available earlier than October, market participants will not be able to reflect current data in any proposals submitted during the request window. Finally, the commenters request that the Commission require the CAISO to change the date for completion and submission of the report due to the Governing Board to the end of February to allow stakeholders meaningful time to review the transmission plan report.

51. The CAISO agrees that modifications to the proposed timelines for the transmission planning process would make the process more transparent and make stakeholder participation more meaningful. It offers to: (1) complete all technical studies and publish the results on October 17; (2) hold stakeholder meetings on October 31; and (3) extend the request window to November 30 of each year.[33] In addition, the CAISO offers to modify the BPM to provide that it will discuss the draft transmission plan with stakeholders at a meeting to be convened on or before December 10 and publish the draft transmission plan at least seven calendar days before the stakeholder meeting.

52. We note that the CAISO has offered modifications to address the concerns raised regarding timelines and that these modifications appear to be reasonable and responsive to the concerns raised by BAMx, the Six Cities and CMUA. Accordingly, we direct the CAISO to submit a compliance filing within 90 days adopting the revised timelines.

(ii) Study Requests and the Request Window

53. Section 24.2.2 of the tariff and section 2.1.2.1 of the BPM specifies that the following inputs to the planning process *must* enter the CAISO's transmission planning process through the request window: (1) economic planning study requests; (2) location constrained resource interconnection (LCRI) facilities not otherwise identified through the CAISO interconnection studies; (3) demand management, generation, and other

[32] Under the current transmission planning process timelines, results must be published and a stakeholder meeting held by October 31, and the request window closes on November 15. *See* BAMx Protest at 7-8; *see also* CMUA Protest at 7-8; *see also* Six Cities Protest at 7-8.

[33] The CAISO notes that this would still allow the CAISO to refer appropriate requests to WECC's Transmission Expansion Planning Policy Committee, whose request window runs from November 1 to January 31. *See* CAISO February 14, 2008 Answer at 11-2.

resources for potential inclusion in the transmission planning process analyses (i.e., demand response programs that are proposed for inclusion in the base case or assumptions for the transmission provider or as alternatives to transmission additions or upgrades); and (4) economic transmission project proposals, including upgrades to reduce local capacity area resource requirements, reduce congestion, and merchant transmission facilities.[34]

54. However, section 2.1.2.1 of the BPM also specifies that the request window *may* apply to the following: (1) reliability projects proposed by PTOs; (2) network upgrades identified through CAISO interconnection studies; (3) LCRI facilities identified through the CAISO interconnection studies; (4) transmission upgrades determined to be the appropriate mechanism to maintain the feasibility of allocated long-term congestion revenue rights (CRRs); (5) operating solutions to reduce local capacity requirements; and (6) alternative solutions to transmission projects proposed during the request window.

55. The California Commission argues that the BPM is unclear as to (1) what types of projects or study requests must enter the planning process through the request window; (2) what types may optionally enter through the request window, and what are the consequences and restrictions associated with entering through the request window as opposed to not using the request window; (3) what other methods of entry are available besides the request window; (4) how coordination and balanced treatment of request window versus non-request window requests is achieved, such as timing of entry into the process, data requirements, screening priority, and non-duplication; and (5) the relationship between studies and projects originating within the "LGIP versus studies and projects that fill similar roles, but which either originate elsewhere (e.g., from the California Renewable Energy Transmission Initiative process, or from Transmission Owners) or which are actually developed within the CAISO's open, annual planning process."

56. The CAISO states that the California Commission describes areas it believes are in need of improvement but does not specify any specific inconsistencies or unclear provisions. The CAISO maintains that its provisions are clear, but to the extent that stakeholders identify specific uncertainties or inconsistencies, the CAISO states that it is willing to work with them to resolve any issues.

57. We agree that the CAISO should revise its tariff to clarify how PTO-sponsored projects are treated. It appears that PTO-sponsored reliability projects, as well as PTO-

[34] Section 24.2.2 of the CAISO tariff is similar to section 2.1.2.1 of the BPM. We note, however, that the CAISO tariff also indicates that projects costing less than $50 million that the CAISO identifies through "Participating TO" proposals provided pursuant to the study plan need not go through the request window. We discuss this further in the Comparability section (see section IV(D)(5), *infra*).

sponsored economic projects of less than $50 million, need not be offered through the request window. The unified planning assumptions and study plan, which are developed after the request window closes, include "upgrades and additions approved by the CAISO and scheduled to be energized during the planning horizon."[35] It is not clear, however, whether those upgrades will be developed, evaluated and approved in the three-stage planning process or through some other process.[36] For example, it is not clear whether development and construction of such upgrades must await board approval as part of the transmission plan or whether construction can proceed upon CAISO management approval without approval of the transmission plan. This lack of clarity could be relevant, for example, if a merchant transmission project or a demand response resource is proposed. Such a proposal must be offered through the request window, but if the project to which it is an alternative is evaluated and approved in another process on a different timeline, and the merchant transmission or demand response resource sponsor must await the next request window, its project may not be fairly assessed. It also is not clear whether projects that are not required to be proposed through the request window are assessed by the CAISO in the same manner using the same criteria as those that are proposed through the request window. Finally, we note that if the purpose of the request window is to propose "alternative" project proposals,[37] but PTO projects may not necessarily be offered until after the request window closes, it is unclear what the proposals are alternatives to.

58. Thus, we find that it is unclear how PTO projects developed outside the request window are evaluated with projects that come through the request window. It is likewise not clear what consequences and restrictions are associated with entering through the request window as opposed to not using the request window. We find that section 2.1.2.1 of the BPM and section 24.2.2 of the tariff do provide which types of projects or requests *must* enter the planning process through the request window. However, section 2.1.2.1 of the BPM also specifies that certain other projects *may* go through the request window. As a result, it is unclear as to what types of projects or requests may *optionally* enter

[35] CAISO BPM at Att. C, section 4.1.1.

[36] For example, section 9.1 of the BPM states that the CAISO requires a participating transmission owner to hold a minimum of one stakeholder meeting if it delegates to the participating transmission owner the responsibility to perform the technical analysis. However, if a participating transmission owner develops a project of less than $50 million, section 2.1.2.4 of the BPM indicates that the transmission plan lists the status of the project, but it is silent on the rights of stakeholders to participate in that process, as is the tariff.

[37] CAISO BPM at Att. C, section 3.1 (indicating that merchant transmission proposals and demand response programs, among other things, must enter the transmission planning process through the request window).

through the request window. Therefore, we direct the CAISO to amend the tariff to clarify the matters discussed above in a compliance filing, within 90 days from the date of this order.

(iii) Screening Process

59. Section 2.1.2.1 of the BPM indicates that the CAISO will evaluate requests submitted through the request window against three criteria in the screening process. The first criterion is whether the submission is complete and contains all necessary data or information that the CAISO requests with respect to the particular category of submission. The second criterion is whether the proposal is or is not functionally duplicative of transmission upgrades or additions that the CAISO has previously approved. The third criterion is whether the proposal, if a sub-regional or regional project that affects other interconnected control areas, has been reviewed by the appropriate sub-regional planning entity and is not inconsistent with any sub-regional planning entity's preferred solution or project.

60. The California Commission argues that the screening process requires further clarification because it describes three categories of screening criteria that represent only a preliminary or threshold qualification step. According to the California Commission, these three criteria by themselves may be inadequate to achieve the degree of screening that is necessary.

61. The CAISO responds that its screening process represents only a threshold qualification step and that further winnowing at such an early stage in the process could be inefficient. The CAISO states that it is willing to modify its screening process, but fears that proposing any further screening might unfairly disqualify certain projects by prematurely judging their merits.[38] The CAISO also states that it does not believe that the number of projects that are likely to meet the screening criteria will be unmanageable; however, should circumstances prove otherwise, the CAISO will work with stakeholders to develop additional screening criteria.

62. It appears that both the CAISO and California Commission agree that the three screening criteria are but a threshold for initial qualification. We find the proposed screening criteria are reasonable because they are merely a threshold qualification step and allow the CAISO to capture a broad array of requests without arbitrarily eliminating other requests. We also note that the CAISO believes that the quantity of requests it will receive will be manageable. We do not find it necessary to modify the screening criteria at this time. We encourage the California Commission, the CAISO and other interested parties to continue evaluating the screening criteria from time to time and for the CAISO to propose revisions it deems necessary.

[38] CAISO February 14, 2008 Answer at 31.

(iv) Benefits and Justification

63. Section 24.1 of the tariff indicates that the CAISO will determine whether a transmission addition or upgrade is needed, where it will (1) promote economic efficiency, (2) maintain system reliability, (3) satisfy the requirements of a location constrained resource interconnection facility, or (4) maintain the simultaneous feasibility of congestion revenue rights. Regarding reliability driven projects, section 24.1.2 of the tariff indicates that the CAISO will identify the need for any transmission additions or upgrades required to ensure reliability consistent with applicable reliability criteria and the CAISO planning standards. Regarding economically driven projects, section 24.1.1(b) of the tariff indicates that in determining whether to approve an economic project, the Governing Board or CAISO management shall consider the degree to which the benefits of a project outweigh its costs. This section also indicates that the benefits of the project may include, but need not be limited to a calculation of any reduction in production costs, congestion costs, transmission losses, capacity or other electric supply costs resulting from improved access to cost-efficient resources and environmental costs.

64. BAMx and CMUA argue that the CAISO should revise its tariff to state that transmission projects that the PTOs propose and the CAISO management or the Governing Board approves must include a list of the reliability standards violations and contingencies that the projects will mitigate or the economic benefits that they will create. CMUA and BAMx also contend that the CAISO tariff and BPM should require entities proposing economically driven projects to demonstrate that the benefits of the project exceed its costs.[39]

65. The CAISO contends that the Commission should reject BAMx's and CMUA's request. According to the CAISO, section 24.1.2 of its tariff indicates that reliability driven projects are those needed to ensure system reliability consistent with all applicable reliability criteria and CAISO planning standards. In addition, the CAISO states that sections 24.2.4 and 24.2.5.1 dictate that studies to make this determination must be based, to the maximum extent possible, on the unified planning assumptions, and the study inputs and targets are thus defined through highly transparent collaboration with stakeholders. According to the CAISO, section 24.2.5.1(b) also indicates that the results of the technical studies are measured against the reliability criteria and fully disclosed. The CAISO further states that section 24.2.5.2(b) sets forth that the draft and final transmission plan must include "determinations, recommendations, and justifications for the need, according to Section 24.1…, for identified transmission upgrades or additions." Therefore, the CAISO contends that its transmission planning process already mandates the transparency sought by BAMx and CMUA.

[39] CMUA Protest at 7; BAMx Protest at 6-7.

66. The CAISO notes that section 24.1.1(b) of its proposed tariff provides that the CAISO must consider the degree to which, if any, the benefits of a proposed project outweigh the costs, and that the benefits of a proposed project may include, but need not be limited to, a calculation of any reduction in production costs, congestion costs, transmission losses, capacity or other electric supply costs resulting from improved access to cost-efficient resources, and environmental costs. The CAISO argues that it cannot consider proposed projects *solely* on the basis of costs and benefits, because it must accommodate multiple considerations, including state and federal environmental policies. Besides, the CAISO explains, costs and benefits are not always susceptible to precise calculation.

67. We find the CAISO's tariff provides sufficient information with respect to the issues raised by BAMx and CMUA. With respect to reliability projects, section 24.1.2 of the tariff indicates the process and considerations the CAISO uses in deciding whether to pursue a reliability project. For example, section 24.1.2 indicates that the CAISO in coordination with PTOs will identify the need for transmission additions and upgrades required to ensure system reliability consistent with the applicable reliability criteria and the CAISO planning standards. This section also indicates that the necessary studies will be performed based upon the unified planning assumptions and study plan to determine the facilities needed to meet all applicable reliability criteria and the CAISO planning standards. In addition, section 24.2.5.2(b) indicates that the draft and final transmission plans may include determinations, recommendations, and justifications for the need for identified transmission upgrades and additions. Thus, the justification will be part of the draft and final report and leading up to those reports the CAISO will have developed the technical analyses, the results of which will have been measured against reliability standards. Thus, there are benchmarks and a process that is open and transparent.

68. Regarding economic projects, section 24.1.1(b) of its proposed tariff provides that the CAISO must consider the degree to which, if any, the benefits of a proposed project outweigh the costs, and that the benefits of a proposed project may include, but need not be limited to, a calculation of any reduction in production costs, congestion costs, transmission losses, capacity or other electric supply costs resulting from improved access to cost-efficient resources, and environmental costs. Also, as set forth above, section 24.2.5.2(b) indicates that the draft and final transmission plans may include determinations, recommendations, and justifications for the need for identified transmission upgrades and additions. This section also indicates that the draft and final transmission plans may include the results of economic planning studies performed during the transmission planning process cycle. Thus, the benefits and costs will be considered, the justification will be part of the draft and final reports and leading up to those reports the CAISO will have developed the technical analyses. Thus, there are benchmarks and a process that is open and transparent.

69. We find that the CAISO has adequately explained the process it uses to justify both economic and reliability projects and that the process is transparent. We also find that the criteria that the projects are evaluated against are transparent. As a result, we deny BAMx's and CMUA's requests.

(v) CAISO Discretion

70. Imperial contends that certain tariff revisions are unclear and should be revised to ensure that the CAISO is not granted too much discretion. For instance, Imperial states that the details regarding the transmission plans discussed in section 24.2.5.2(b) of the tariff are unclear. According to Imperial, under that section, the CAISO will consider transmission upgrades and additions not proposed under section 24.1, which "have been identified by the CAISO as potential solutions to transmission needs studied during the Transmission Planning Process cycle." Further, Imperial contends that section 24.5, concerning operational review, contains a vague reference to operating flexibility, which is not defined and which may provide the CAISO too much discretion in considering which projects to include in the CAISO's transmission plan.

71. Imperial also argues that section 24.2.5.2(c) provides that the results of "certain technical studies" may not be completed until after publication of the transmission plan. Imperial maintains that this tariff language does not define which technical studies will not be completed, nor does it explain why a study performed under the transmission plan would not be completed until after publication of the transmission plan.

72. The California Commission takes issue with section 3.3.2 of the BPM which states that entities may submit proposals to construct generating facilities to the CAISO for the purposes of evaluating the effect of such generation on resolving previously identified grid concerns, including congestion and voltage support. The California Commission contends that beyond the development of baseline assumptions, generation options and demand-side management options in the transmission process should be limited to reliability purposes (i.e., to determine whether such options can substitute for transmission that would otherwise be needed). California Commission contends that this limited role should not be allowed to substitute for the procurement planning process that the utilities and load serving entities are engaged in under the oversight of the California Commission.

73. Regarding Imperial's criticism that it is unclear how the CAISO will determine if a particular project qualifies as a potential solution to transmission needs, the CAISO replies that the projects to which the proposed tariff language (section 24.2.5.2) refers are projects that the CAISO has not yet fully studied or recommended for approval, so further clarifying language is unnecessary. According to the CAISO, it added this language at the request of stakeholders to require the disclosure of "promising conceptual projects or other transmission solutions incubated through the Transmission Planning Process that have not yet been fully assessed or proposed either by a Project Sponsor or

the CAISO under Section 24.1 and therefore have not received consideration for formal approval."[40]

74. With respect to Imperial's complaints regarding section 24.2.5.2(c), the CAISO asserts that sections 2.1.2.2 and 2.1.2.4 of the BPM indicate that, for technical reasons concerning size and complexity, it may consider certain larger projects on a schedule separate from the schedules that govern other technical studies.

75. Regarding the phrase "operating flexibility," the CAISO states that it took this language from its previous tariff, which the Commission accepted. The CAISO asks the Commission not to deprive it of the scope of engineering judgment and flexibility that the Commission has traditionally allowed transmission providers. Further, the CAISO states that any party aggrieved by the CAISO's exercise of engineering judgment may seek redress through the dispute resolution procedures.

76. In response to the California Commission's concerns regarding section 3.3.2 of the BPM, the CAISO states that it does not intend to usurp the generation procurement functions that are the responsibility of other entities and it disagrees that the ability of entities to propose generation projects interferes with such procurement functions. Instead, the CAISO contends that the information provided informs the transmission planning process and its efforts to design a transmission grid based on an informed assessment of potential alternatives meant to achieve reliability, regulatory and efficiency objectives. The CAISO also emphasizes that no load serving entities have expressed similar concerns.

77. In addition, the CAISO asserts that it does not agree with the California Commission's contention that it should consider generation and demand-side management options only for reliability purposes. According to the CAISO, ruling out such options for congestion relief, when they could be the most economic solution, would not be cost-effective. Nonetheless, the CAISO commits to working with the California Commission to ensure that the transmission planning process does not interfere with the procurement roles of the California Commission and load serving entities.

78. We disagree that section 24.2.5.2(b) requires further clarification. It is unnecessary to require the CAISO to identify the universe of future transmission needs and the universe of alternatives that may come to light during the transmission planning process, and then identify and clearly articulate all of them in tariff language. We read this tariff language as providing that alternative solutions to transmission needs that are developed during the planning process will not be unreasonably dismissed out of hand simply because they were not conceived by a certain date. We find that this tariff

[40] The CAISO tariff defines a "Project Sponsor" as a market participant, a group of market participants, or a participating transmission owner that proposes the construction of a transmission addition or upgrade in accordance with section 24.

language provides the CAISO with the flexibility to utilize new solutions, as they arise, to enhance its transmission system.

79. However, we agree with Imperial that the CAISO should revise section 24.2.5.2(c) of the tariff. Section 24.2.5.2(c) of the tariff states that "[t]he Transmission Plan may not include the results of certain technical studies performed as part of the Transmission Planning Process cycle identified in the Unified Planning Assumptions and Study Plan that were scheduled for completion after publication of the Transmission Plan for the Transmission Planning Process cycle." We find that this language is too vague, and require the CAISO to file revised language in its compliance filing as discussed below.

80. Turning to section 2.1.2.2 of the BPM, which the CAISO states addresses Imperial's concerns regarding section 24.2.5.2(c) of the tariff, this section discusses large projects with significant capital outlays (i.e., greater than $50 million). Specifically, it states that:

> The development of study assumptions and other inputs, the identification of possible project alternatives to be considered, and the schedule for completion of the necessary studies for such large projects may be determined through separate stakeholder process involving additional noticed stakeholder meetings and comment periods, and then published independently from the Unified Planning Assumptions if necessary… The CAISO attempts to apply the Unified Planning Assumptions to such projects to the maximum extent possible, and provides access to updates and information on these larger project alternatives similar to that which is published for studies conducted for incorporation into the Transmission Plan…

While we agree with the CAISO that the BPM provides a reasonable explanation for Imperial's concerns, we believe that the CAISO should incorporate the language from section 2.1.2.2 of the BPM into section 24.2.5.2(c) of the tariff to provide clarity with respect to how it proposes to handle these large projects in the planning process.

81. Imperial provides no basis for its assertion that the reference to "operating flexibility" in section 24.5 of the tariff provides the CAISO with too much discretion. Notwithstanding that, we direct the CAISO to define operating flexibility because it is unclear what this term means in the context of section 24.5.[41]

[41] CAISO tariff section 24.5 states that "The CAISO will perform an operational review of all facilities studied as part of the CAISO Transmission Planning Process…to ensure that proposed facilities provide for acceptable operating flexibility and meet all its requirements for proper integration.…" *See* CAISO tariff at Att. A, section 24.5.

82. With respect to the California Commission's concerns regarding section 3.3.2, we agree with the CAISO for the reasons specified in its answer. We encourage the California Commission and the CAISO to continue working together to resolve these types of concerns as they arise in the context of the planning process.

(vi) Tariff Versus Business Practice Manual

83. TANC notes that section 24.2.4.3(d) of the tariff provides that the CAISO will determine the final unified planning assumptions and study plan under the schedule and in accordance with the procedures set forth in the BPM. In addition, TANC argues that the CAISO should put the timelines in sections 2.1.2.1 and 3.2 of the BPM pertaining to the request window into its tariff, because they provide notice to interested parties as to when they can participate in the CAISO's transmission planning process. TANC also maintains that the CAISO should include in its proposed tariff: (a) timelines pertaining to major steps involved in the economic planning study which are now in BPM section 4.2.2.1; and (b) the schedules and procedures determining the final unified planning assumptions and study plan, which are now located in the BPM.

84. TANC argues that the Commission should direct the CAISO to incorporate these schedules and procedures into its tariff, because they directly affect the terms and conditions of transmission service.[42] TANC contends that including the aforementioned items in the tariff is consistent with Order No. 890-A[43] where it states "the Commission determined that a link to a website is not the equivalent of inclusion in the transmission provider's OATT, leaving the Commission unable to enforce use of the process flow diagram and the public with potentially more limited notice of any changes to the process flow diagram." TANC also argues that "Order No. 890-A also determined that '[t]he transparency and enforceability benefits of including the flow diagram in the tariff outweigh any potential filing burden.'" According to TANC, this determination applies equally to the provisions the CAISO filed here.

85. We agree with TANC that the CAISO tariff should include a greater amount of specificity as to the steps involved in the transmission plan, as we have discussed above. For example, it is not clear how and when the CAISO will assess projects proposed before and after projects that are proposed during the request window, nor is it clear how such projects will be assimilated into the transmission plan ultimately presented to the CAISO Governing Board. However, it is not necessary for every detail to be included in the tariff, particularly those details that the CAISO may need to change frequently, such

[42] TANC also notes a typographical error in the definitions of "Study Plan" and "Unified Planning Assumptions" which refer to a non-existent tariff section 24.4.3. *See* TANC Protest at 13. We direct the CAISO to correct this in its compliance filing.

[43] *See* TANC Protest at 12 (citing Order No. 890-A at P 111).

as the dates of meetings. In the compliance filing directed below, we require the CAISO to amend the tariff to include a sufficient level of detail for customers and other stakeholders to understand how the CAISO will perform transmission planning and the method by which customers and other stakeholders can participate.

4. Information Exchange

86. The information exchange principle requires network customers to submit information on their projected loads and resources on a comparable basis (e.g., planning horizon and format) as used by transmission providers in planning for their native load. Point-to-point customers must submit any projections they have of a need for service over the planning horizon and specify the receipt and delivery points. As the Commission made clear in Order No. 890-A, these projections are intended only to give the transmission provider additional data to consider in its planning activities, and should not be treated as a proxy for actual reservations.[44] Transmission providers, in consultation with their customers and other stakeholders, are to develop guidelines and a schedule for the submittal of such customer information.

87. The Commission also provided that, to the extent that applicable, transmission customers should provide information on existing and planned demand resources and their impacts on demand and peak demand. Stakeholders, in turn, should provide proposed demand response resources if they wish to have them considered in the development of the transmission plan. The Commission stressed that information collected by transmission providers to provide transmission service to their native load customers must be transparent and equivalent information must be provided by transmission customers to ensure effective planning and comparability. In Order No. 890-A, the Commission made clear that customers should only be required to provide cost information for transmission and generation facilities as necessary for the transmission provider to perform economic planning studies requested by the customer, and that the transmission provider must maintain the confidentiality of this information. To this end, transmission providers must clearly define in their Attachment K the information sharing obligations placed on customers in the context of economic planning.[45]

88. The Commission emphasized that transmission planning is not intended to be limited to the mere exchange of information and after the fact review of transmission provider plans. The planning process is instead intended to provide a meaningful opportunity for customers and stakeholders to engage in planning along with their transmission providers. To that end, the Commission clarified that information exchange

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[44] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 207.

[45] *Id.* P 206.

relates to planning, not other studies performed in response to interconnection or transmission service requests.[46]

a. CAISO's Filing

89. The CAISO's filing indicates that any parties interested in the CAISO's planning process may provide information to the Planning Committee as they participate in the planning process, either through attendance at meetings or through the submission of written comments and e-mails. In addition, the filing indicates that, as set forth above, stakeholders may submit proposed project study requests through the request window and provide comments on the substance of the planning process throughout each year.

b. Protests/Comments

90. Imperial argues that section 24.2.3.4, which asks for data "including, but not limited to" certain items, may allow the CAISO to request information that contains unnecessary data for the transmission planning process, such as daily load forecasts and daily generation plans. Imperial also states that the Commission should require the CAISO to share the information it collects with neighboring transmission providers and balancing authorities so that those entities can use the information in the preparation of their transmission plans.

c. Answer

91. The CAISO argues that Imperial's concern regarding section 24.2.3.4 of the tariff is misplaced because this section explicitly limits the CAISO's request for information to "information required by, or anticipated to be useful" to the transmission planning process. Further, the CAISO states that nothing in section 24.2.3.4 of the tariff compels the solicited party to provide the information; instead it provides that the CAISO will attempt to obtain or solicit the information. The CAISO also argues that the Commission should reject Imperial's suggestion that the tariff require the CAISO to disclose the same type of information it solicits from other parties because the CAISO does not believe that a one-way affirmative obligation on itself to share information is consistent with the structure of section 24.2.3.4.

d. Commission Determination

92. We have reviewed the CAISO's filing and find that it provides reasonably clear guidelines and schedules for the submittal of customer information as required by Order No. 890. For example, sections 24.2.3.3 and 24.2.3.4 of the tariff state that the CAISO will solicit from load serving entities, sub-regional planning groups within the WECC, the California Commission, California Energy Commission, and local regulatory

[46] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 486-88.

authorities information required by or anticipated to be useful to the CAISO in performing the planning process. In addition, section 24.1.1.1 provides that project sponsors and relevant PTOs must provide the CAISO with the information and studies necessary to determine whether a transmission upgrade or addition promotes economic efficiency. Also, section 9.1 of the BPM provides a webpage link through which interested parties may submit comments. As a result, we find that the CAISO complies with this requirement of Order No. 890.

93. Regarding Imperial's concerns about section 24.2.3.4 of the tariff, we agree with the CAISO that to the extent that Imperial is uncomfortable providing any information to the CAISO, it is not required to. We disagree with Imperial's argument that the CAISO should be required to share any information that it seeks. This section of the tariff states that the CAISO will solicit information from other entities (e.g., interconnected control areas). Nothing precludes interconnected control areas from soliciting the same information from the CAISO. This allows for comparable treatment in terms of regional participation. Further, Order No. 890 already requires the CAISO to disclose the transmission data and basic assumptions it uses, as these are necessary to adequately understand the results reached in a transmission plan.[47]

5. Comparability

94. The comparability principle requires transmission providers, after considering the data and comments supplied by customers and other stakeholders, to develop a transmission system plan that meets the specific service requests of their transmission customers and otherwise treats similarly-situated customers (e.g., network and retail native load) comparably in transmission system planning. In Order No. 890, the Commission expressed concern that transmission providers have historically planned their transmission systems to address their own interests without regard to, or ahead of, the interests of their customers. Through the comparability principle, the Commission required that the interests of transmission providers and their similarly-situated customers be treated on a comparable basis during the planning process. The Commission also explained that demand resources should be considered on a comparable basis to the service provided by comparable generation resources where appropriate.[48]

95. Lastly, in Order No. 890-A, the Commission clarified that, as part of its Attachment K planning process, each transmission provider is required to identify how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning.[49]

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[47] *See* Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 199.

[48] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 494-95.

[49] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 216.

a. **CAISO's Filing**

96. The CAISO addresses this principle by stating that under the CAISO tariff, transmission customers do not make specific service requests, it has no native retail load, and the CAISO tariff does not generally distinguish between types of customers. The CAISO also indicates that it considers various demand resources, such as interruptible load and demand-side management, in determining the need for a reliability driven project and the need for upgrades or additions to maintain the feasibility of allocated long-term congestion revenue rights (CRRs), as set forth in sections 24.1.2 and 24.1.4 of the tariff. The CAISO's filing also indicates that demand response programs will be included in the unified planning assumptions and incorporated into the transmission plan.[50]

b. **Protests/Comments**

97. TANC states that section 24.11 of the tariff indicates that "all transmission additions and upgrades constructed in accordance with this Section 24 shall form part of the ISO Controlled Grid and shall be operated and maintained by a Participating TO in accordance with the Transmission Control Agreement."[51] TANC contends that the tariff does not make it clear what portions of jointly-owned projects, (i.e., projects that both a PTO and a market participant that is not a PTO own), or capacity derived from those transmission projects, will be under the CAISO's operational control. TANC and CMUA suggest that the CAISO revise this section to make it clear that the non-PTOs will not have to transfer their share of a project to the CAISO's operational control, and that the portions of the project outside of the CAISO's control area will not become part of the CAISO's operational control or balancing authority area.[52]

98. BAMx and the Six Cities are concerned that section 3.1 of the BPM specifies that reliability driven projects of PTOs need not go through the request window, but is silent as to whether the CAISO will afford other entities similar treatment. BAMx states that the CAISO should clarify the process by which a market participant other than a PTO may propose reliability driven projects, or at a minimum treat market participants comparably to PTOs.

99. The Six Cities note that under proposed sections 24.1.1(b) and 24.2.2(a) a PTO does not have to submit through the request window an economically driven project of less than $50 million to have that project included in the transmission plan. It argues that

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[50] *See* CAISO BPM at Att. C, sections 3.1 and 3.3.3.

[51] We note that section 24.11 of the CAISO tariff has not been filed in this proceeding.

[52] TANC Protest at 8.

this provides preferential treatment to PTO-proposed projects, and thus, is inconsistent with the policies underlying Order No. 890. Six Cities argues that the Commission should require the CAISO to modify its filing to apply the same procedures and requirements to all transmission projects.

c. Answer

100. The CAISO acknowledges that it must seek further comment from interested parties to identify and respond to the potentially controversial issues raised. The CAISO asks for more time to work on this matter with interested market participants, and urges the Commission not to delay action on this compliance filing pending the outcome of such future activities.

101. With respect to the concerns regarding reliability driven projects, the CAISO explains that PTOs are in a different position than other market participants and section 24.1.2 imposes particular obligations on PTOs with service territories. The CAISO states that PTOs are responsible for identifying the need for transmission additions or upgrades required to ensure system reliability within their service territories and that the CAISO identifies and evaluates PTO reliability driven projects during each transmission planning process cycle with the PTO's assistance.

102. The CAISO argues that it would be inefficient and redundant to require PTOs to submit their reliability driven projects through the request window because the CAISO reviews those projects, with the PTOs' help, through a separate process. In addition, the CAISO states that load serving entities that cannot, or elect not to, develop transmission to serve their load and become PTOs are necessarily embedded within at least one PTO's service territory. The CAISO states that, as a result, they are considered in the participating transmission owner's identification of reliability needs. Therefore, the CAISO contends that these load serving entities are guaranteed the same level of transmission system reliability as the native load of the participating transmission owner in that the transmission planning process requires the application of uniform standards for the entire CAISO balancing authority area. Moreover, the CAISO contends that these entities can submit, pursuant to section 24.2.3.3 of the tariff, information on their long-term resource supply plans and demand estimates. As a result of the foregoing process, the CAISO indicates that it believes this process provides sufficient comparability among different market participants while satisfying system reliability.

103. In response to Six Cities' criticism that participating transmission owners should submit economically driven projects of less than $50 million through the request window, the CAISO contends that participating transmission owners are differently situated than other market participants. The CAISO maintains that, as just set forth above, participating transmission owners are required to identify needed reliability driven projects. According to the CAISO, as part of that process, participating transmission owners may identify system upgrades that are relatively inexpensive, that they can construct expeditiously, and that will enhance the economic efficiency of the CAISO-

controlled grid. The CAISO contends that forcing PTOs to wait for the next request window to propose these projects would merely slow the transmission planning process down. The CAISO states that it could clarify that such treatment applies to PTOs with service territories.

d. Commission Determination

104. We have reviewed the proposed tariff and relevant sections of the BPM and find that, with the exceptions noted below, the approach generally satisfies the comparability principle. The CAISO has set forth a process in which all market participants have certain opportunities, obligations, and responsibilities and strikes a balance among these interests. For example, under section 24.1.2 (Reliability Driven Projects) of the proposed tariff, the CAISO and the PTOs with service territories will work together to identify the need for any transmission additions or upgrades required to ensure system reliability consistent with all applicable reliability criteria and planning standards. The CAISO, in making this determination, will, in coordination with each PTO with a service territory and other market participants, consider the lower cost alternatives to the construction of transmission additions or upgrades, such as acceleration or expansion of existing projects, demand-side management, and remedial action schemes.

105. BAMx and Six Cities are concerned that the request window treats PTOs non-comparably to other market participants because PTOs do not have to go through the request window to propose reliability projects nor to propose economic projects less than $50 million. We address this concern above and direct a compliance filing to address the relationship between projects and resources offered through the request window and those offered outside the request window. BAMx and the Six Cities also state that the tariff and BPM are unclear as to whether a participant, other than a PTO, can propose reliability-driven projects. We agree that the tariff is not clear and direct the CAISO in its compliance filing to be filed within 90 days of issuance of this order to address whether and how a participant that is not a PTO can offer transmission solutions to reliability needs that are identified by the CAISO and the PTOs with service territories.[53] Finally, as to concerns regarding the planning and operation of jointly-owned transmission facilities, we accept the CAISO's commitment to work on these issues through the stakeholder process.

106. In addition, we note that Order No. 890-A was issued on December 27, 2007, subsequent to the CAISO submitting its Order No. 890 Attachment K compliance filing. In Order No. 890-A, the Commission provided additional guidance, among other things, as to how the transmission provider can achieve compliance with the comparability principle. Specifically, the Commission stated that the transmission provider needed to

[53] We note that 4.2.1 of the BPM sets forth criteria for assessing reliability projects but does not reflect which entities may propose reliability projects. *See* CAISO BPM at Att. C, section 4.2.1.

identify as part of its Attachment K planning process "how it will treat resources on a comparable basis and, therefore, should identify how it will determine comparability for purposes of transmission planning."[54] We find that the CAISO has adequately described in its tariff how demand response resources will be treated comparably. For example, section 24.2.2(d) of the tariff indicates that demand response programs that are proposed for inclusion in the base case or assumptions for the transmission plan or as alternatives to transmission additions or upgrades will be considered in the transmission plan if they are proposed during the request window. In addition, section 24.2.2.1 of the tariff indicates that demand response programs and generation projects proposed during the request window will be subject to the same screening criteria as other projects. Further, section 24.1.2 of the tariff indicates that demand side management and interruptible loads will be considered as alternatives to transmission upgrades or additions when the CAISO is considering reliability related projects. Finally, section 24.1.1(b) of the tariff indicates that the CAISO must consider the costs and benefits of viable alternatives to proposed economic transmission projects, including demand-side management programs. We note, however, that the implementation of these provisions of the tariff with respect to PTO-sponsored projects outside the request window is subject to further clarification, as discussed above.

6. Dispute Resolution

107. The dispute resolution principle requires transmission providers to identify a process to manage disputes that arise from the planning process. The Commission explained that an existing dispute resolution process may be utilized, but that transmission providers seeking to rely on an existing dispute resolution process must specifically address how its procedures will address matters related to transmission planning. The Commission encouraged transmission providers, customers, and other stakeholders to utilize the Commission's Dispute Resolution Service to help develop a three step dispute resolution process, consisting of negotiation, mediation, and arbitration. In order to facilitate resolution of all disputes related to planning activities, a transmission provider's dispute resolution process must be available to address both procedural and substantive planning issues. The Commission made clear, however, that all affected parties retain any rights they may have under FPA section 206 to file complaints with the Commission.[55]

[54] Order No. 890-A, FERC Stats. & Rets. ¶ 31,261 at P 216.

[55] *Id*. P 501-03.

a. CAISO's Filing

108. The CAISO proposes to use its existing dispute resolution procedures set forth in section 13 of its tariff.[56] According to the CAISO, its existing dispute resolution procedures are appropriate to address both substantive and procedural disputes arising from the transmission planning process. The CAISO indicates that its dispute resolution procedures incorporate the three step resolution process recommended by the Commission that provides for a sequential process of good faith negotiation, mediation, and arbitration, including an opportunity to file a complaint before the mediation step.[57] The CAISO also states it will post a summary of each statement of claim and arbitration decision on its website.

b. Protests/Comments

109. TANC argues that it is unclear whether or not the CAISO is proposing to use its dispute resolution procedures to bind parties outside the CAISO controlled grid, but to the extent that it is proposing to do so, they are overly broad and beyond the CAISO's authority.

110. TANC and Six Cities contend that section 24.8.2 of the tariff, which provides that "[n]either the CAISO nor any PTO or market participant shall take any position before the WECC or NERC, or another regional organization that is inconsistent with a binding decision reached through an arbitration proceeding pursuant to section 13 of the CAISO Tariff," appears to bar market participants from taking a position before the WECC, since they would be bound to the binding arbitration provisions in section 13. They contend that the CAISO arbitration decisions reached under section 13 should not restrict in any way market participants' advocacy or participation before WECC or a regional organization. They contend that the CAISO's dispute resolution procedures should not apply to sub-regional or regional planning.

111. TANC and Imperial contend that section 13 also appears to bind market participants whether or not they participated in the dispute resolution process and argue that this is inappropriate. TANC and Imperial state that the CAISO should revise section 24.8.2 to make it clear that the arbitrator's decision is only binding on parties to the arbitration.

112. CMUA argues that the CAISO's existing dispute resolution procedures are not tailored for transmission planning disputes. CMUA contends that the CAISO's dispute resolution processes have typically lasted years and will not work for resolving data or

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[56] Section 10 of the CAISO's BPM refers parties to section 13 of the CAISO tariff for its dispute resolution procedures. *See* CAISO BPM at Att. C, section 10.

[57] Order No. 890 Transmission Planning Process Staff White Paper at 11, Docket Nos. RM05-17-000 and RM05-25-000 (Aug. 2, 2007) (White Paper).

methodological disputes occurring at the front end of the transmission planning process. According to CMUA, by the time the dispute resolution process is over, multiple planning cycles may have passed, and thus, this form of dispute resolution is equivalent to no dispute resolution at all.

113. CMUA states that the White Paper suggested that transmission providers consider expedited processes for narrow disputes such as data inputs. According to CMUA, the CAISO considered alternative dispute resolution procedures and developed, through its BPM, a proposal to utilize a study plan consultant to assist with technical disputes; however, that proposal is absent from this filing. CMUA requests that the Commission require the CAISO to file new dispute resolution procedures that will allow for expeditious resolution of technical planning issues, so that the results of the dispute resolution procedures are available for use in the current planning cycle.[58]

114. BAMx requests clarification that the dispute resolution provisions in section 13 apply to the CAISO's designation and determination of high priority economic planning studies.

c. Answer

115. The CAISO maintains that its dispute resolution procedures conform to the Commission's recommended three-step dispute resolution process of negotiation, mediation, and arbitration, in that order.[59] The CAISO also clarifies that the provisions of section 13 of the CAISO's proposed tariff apply to economic planning study requests and to the determination of high priority economic planning studies.

116. The CAISO states that pursuant to section 13.1.1 of its tariff, its dispute resolution procedures apply to all disputes between parties which arise under the "ISO Documents except where the decision of the ISO is stated in the provisions of this ISO Tariff to be final." According to the CAISO, "ISO Documents are the CAISO Tariff, CAISO bylaws, and any agreements entered into between the CAISO and a Scheduling Coordinator, a Participating TO or any other Market Participant pursuant to the CAISO Tariff."

117. According to the CAISO, taken together, the aforementioned provisions properly focus the dispute resolution procedures on disputes relating to the authority granted to the CAISO under the tariff or consensually by a counter-party pursuant to a contract. Thus, the CAISO contends that the material consideration is not whether the dispute "affects neighboring non-ISO Control Grid facilities or operations," but, rather, whether the

[58] CMUA Protest at 10-2.

[59] *Id.* (citing Order No. 890 at P 501-03); Order No. 890 Transmission Planning Process Staff White Paper at 12, Docket Nos. RM05-17-000 and RM05-25-000 (Aug. 2, 2007).

CAISO has the authority to make such a determination; if so, the CAISO argues that its procedures will apply "coextensively with the scope of that authority."

118. In addition, the CAISO contends that there is nothing in the CAISO tariff that prevents it from entering into an agreement with a sub-regional planning group that prescribes dispute resolution procedures outside the CAISO's dispute resolution procedures. As an example of this, the CAISO notes that it is a member of WECC, and as a member of WECC it must adhere to WECC's dispute resolution procedures. However, according to the CAISO, WECC dispute resolution procedures do not apply to a dispute that is the subject of a separate agreement, treaty, applicable tariff, or rate schedule of one of the parties. Therefore, the CAISO maintains that it may properly resolve disputes that arise under its proposed tariff through the use of its own dispute resolution procedures.[60]

119. The CAISO also disagrees with TANC and SMUD that it should have to modify section 24.8.2 because it might bar market participants from taking a position before the WECC. The CAISO argues that the Commission has already accepted this language and that protestors have not shown that the language is no longer just and reasonable.

120. However, the CAISO does agree that the language in section 24.8.2 can be interpreted as to bind any market participant, whether or not the market participant participated in the CAISO's binding arbitration procedures. The CAISO states it is amenable to changing this language to restrict its application to those parties who had the opportunity to participate in the CAISO's binding arbitration procedures. The CAISO states that if it does not bind those who had the opportunity to intervene to the outcomes of the dispute resolution procedures, entities could forum shop by electing not to participate in the CAISO's dispute resolution procedures.[61]

121. The CAISO asks the Commission to reject CMUA's request for a study plan consultant because Order No. 890 allows the CAISO to rely on its existing dispute resolution procedures.[62] The CAISO contends that although Commission staff suggested that transmission providers may tailor the dispute resolution process for particular types of disputes, the Commission did not require it. The CAISO states that it previously contemplated engaging a third-party consultant to provide the CAISO with non-binding recommendations on a limited set of potential disputes associated with the unified assumptions and study plan. Ultimately, the CAISO elected not to incorporate the study plan consultant proposal based on "various considerations, including financial resource restrictions, and instead chose to rely on its existing ADR Procedures."[63]

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[60] CAISO February 14, 2008 Answer at 16-7.

[61] *Id.* at 17-8.

[62] *Id.* at 19 (citing Order No. 890 at P 501-3).

[63] CAISO February 14, 2008 Answer at 18.

122. Further, the CAISO states that its existing dispute resolution procedures are sufficient. For example, the CAISO states that pursuant to section 13.2.1 of the tariff, participants in the transmission planning process may negotiate with the CAISO, and, pursuant to section 13.2.2, if it is unsuccessful, the participant may submit a statement of claim initiating mediation. Next, pursuant to sections 13.2.2, 13.2.3 and 13.2.4, a meeting with a mediator may occur within approximately one month of the submission of the statement of claim. Pursuant to section 13.2.3, the CAISO must publish a summary of the statement of claim to provide notification and an opportunity to intervene to other interested parties. Pursuant to section 13.2.5, within 30 days from the date of an agreement to mediate, if no resolution has been reached, a party can commence arbitration. As a result, the CAISO believes its dispute resolution procedures are adequate as filed.

d. Commission Determination

123. We have reviewed the CAISO's filing and find that the CAISO's proposed tariff provides for a dispute resolution process to manage both procedural and substantive disputes that arise from the planning process, except as discussed below. We direct the CAISO to file, within 90 days of issuance of this order, a further compliance filing that revises its proposed tariff accordingly.

124. The CAISO proposes to modify section 24.8.2 of its tariff to provide that binding arbitration will apply to those market participants who were notified and had an opportunity to participate in binding arbitration and chose not to participate. Rule 605(a)(5) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.605(a)(5) (2007), provides that "[a]ll interested parties must expressly consent before arbitration may be used."[64] Thus, the Commission's regulations make it clear that arbitration is a voluntary process. Therefore, the CAISO cannot impose an arbitrator's decision on those who had notice of the arbitration and chose not to participate. We direct the CAISO to modify its tariff to reflect the above rule. In addition, we also agree with the protestors that section 24.8.2 should not restrict market participants' advocacy or participation before WECC or a regional organization in any way because they chose not to participate in the binding arbitration.[65]

125. While there is nothing to prevent the CAISO from reaching an arrangement with entities outside of its controlled grid to undertake a dispute resolution procedure,[66] absent

[64] *See* 18 C.F.R. § 385.605(a)(5) (2007).

[65] *See* 18 C.F.R. §§ 385.604(d) and 385.605(a) (2007).

[66] If the parties have questions with respect to development of an appropriate dispute resolution process, they may contact the Commission's Dispute Resolution Services (DRS) for assistance in designing such a process. The DRS phone number is: 1-877-337-2237; the DRS website is: www.ferc.gov/legal/adr.asp.

such an agreement, we agree with the protesters that the CAISO's dispute resolution procedures cannot reach them.

126. Additionally, we decline to alter the process to require a study plan consultant because this proposal was already rejected in the transmission planning stakeholder process, and it is not a requirement of the Attachment K dispute resolution procedures. However, the parties to individual disputes can always agree to use an independent study plan consultant if they so choose.

127. We accept the CAISO's clarification that the provisions of section 13 of the CAISO's tariff apply to economic planning study requests and to the determination of high priority economic planning studies

7. Regional Participation

128. The regional participation principle provides that, in addition to preparing a system plan for its own control area on an open and nondiscriminatory basis, each transmission provider is required to coordinate with interconnected systems to: (i) share system plans to ensure that they are simultaneously feasible and otherwise use consistent assumptions and data, and (ii) identify system enhancements that could relieve congestion or integrate new resources. The Commission stated that the specific features of the regional planning effort should take account of and accommodate, where appropriate, existing institutions, as well as physical characteristics of the region and historical practices. The Commission declined to mandate the geographic scope of particular planning regions, instead stating that the geographic scope of a planning process should be governed by the integrated nature of the regional power grid and the particular reliability and resource issues affecting individual regions and subregions. The Commission also made clear that reliance on existing NERC planning processes may not be sufficient to meet the requirements of Order No. 890 unless they are open and inclusive and address both reliability and economic considerations. To the extent that a transmission provider's implementation of the NERC processes is not appropriate for such economic issues, individual regions or subregions must develop alternative processes.[67]

129. In Order No. 890-A, the Commission clarified that while the obligation to engage in regional coordination is directed to transmission providers, participation in such processes is not limited to transmission providers and should be open to all interested customers and stakeholders.[68] In Order No. 890-A, the Commission also emphasized that effective regional planning should include coordination among regions

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[67] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 523-28.

[68] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 226.

and subregions as necessary, in order to share data, information, and assumptions to maintain reliability and allow customers to consider resource options that span the regions.[69]

a. CAISO's Filing

130. The CAISO states that, as the Commission recognized in Order No. 890, planning by a RTO or an ISO is itself a form of regional or sub-regional planning. Thus, the CAISO states that its transmission planning process is a regional or sub-regional process involving the transmission systems of all the PTOs, which comprise virtually all of the transmission in the CAISO control area.

131. Based upon the foregoing, the CAISO states that although it plans only the CAISO controlled grid, it will take into account transmission facilities that are not part of its grid, but are interconnected to it, including those facilities that are inside its geographic footprint (e.g., generation ties, distribution facilities). According to the CAISO, this "local planning" is incorporated into the transmission planning process in several ways to ensure transparency and comparability of treatment.

132. For example, the CAISO states that it utilizes the expertise of its PTOs by assigning to them the performance of certain reliability assessments of their systems. According to the CAISO, these assessments must be developed and performed in adherence to the unified planning assumptions and study plan and then vetted through the transmission planning process. In addition, all changes to the PTOs' facilities, whether at the transmission or distribution level, must be provided to the CAISO for incorporation into the foundational base cases. Finally, to ensure equity in the assignment of capacity values for generators interconnecting at the distribution level, the CAISO will perform the deliverability analysis.

133. According to the CAISO, it is pursuing a bifurcated approach. First, the CAISO states that its own transmission planning process offers an open, structured and transparent opportunity for interconnected neighbors to exchange planning information and objectives. Second, the CAISO states that it will also participate in the development of a larger sub-regional planning effort, which should encompass most of the transmission systems in California. According to the CAISO, "through either of these means, the CAISO will satisfy its requirement that transmission providers coordinate with neighboring transmission systems to ensure simultaneous feasibility of their respective plans and assess the possibility of efficiencies through mutual cooperation."[70]

134. The CAISO indicates that until a California sub-regional planning group is created and participant responsibilities are defined, the CAISO will perform the

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[69] *Id.*

[70] CAISO transmittal letter at 27.

transmission planning functions for its balancing authority area in accordance with its tariff. However, the CAISO states that it will continue to collaborate with representatives from adjacent transmission providers and existing sub-regional planning organizations through its existing processes. According to the CAISO, this collaboration involves the reciprocal exchange of information and participation, to the maximum extent possible, to ensure the simultaneous feasibility of respective transmission plans, the identification of potential areas for increased efficiency, and consistent use of common assumptions. In that regard, the CAISO states that it will expressly request the participation of the proposed interconnected transmission providers and other entities in providing information during the request window, participating in the creation of the planning assumptions and study plan, and reviewing study results and draft transmission plans.[71]

b. Protests/Comments

135. The California Commission argues that: (1) the BPM's description of the sub-regional and regional processes should indicate that the CAISO will coordinate with applicable regional and sub-regional planning processes and organizations regarding planning assumptions, data, and other activities that may affect transmission planning, seeking maximum practicable consistency; (2) adjacent transmission providers should have the opportunity to participate in development of the CAISO's unified planning assumptions and study plan and in reviewing the results of technical studies performed as part of the CAISO's transmission planning process; (3) the CAISO's BPM should explicitly state that the CAISO will coordinate and synchronize with applicable regional and sub-regional planning processes and organizations regarding the appropriate level(s) at which each submitted project and study request shall be addressed, recognizing that entities at the transmission provider level that have OATTs, such as the CAISO, represent the destination of last resort for requests not accepted at the other levels; (4) the CAISO should work towards the goal of finalizing the development of the currently proposed Pacific Southwest Planning Association (PSPA), a sub-regional planning entity that is intended to encompass all of the major transmission owning entities in California; and (5) thus far, the California Commission has not been afforded a seat at the PSPA table, and requests that the Commission direct the CAISO to include the California Commission in any future activities it engages in with respect to the establishment of the PSPA and as an active member of the PSPA, once it is established and operating.

136. Imperial contends that the CAISO should incorporate into section 24.8 of the tariff, the names of the regional and sub-regional organizations with which the CAISO should participate. Imperial also contends that the CAISO should revise section 24.2(c)

[71] Additionally, as discussed more fully in the Economic Planning Studies section (see section IV(D)(8), *infra*), the CAISO will participate in WECC's Transmission Expansion Planning Policy Committee (TEPPC) study process designed to facilitate economic planning throughout the WECC region.

of its proposed tariff to ensure that it avoids duplicative transmission projects and minimizes the potential for stranded investments in neighboring systems.[72] Specifically, Imperial proposes to strike the words "Seek to" from the following phrase "Seek to avoid duplication of facilities.…"

137. In addition, Imperial proposes to modify the screening criteria in sections 24.2.2.1(b) and (c) of the CAISO's tariff. Imperial states that the CAISO should be required to take into account planned transmission that has been approved by neighboring transmission providers and not just planned transmission that the CAISO itself approved.

138. Imperial states that it does not object to the CAISO approving upgrades of less than $50 million without Governing Board approval as long as the upgrades are within the service territories of the PTOs. However, Imperial argues that Governing Board approval and coordination with the applicable regional or sub-regional planning process should be required for any upgrades outside of the PTOs' service territories, regardless of cost.

139. In addition, Imperial contends that the CAISO's definition of "CAISO Planning Standards," which is referenced throughout section 24, may allow the CAISO to interpret the NERC and WECC planning standards in a way that results in the CAISO's transmission plan favoring one project over another.[73]

140. Finally, Imperial states that the CAISO should modify its tariff language to include neighboring transmission providers or systems, neighboring balancing authorities, and sub-regional planning groups in various provisions as shown in an attachment to its protest.

c. Answer

141. The CAISO believes that its tariff adequately addresses the California Commission's concerns, with one exception. According to the CAISO, section 24.2 of its tariff already requires the transmission planning process to seek to avoid unnecessary duplication of facilities and to ensure the simultaneous feasibility of the CAISO transmission plan and the transmission plans of interconnected control areas, and

[72] Imperial states that it has excess capacity on its system that must be taken into account in transmission planning efforts. *See* Imperial Protest at 9.

[73] The CAISO proposes to define "CAISO Planning Standards" as reliability criteria that: (1) address specifics not covered in the NERC and WECC planning standards; (2) provide interpretations of the NERC and WECC planning standards specific to the CAISO Controlled Grid, and (3) identify whether specific criteria should be adopted that are more stringent than the NERC and WECC planning standards. *See* CAISO tariff at Att. A, Part B. These standards are not located in the CAISO tariff or BPM, but instead are located on the CAISO website. The 17-page document can be found at: http://www.caiso.com/1fe5/1fe5ba36527a0.pdf.

otherwise coordinate with regional and sub-regional transmission planning processes and entities. In addition, the CAISO states that section 24.2.3.4 requires the CAISO to solicit information from regional and sub-regional planning groups "required by, or anticipated to be useful to, the CAISO in its performance of the Transmission Planning Process, including, but not limited to: (1) long-term transmission system plans; (2) long-term resource plans; (3) generation interconnection queue information; (4) demand forecasts; and (5) any other data necessary for the development of power flow, short-circuit, and stability cases over the planning horizon of the CAISO Transmission Planning Process." And, according to the CAISO, *all* stakeholders, which would include such interconnected control areas and regional and sub-regional groups, may comment on the draft unified planning assumptions and study plan, technical studies, and draft transmission plan.

142. Further, the CAISO states that section 24.8.1 of its tariff requires it to: (a) solicit stakeholder participation; (b) coordinate with regional and sub-regional planning groups; (c) transmit to applicable regional and sub-regional planning groups or interconnected control areas information on technical studies; and (d) post links on its website to the planning activities. Thus, the CAISO contends that these tariff requirements appear to address the California Commission's concerns. Notwithstanding that, the CAISO acknowledges that the BPM does not fully reflect the requirements of section 24.8.1. The CAISO agrees that it should revise the BPM accordingly.

143. The CAISO states that the one California Commission concern not addressed by its tariff is the California Commission's contention that the CAISO should constitute the destination of last resort for requests not accepted at other levels. The CAISO argues that it would be a waste of time and resources to require that transmission projects and studies specific to the CAISO balancing authority area first be submitted to, and deemed inappropriate for, regional and sub-regional planning groups. According to the CAISO, coordination does not require relinquishment of the CAISO's responsibilities. The CAISO states that it is responsible for maintaining the reliability of its balancing authority area and maximizing transmission efficiency therein, not regional and sub-regional planning groups. The CAISO contends that inter-regional projects should be planned at the regional level. However, CAISO balancing authority area projects should be planned with input from and in coordination with regional groups, but under the control of the CAISO.

144. With respect to the California Commission's argument that the CAISO needs to work towards the goal of finalizing the development of the PSPA, a sub-regional entity that is intended to encompass all of the major transmission owning entities in California, the CAISO responds that it does not control the structure and composition of the PSPA. As a result, the CAISO contends that it would be inappropriate for the Commission to direct the CAISO to include the California Commission in deliberations concerning PSPA. The CAISO asserts that the California Commission should direct its request to the potential members of the PSPA, not to the Commission.

145. In response to Imperial's concern regarding the list of entities it coordinates with, the CAISO states that its BPM already contains a list of entities it coordinates with but it is not opposed to augmenting it.[74] Notwithstanding that, the CAISO argues that writing a list of entities into the tariff is inappropriate, particularly in light of the evolving nature of regional and sub-regional structures.

146. In response to Imperial's suggested revisions to the screening criteria in sections 24.2.2.1(b) and (c) of the CAISO's tariff, the CAISO responds that it disagrees with those proposed revisions. According to the CAISO, the current language imposes an obligation on the CAISO to avoid duplicating facilities while Imperial's proposed revision would impose an obligation on the CAISO to avoid duplication of facilities based upon other entities' evaluation of the function of an upgrade or addition and a determinations that they have approved a duplicative project.

147. In addition, the CAISO does not believe that approval of the Governing Board is necessary for projects of less than $50 million outside of the PTOs' territories, arguing that both CAISO management and the Governing Board apply the same standards and same remedies to aggrieved parties. Regardless of whether the Commission requires the CAISO to adopt Governing Board approval for these projects, the CAISO is opposed to Imperial's suggestion that CAISO approval of such projects must be given in coordination with regional or sub-regional planning processes. According to the CAISO, nothing in Order No. 890 suggests that transmission providers cede decision-making authority to other entities.

148. The CAISO responds to Imperial's concern regarding the CAISO planning standards by stating that the CAISO possesses the authority under California law to adopt planning standards more stringent than NERC/WECC, and that the Commission has not stated that it could not do so. The CAISO recognizes that any such standards must operate in a non-discriminatory manner, and that Imperial's concern that one transmission project may be favored over another is unfounded.[75]

149. The CAISO states that many of Imperial's suggested modifications exceed or are inconsistent with Order No. 890, or are simply redundant of the CAISO's proposed tariff language. However, the CAISO does agree with Imperial that it should amend section 24.4 of the tariff to ensure that in performing a facilities study for an approved transmission project, the applicable PTO should coordinate with neighboring balancing authority areas. The CAISO also agrees that the operation review under section 24.5 of the tariff should coordinate with the balancing authority area operators to the extent that the upgrade or addition is located in or interconnected to those systems. The CAISO agrees to incorporate these changes in a further compliance filing.[76]

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[74] CAISO February 14, 2008 Answer at 23-4.

[75] *Id.* at 25.

[76] *Id.* at 29.

d. Commission Determination

150. We have reviewed the CAISO's filing and find that the CAISO's proposed tariff provides for regional and sub-regional participation. However, we find that some modifications are needed. We direct the CAISO to file, within 90 days of issuance of this order, a further compliance filing that revises its tariff, as discussed below.

151. The Commission finds that, as a general matter, the CAISO's tariff and BPM grants all stakeholders, including adjacent transmission providers, an opportunity to participate in the development of the CAISO's unified planning assumptions and study plan. For example, section 2.1.2.2 of the BPM states that information for the unified planning assumptions and study plan "is expected from other entities, such as the CEC, PTOs, California Commission, WECC, and potentially other sub-regional planning groups or neighboring transmission providers." We also find that the proposed CAISO tariff allows participation in the process by neighboring transmission systems. For instance, section 24.2(c) of the tariff states that the CAISO will "coordinate with regional and sub-regional transmission planning processes and entities.…" Section 24.2.1 also states that the Planning Committee "shall be open to participation by all Market Participants, electric utility regulatory agencies within California, and other interested parties.…" Section 24.8 of the tariff states that "[t]he CAISO will be a member of the WECC and other applicable regional or sub-regional organizations and participate in WECC's operation and planning committees, and in other applicable regional and sub-regional coordinated planning processes."

152. With respect to the California Commission's comments and the CAISO's answer to those comments, we agree with the CAISO. We find that the CAISO should revise the BPM to reflect the language in section 24.8.1 of the tariff that the CAISO has indicated. In addition, we find that the CAISO should clearly indicate what groups are covered by this section.

153. With respect to Imperial's concerns, we note that Imperial has provided suggested revisions to approximately 27 sections, sub-sections, or definitions included the CAISO's filing. For some of Imperial's proposed revisions, it provided a description of the tariff section to which it was referring and a brief description of the justification for the proposed revision. We address those issues below. For other revisions, Imperial simply made an argument on a broad topic and then referred the reader to its attachment, which contained all of its proposed revisions, with no specific guidance on the correlation of a particular tariff revision to an argument. As a result, to the extent that Imperial did not specify which revision correlates to a particular section of the tariff in its arguments, we reject those suggestions. We also note that in some other instances, as the CAISO points out, Imperial's revisions are simply redundant. We reject those revisions as well.

154. We also disagree with Imperial regarding its proposal to include the list of names of regional and sub-regional organizations in the CAISO's tariff. As the CAISO points out, the names of these organizations may change frequently necessitating changes to

tariff sheets; the BPM is a more appropriate place to list such information. We direct the CAISO to augment the BPM with the complete list of entities it coordinates with, as it committed to, in its answer.

155. We reject Imperial's proposed revision to section 24.2(c). We find that the CAISO's proposed section 24.2(c) is reasonable, as filed. We do not believe Imperial's proposed revision materially changes what the CAISO has proposed.

156. We agree with the CAISO's assessment of Imperial's proposed revisions to the screening criteria in sections 24.2.2.1(b) and (c) of the CAISO's tariff. We find that Imperial's proposed revision could be problematic for the CAISO because entities beyond the CAISO grid are not required to submit information into the CAISO's planning process. Because of this, including Imperial's suggested revision could result in the CAISO violating the terms of its own tariff unknowingly when entities beyond the CAISO grid fail to submit pertinent information. As a result, we reject Imperial's revisions to sections 24.2.2.1(b) and (c) of the CAISO's tariff.

157. With regard to Imperial's concern about the Governing Board approval of transmission projects of under $50 million, we address that issue above. We also agree with the CAISO that Imperial's concerns regarding the definition of planning standards are unfounded, for the reasons stated by the CAISO. We direct the CAISO to amend sections 24.4 and 24.5 pursuant to its commitment as set forth above.

8. Economic Planning Studies

158. The economic planning studies principle requires transmission providers to account for economic, as well as reliability, considerations in the transmission planning process. The Commission explained in Order No. 890 that good utility practice requires vertically-integrated transmission providers to plan not only to maintain reliability, but also to consider whether transmission upgrades can reduce the overall cost of serving native load. The economic planning principle is designed to ensure that economic considerations are adequately addressed when planning for OATT customers as well. The Commission emphasized that the scope of economic studies should not just be limited to individual requests for transmission service. Customers must be given the opportunity to obtain studies that evaluate potential upgrades or other investments that could reduce congestion or integrate new resources and loads on an aggregated or regional basis.

159. All transmission providers, including RTOs and ISOs, were directed to develop procedures to allow stakeholders to identify a certain number of high priority studies annually and a means to cluster or batch requests to streamline processing. The Commission determined that the cost of the high priority studies would be recovered as

part of the transmission provider's overall OATT cost of service, while the cost of additional studies would be borne by the stakeholder(s) requesting the study.[77]

160. In Order No. 890-A, the Commission made clear that the transmission provider's planning process must clearly describe the process by which economic planning studies can be requested and how they will be prioritized.[78] In Order No. 890-A, the Commission also made clear that a transmission provider's affiliates should be treated like any other stakeholder and, therefore, their requests for studies should be considered comparably, pursuant to the process outlined in the transmission provider's planning process.[79] Additionally, in Order No. 890-A, the Commission clarified that to the extent that an RTO or ISO delegates any of its responsibilities in the context of economic planning, it will be the obligation of the RTO or ISO, as the transmission provider, to ensure ultimate compliance with the requirements of Order No. 890.[80]

a. CAISO's Filing

161. The CAISO states that under its tariff, any party can request an economic planning study. The CAISO indicates that in order to facilitate the submission of economic planning study requests, it will publish a congestion data summary prior to the close of the request window. According to the CAISO, the congestion data summary provides information on congestion on the CAISO controlled grid and specifically identifies significant and recurring congestion that looks at the magnitude and duration of congestion over a prior 12-month period. The CAISO states that it can select up to five high priority economic planning studies to be included in the unified planning assumptions and study plan. In addition, interested persons and entities may comment on the preliminary results of the CAISO's economic studies through the submission of comments and at meetings on the draft unified planning assumptions and study plan.

162. The CAISO indicates that it evaluates economic study requests based on whether the requested study seeks to address (a) areas of recurring congestion; (b) delivery of LCRI or network transmission facilities intended to access generation from an area assigned a high priority by the California Commission or CEC; (c) local capacity area resource requirements; or (d) areas of the transmission system over which congestion is likely to increase.

163. The CAISO submits that economic planning studies do not address particular proposed projects, regardless of whether they are reliability driven or economically

[77] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 542-51.

[78] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 236.

[79] *Id.*

[80] *Id.*

driven. Rather, they provide information that can be used to propose an economic project or an LCRI, or can be taken into account in proposing a cost-efficient reliability project. According to the CAISO, economic planning studies focus on identifying future congestion and exploring potential mitigation plans for bottlenecks on the grid. The CAISO indicates that the mitigation plans recommended from the economic planning study will consider (1) expansion or acceleration of previously approved projects; and (2) new proposed upgrades or conceptual projects that can relieve the constraint. The CAISO states that the results of these economic planning studies will be included in the transmission plan.

164. The CAISO also clarifies that it evaluates the economics of reliability, economic projects, and LCRIs proposed during the request window. According to the CAISO, under section 4.2.2.3 of the BPM, all projects for which the costs will be included in the transmission access charge undergo a technical assessment of potential impact on system operating conditions and cost-benefit of the project.

165. In addition, market participants may design and conduct their own economic studies that have not been designated by the CAISO as a high priority economic planning study and may submit those studies to the CAISO for consideration in the development of the transmission plan when the CAISO provides notice of the stakeholder meeting regarding technical study. The CAISO will assume the cost of all of the studies that it approves, and will recover the cost of those studies through the grid management charge.

166. The CAISO also indicates that it will participate in the broader WECC planning committees, such as TEPPC, for the purpose of coordinating economic planning studies. According to the CAISO, it will advise WECC, through WECC's request window, of all requests for economic planning studies, including the CAISO's selection of five high priority economic planning studies that the CAISO will conduct. The CAISO states that, while it will maintain the authority to conduct high priority economic planning studies, consistent with WECC policies, the CAISO will work within the WECC structure to ensure that the appropriate parties conduct and review regional or sub-regional congestion studies and that the opportunities for study efficiencies are realized.

b. Protests/Comments

167. Imperial suggests modifications to the CAISO's proposed section 24.9 to include language that states that the CAISO will model neighboring transmission facilities, both existing and planned, in its planning studies to determine the optimum economic project, while using existing infrastructure along with planned PTO and non-PTO facilities to ensure selection of the most reliable, economically efficient, and cost-effective project.

168. The California Commission contends that the BPM treats economic planning studies as largely involving alleviation of documented congestion, such as in section 3.3.5 of the BPM. The California Commission argues that this approach is too narrow and that economic planning studies, including the process and criteria for conducting them, should include the full range of network upgrades needed not only to mitigate

documented congestion, but to access new, especially renewable, resources or to contribute to the creation of new CRRs.[81]

c. Answer(s)

169. The CAISO states that Imperial's proposed modifications regarding economic planning studies are unnecessary because the provisions governing the development of the unified planning assumptions already include those modifications.

170. The CAISO states that it agrees with the California Commission that the BPM and the tariff do not fully reflect Order No. 890's requirement that economic planning studies should encompass the study of upgrades to integrate new generation resources or loads on an aggregated regional basis. The CAISO also states that neither the definition of economic planning studies nor the data submission requirements take account of economic planning studies regarding the integration of new generation resources or loads. Accordingly, the CAISO agrees that it should revise both the tariff and the BPM.

d. Commission Determination

171. We accept the CAISO's commitment to revise it planning principles to comply with the economic planning studies principle, as set forth in its answer. We direct the CAISO to file, within 90 days of issuance of this order, a further compliance filing that revises its tariff and BPM to adequately "encompass the study of upgrades to integrate new generation resources or loads on an aggregated or regional basis," as required by Order No. 890's economic planning studies principle.[82] In addition, we direct the CAISO to revise its tariff to address how it will batch or otherwise cluster economic planning studies in the compliance filing ordered below.

172. We disagree with Imperial's proposed modification in section 24.9 of the tariff regarding the CAISO's economic planning studies provisions. We find that the proposed modification is unnecessary because the language is already included elsewhere in the unified planning assumptions. For example, as set forth above in the regional participation portion of this order, section 24.2.3.4 requires the CAISO to solicit information from regional and sub-regional planning groups "required by, or anticipated to be useful to, the CAISO in its performance of the Transmission Planning Process, including, but not limited to: (1) long-term transmission system plans; (2) long-term resource plans; (3) generation interconnection queue information; (4) Demand forecasts; and (5) any other data necessary for the development of power flow, short-circuit, and stability cases over the planning horizon of the CAISO Transmission Planning Process." We note that the CAISO can include this information only to the extent that it receives it from entities such as Imperial.

[81] California Commission Comments at 4-5.

[82] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 548.

9. Cost Allocation

173. The cost allocation principle requires that transmission providers address in their planning process the allocation of costs of new facilities that do not fit under existing rate structures. In Order No. 890, the Commission suggested that such new facilities might include regional projects involving several transmission owners or economic projects that are identified through the study process, rather than individual requests for service. The Commission did not impose a particular allocation method for such projects and, instead, permitted transmission providers and stakeholders to determine the criteria that best fits their own experience and regional needs. Transmission providers therefore were directed to identify the types of new projects that are not covered under existing cost allocation rules and, as a result, would be affected by the cost allocation proposal.

174. The Commission did not prescribe any specific cost allocation methodology in Order No. 890. The Commission instead suggested that several factors be weighed in determining whether a cost allocation methodology is appropriate. First, a cost allocation proposal should fairly assign costs among participants, including those who cause them to be incurred and those who otherwise benefit from them. Second, the cost allocation proposal should provide adequate incentives to construct new transmission. Third, the cost allocation proposal should be generally supported by state authorities and participants across the region. The Commission stressed that each region should address cost allocation issues up front, at least in principle, rather than have them relitigated each time a project is proposed.[83] In Order No. 890-A, the Commission also made clear that the details of proposed cost allocation methodologies must be clearly defined, as participants seeking to support new transmission investment need some degree of certainty regarding cost allocation to pursue that investment.[84]

a. CAISO's Filing

175. According to the CAISO, the cost allocation of reliability and economic upgrades is set forth in section 24.7 of its tariff, which has been revised only to make certain conforming changes. The CAISO states that these provisions have been approved by the Commission as just and reasonable and are consistent with Commission cost allocation principles.

176. According to the CAISO, where a project sponsor commits to pay the full cost of a transmission addition or upgrade, it bears the full costs and is eligible to receive merchant transmission CRRs under section 36.11 of Appendix BB to the current CAISO tariff. Otherwise, the cost is borne by the PTO that will be the owner of the transmission facility.

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[83] *Id.* P 557-61.

[84] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 251.

177. The CAISO states that generally, PTOs recover the costs of high voltage transmission facilities (and LCRI facilities under section 26.6 pending before the Commission) by including those costs in their high voltage transmission revenue requirements, and receiving disbursement from the CAISO's transmission access charge. In order to meet the definition of high voltage transmission facility in the CAISO tariff, a facility must be under the CAISO's operational control, and either an LCRI or operate at a voltage at or above 200 kilovolts. Supporting facilities for such lines, the costs of which are not directly assigned to one or more specific customers, are also included.

178. According to the CAISO, under section 26.6 of the tariff, as included in the LCRI amendment pending before the Commission, each Location Constrained Resource Interconnection Generator (LCRIG) that connects to an Location Constrained Resource Interconnection Facility (LCRIF) will pay on a going forward basis its pro rata share of the transmission revenue requirement associated with the LCRIF, which is calculated based on the maximum capacity of the LCRIG relative to the capacity of the LCRIF.

179. According to the CAISO, under current section 27.4, as approved by the Commission, a project sponsor that does not recover the investment cost under a Commission-approved rate through the access charge or a reimbursement or direct payment from a PTO shall be entitled to receive: (1) its share of the wheeling revenues that are attributable to the transmission addition or upgrade; (2) its share of the proceeds of the firm transmission rights (FTRs) auction for FTRs defined on the inter-zonal interface of which the transmission addition or upgrade forms a part; and (3) its share of the congestion revenues provided as calculated on the inter-zonal interface of which the transmission addition or upgrade forms a part.[85] The project sponsor's share of wheeling, congestion and FTR auction revenues for the upgraded transmission facility shall be the number that is determined by dividing the incremental change in the rating of the transmission facility by the new rating for the upgraded or additional transmission facility. The participating owners' share of wheeling, congestion and FTR auction revenues for the upgraded or additional transmission facility shall be determined by subtracting the project sponsor's share from one hundred percent.

180. In addition, the CAISO states that the Commission determines whether the proposed increase in a PTO's transmission revenue requirement due to an addition or upgrade is just and reasonable. For project sponsors that do not recover their transmission revenue requirement through the transmission access charge, the CAISO will provide the share of FTRs, wheeling, and congestion revenues when it files a revision to the transmission control agreement accommodating the new facilities.

[85] Under the current tariff, the CAISO refers to FTRs, whereas under the MRTU tariff, the CAISO uses the term CRRs.

b. Commission Determination

181. We have reviewed the CAISO's filing and find that the portion of the CAISO's proposed tariff regarding cost allocation provides a sufficient cost allocation methodology.[86] Therefore, the CAISO complies with Order No. 890 with respect to cost allocation.

E. Recovery of Planning Costs

182. In Order No. 890, the Commission recognized the importance of cost recovery for planning activities, specifically addressing that issue after discussing the nine principles that govern the planning process. The Commission directed transmission providers to work with other participants in the planning process to develop cost recovery proposals in order to determine whether all relevant parties, including state agencies, have the ability to recover the costs of participating in the planning process. The Commission also suggested that transmission providers consider whether mechanisms for regional cost recovery may be appropriate, such as through agreements (formal or informal) to incur and allocate costs jointly.[87]

1. CAISO's Filing

183. The CAISO states that all planning costs, except as otherwise described above in the cost allocation principle are recovered from all users of the CAISO controlled grid through the grid management charge.

2. Commission Determination

184. We have reviewed the CAISO's filing and find that the CAISO's proposed tariff adequately addresses the recovery of planning costs. Therefore, the CAISO complies with Order No. 890 with respect to the recovery of planning costs.

F. CAISO Transmission Owner Local Planning

185. In Order No. 890, the Commission found that in order for an RTO's or ISO's planning process to be open and transparent, transmission customers and stakeholders must be able to participate in each underlying transmission owner's planning process. Accordingly, as part of their Order No. 890 compliance filings, RTOs and ISOs were directed to indicate how all PTOs within their footprints will comply with Order No. 890's planning requirements. The Commission emphasized that while it left the mechanics of such compliance to each RTO and ISO, it would nevertheless find an RTO's or ISO's planning process to be insufficient if its underlying transmission owners are not also obligated to engage in transmission planning that complies with Order

[86] *See Cal. Indep. Sys. Operator Corp*, 111 FERC ¶, 61,337 (2005).

[87] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 586.

No. 890.[88] In Order No. 890-A, the Commission made clear that each RTO and ISO may fulfill its obligations under Order No. 890 by delegating certain actions to, or otherwise relying on, their transmission-owning members, provided that the rights and responsibilities of all parties are clearly stated in the transmission provider's OATT. The Commission concluded, however, that in the end each RTO and ISO was responsible for demonstrating compliance with each of the nine planning principles adopted in Order No. 890 since it is the entity with the planning process on file.[89] This includes ensuring that any plans developed by an RTO's or ISO's transmission-owning members, and relied upon by the RTO or ISO, are developed through a process that also complies with the requirements of Order No. 890.[90]

1. CAISO's Filing

186. According to the CAISO tariff,[91] all transmission upgrades or additions to the systems of the PTOs, whether to maintain system reliability or to enhance economic efficiency, must go through and be considered by the CAISO's transmission planning process. The CAISO tariff indicates that although it utilizes the unique expertise of its PTOs by assigning to them the performance of certain reliability assessments of their respective systems, these assessments must be developed and performed in adherence to the unified planning assumptions and study plan and vetted through the CAISO's transmission planning process.[92]

187. In addition, the CAISO tariff indicates that requests to evaluate the economic efficiency of potential upgrades on the facilities of the PTOs under CAISO operational control are made to the CAISO, assigned priority by the CAISO, and evaluated in accordance with standards promulgated by the CAISO.[93] Approval of any facilities

[88] *Id*. P 440.

[89] Order No. 890-A, FERC Stats. & Regs. ¶ 31,261 at P 175.

[90] *Id.* P 175-77.

[91] We note that the CAISO did not discuss the specifics of transmission owner local planning as a discrete topic in its compliance filing; however, it indicated in its February 14 Answer that it concurs with the joint answers of PG&E, SoCal Ed, and SDG&E with respect to local planning. Accordingly, the following description of transmission owner local planning for the CAISO is taken from our independent review of its tariff, as well as the PG&E, SoCal Ed, and SDG&E answers with which the CAISO has stated it expressly concurs on this topic.

[92] CAISO tariff at Att. A, sections 24.1.2 and 24.2.5.1.

[93] *Id.* at sections 24.2.2, 24.2.2.2, and 24.9.

identified by these assessments is determined according to the uniform and transparent standards established under the CAISO tariff, not by the PTOs.[94] Furthermore, all changes to the PTOs' owned facilities, whether at the transmission or distribution level, must be provided to the CAISO for incorporation into foundation base cases, which are available pursuant to procedures established by the CAISO.[95] Finally, to ensure consistency and equity in the assignment of capacity values for generators interconnecting at the distribution level, the CAISO will provide the deliverability analysis.[96]

2. Protests/Comments

188. NCPA and SWP contend that PG&E, SoCal Ed, and SDG&E should be required to make individual Order No. 890 compliance filings pursuant to Order No. 890.[97] NCPA bases its contention on the Commission's statement in Order No. 890 that states that "each public utility transmission provider is required to submit, as part of a compliance filing in this proceeding, a proposal for a coordinated and regional planning process that complies with the planning principles and other requirements in this Final Rule. . . . [T]he RTO's or ISO's planning processes will be insufficient if its underlying transmission owners are not also obligated to engage in transmission planning that complies with the Final Rule."[98] NCPA maintains that the only way to be sure that PG&E, SoCal Ed, and SDG&E subject their transmission system planning process to the Order No. 890 requirements is to direct them to make individual compliance filings; otherwise NCPA is concerned that "the CAISO will rubber stamp the plans of the IOUs" and include them in the transmission plan. SWP provides a similar argument.

3. Answer

189. PG&E, SoCal Ed, SDG&E believe that because they have ceded operational control of their electric transmission facilities in California to the CAISO, Order No. 890 does not require them to make individual compliance filings. Furthermore, they believe that, as set forth above in the description of CAISO's filing, the CAISO's tariff addresses local transmission planning and satisfies the requirements of Order No. 890.

190. In addition, PG&E, SoCal Ed, and SDG&E argue that NCPA mischaracterized the Commission's statement discussed above. They point to the Commission's statement

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[94] *Id.* at section 24.1.

[95] *Id.* at section 24.2.3.1 and section 20.4(e); BPM at 9.2.

[96] CAISO tariff at Att. A, section 24.2(e).

[97] NCPA Protest at 3-6.

[98] Order No. 890, FERC Stats. & Regs. ¶ 31,241 at P 437, 440.

in Order No. 890-A which clarifies that the filing requirements under Order No. 890 do not apply to ISO/RTO members without an OATT, and that it is the sole responsibility of the ISO/RTO to file a tariff attachment under Order No. 890. The CAISO concurs with PG&E, SoCal Ed, and SDG&E's response to NCPA.

191. NCPA provided an answer to PG&E, SoCal Ed, and SDG&E's answer and stated that testimony filed in a July 7, 2007 rate filing indicate that PG&E's role in planning yields a different perspective than what PG&E has stated in this proceeding. In addition, NCPA states that the CAISO's planning process relies heavily on PG&E, SoCal Ed, and SDG&E for certain inputs such as identifying reliability concerns and certain information gathering. NCPA further complains that the CAISO has not detailed how customers will be allowed to participate in the planning process of these three companies, and therefore, those three companies must file their own Order No. 890 compliance filings.

4. Commission Determination

192. We agree with the PTOs that because they have ceded functional control of their facilities to the CAISO and transmission service over these facilities is provided under the CAISO tariff, it is unnecessary for them to make individual compliance filings. Order No. 890-A provides that "the filing and posting requirements stated in Order No. 890 apply only to the transmission provider, e.g., the RTO or ISO, and not [to] the transmission-owning RTO/ISO members without an OATT."[99] We also note that NCPA's concerns appear to be based on historical issues regarding transmission planning and point out that to the extent that NCPA believes that the CAISO, PG&E, SoCal Ed, or SDG&E are not acting in compliance with the CAISO tariff, it may raise these issues with the Commission in a complaint or at the technical conferences to be held in 2009.

193. As discussed above, we find that the CAISO's compliance filing and tariff lack sufficient clarity and specificity with respect to the planning conducted by its PTOs. Accordingly, we require the CAISO to explain, in the compliance filing ordered below, the extent of any transmission planning performed by its PTOs and how it meets the requirements of Order No. 890. We direct CAISO to file within 90 days of the issuance of this order a further compliance filing that revises its tariff to include language that will ensure that stakeholder input will be incorporated at an early stage in its development into the planning process for local or other transmission planning conducted by CAISO's PTOs

[99] Order No. 890-A, FERC Stats. & Reg. ¶ 31,261 at P 175.

G. Specific Service Requests of Transmission Customers

1. Protests/Comments

194. SWP requests that the Commission mandate specific compliance with Order No. 890's express directive that the CAISO and its constituent transmission owners must "develop a transmission system plan that meets the specific service requests of its transmission customers." SWP states that it is currently seeking reliable transmission service upgrades comparable to that afforded firm transmission customers using CAISO/PG&E service, in order to provide for its wholesale pumping loads at the Harvey O. Banks pumping station San Francisco Bay/Delta Region. SWP claims that PG&E recently informed it that it must use PG&E procedures and notes that PG&E has not updated them to comport with Order No. 890.[100] SWP asks the Commission to direct the CAISO to consider its request for upgraded transmission from its Harvey O. Banks pumping station in the San Francisco Bay/Delta Region.[101]

195. The CAISO responds that (a) this is a matter of contract between SWP and PG&E; and (b) to the extent that SWP refers to the CAISO 2008 transmission planning process, the CAISO did not perform that process in accordance with Order No. 890 criteria, so the SWP's argument is irrelevant to the CAISO's Order No. 890 filing.[102] PG&E states that it is willing to study SWP's request and include the results of the study in the transmission plan that it submits to the CAISO.[103]

196. The CAISO states that it leaves it to PG&E to identify reliability criteria violations in PG&E's service territories and propose remedies for them. The CAISO will approve the upgrade or addition after considering alternatives.[104]

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[100] SWP states that the CAISO used contractual provisions between SWP and PG&E to order PG&E to interrupt Harvey O. Banks pumping several times in July 2007, while other PG&E/CAISO customers continued to receive firm service. The Comprehensive Agreement between SWP and PG&E reflects their pre-CAISO agreement, in view of insufficiencies in PG&E's system, to treat SWP transmission service at Banks over 157 MW as interruptible in lieu of constructing transmission reinforcements. (SWP cites PAC. GAS & ELEC. CO., Electric Rate Sch. 77, Original Sheet No. 78.) SWP pays firm transmission rates and all CAISO reliability power purchase costs for this interruptible service.

[101] According to SWP this is the water intake point for California's aqueduct system. *See* SWP Protest at 4.

[102] CAISO February 14, 2008 Answer at 3-4.

[103] PG&E Answer at 6.

[104] CAISO February 14, 2008 Answer at 7-8.

2. Commission Determination

197. As an initial matter, the specific issues SWP raises appear to be beyond the scope of this proceeding. We note that Order No. 890-A at P 179 stated that "We therefore believe adequate protections are in place to ensure that transmission providers do not unduly discriminate in the selection of which facilities they choose to construct to the detriment of their customers. If a particular customer believes that its transmission provider has in fact not complied with its OATT obligations, the customers should bring the matter to the Commission's attention, such as by filing a complaint." As a result, to the extent that SWP is not satisfied with the manner in which the CAISO implements its transmission planning process, or, to the extent that SWP is dissatisfied with the results it gets out of the transmission planning process, it may raise these issues with the Commission in a complaint or at the technical conferences to be held in 2009.

H. Location Constrained Resource Interconnection

1. Protests/Comments

198. Imperial proposes amendments to the LCRI process consistent with its position in Docket No. ER08-140-000 (the LCRI proceeding). Imperial argues that because the CAISO previously filed its LCRI provisions in the LCRI proceeding, and the Commission has accepted these provisions, subject to certain modifications, [105] the Commission should resolve any remaining disputes relating to the LCRI amendments in that pending docket. [106]

199. The CAISO agrees with Imperial that because the CAISO submitted its LCRI tariff proposal in a separate proceeding,[107] the Commission should resolve matters relating to the LCRI amendments in that pending docket.[108]

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[105] *See Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,286 (2007), *reh'g pending*.

[106] Imperial's Protest at 14. Imperial also explains that it incorporated into its proposed Attachment A the tariff modifications it previously proposed in the LCRI proceeding, Docket No. ER08-140-000. (*See* section 24.1.3-24.1.3.4 of the CAISO's proposed tariff.) Imperial states that it included the changes it seeks in the LCRI docket in this docket for the purpose of preserving its rights on rehearing and appeal, and not to collaterally attack the Commission's ruling in the LCRI proceeding. Imperial also says that it submits its LCRI proposed changes in this docket because the Commission explained in *Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,286 at P 57, that it would consider concerns regarding the CAISO's Order No. 890 transmission planning process within the separate Order No. 890 proceeding. Imperial Protest at n.12.

[107] *See Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,286 (2007).

[108] CAISO February 14, 2008 Answer at n.15.

2. Commission Determination

200. We agree with Imperial and the CAISO that we should consider the issues Imperial raised on rehearing regarding the LCRI Amendments within the pending Docket No. ER08-140-001 rehearing proceeding. We therefore reject Imperial's proposed revisions with respect to LCRI generator interest requirements, the definition of a location constrained resource, and designation of an energy resource area.

I. Renewable Energy Projects & Generator Interconnection

1. Protests/Comments

201. California Wind argues that the CAISO's proposed tariff does not consider federal initiatives to promote transmission to interconnect renewable energy projects sited on federal lands, and thus, asks the Commission to direct the CAISO to modify its proposed tariff to include such federal initiatives.[109] In addition, California Wind states that the Commission should condition its acceptance of the CAISO's Order No. 890 compliance tariff upon incorporation of essential large generator interconnection reforms, as discussed in AD08-2-000, the proceeding on interconnection queuing delays.

2. Answer

202. The CAISO replies that section 24.2 of its proposed tariff is broad enough to accommodate California Wind's concerns. Section 24.2(a) provides that the CAISO must consider federal and state policies, including federal and state environmental policies. The CAISO argues that a generic description of its approach to federal environmental policies is a better, and more logical approach to the inclusion of specific renewable projects sited on federal lands, because it includes a willingness to accommodate those projects without making the tariff language so specific that the CAISO would have to continuously modify its tariff as federal policies evolve.[110]

3. Commission Determination

203. We agree with the CAISO that section 24.2(a) provides sufficient flexibility to accommodate the interconnection of renewable energy projects sited on federal lands, while precluding the necessity for repeatedly modifying its tariff as federal policies evolve. Accordingly, we deny California Wind's request. In addition, we also deny

[109] California Wind Protest at 5.

[110] CAISO February 14, 2008 Answer at n.9.

California Wind's request regarding interconnection queuing as beyond the scope of this proceeding.[111]

J. Waivers

204. The CAISO requests waiver of the requirements of Order No. 614.[112]

205. We will waive the requirements of Order No. 614. We accept the CAISO's explanation that, when it incorporates section 24 into its MRTU tariff, the CAISO will conform all of the revisions that it has made to section 24 to the requirements of Order No. 614.[113]

The Commission orders:

(A) The CAISO's compliance filing is hereby accepted, as modified, effective December 21, 2007, as discussed in the body of this order.

(B) The CAISO is hereby directed to submit a compliance filing, within 90 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

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[111] We note that the CAISO has not yet filed its generator interconnection process reform. However, information concerning the status of this process is *available at* http://www.caiso.com/1f42/1f42c00d28c30.html.

[112] *Id.*; *see also Designation of Electric Rate Schedule Sheets*, FERC Stats. & Regs., Regulations Preambles ¶ 31,096 (2000) (Order No. 614).

[113] CAISO transmittal letter at 6.