

**Comments of
California Wind Energy Association
on
CAISO Renewable Energy Transmission Planning Process (RETPP)
Draft Final Proposal (1/6/2010)**

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January 19, 2010

The California Wind Energy Association (CalWEA) appreciate the opportunity to submit these further comments on the California Independent Transmission System Operator, Inc.'s (CAISO) "Draft Final Proposal" for its Renewable Energy Transmission Planning Process. As we have stated in our comments on earlier drafts of the RETPP, we strongly support the CAISO's objective of proactively planning for the transmission that will be necessary to achieve the state's renewable energy goals. As we have stated all along in our written comments and in the CAISO's public meetings to discuss the RETPP, however, we have four major concerns that must be addressed before CalWEA can fully support this proposal. We recognize that, in some respects, the Draft Final Proposal, reflects our concerns, at least in part. Our comments, therefore, address lingering issues and points that we believe require further clarification or emphasis.

As discussed in more detail below, our major concerns continue to be with (1) the proposed planning criteria (primarily the need to employ a "least regrets" analysis, and build upon a foundational plan that incorporates the results of California's Renewable Energy Transmission Initiative (RETI)); (2) transitioning projects that complete Phase 2 studies in the current Large Generator Interconnection Process (LGIP) to the RETPP; (3) clarifying the role and responsibilities of the California Transmission Planning Group (CTPG); and (4) clarifying that CAISO participating transmission owners (PTOs) are not simply "eligible" to up-front finance and recover RETPP upgrades to the transmission grid through the transmission access charge (TAC), but rather that the RETPP tariff will require them to do so.

1. RETPP Planning Criteria

The Draft Final Proposal sets forth an ambitious three-phase strategy that will (1) produce a state-wide transmission plan with stakeholder input by May 2010 that “builds on” the RETI process, (2) develop a final plan influenced by LGIP Phase 2 results and further stakeholder input for presentation to the Board of Governors in December 2010, and (3) receive proposals to build identified transmission elements for conditional Board approval in March 2011. This three-phase approach is intended to produce a transmission plan “with sufficient detail both to establish needs and to elicit specific proposals to build the needed transmission” and to establish tariff criteria that make “access to renewable resources a formal requirement in assessing transmission needs.” Draft Final Report at p. 1. We agree with these broad statements of principles. The CAISO must, however, provide several clarifications and refinements to achieve the full promise of the RETPP.

First, as we have said before, the CAISO must make clear that the RETPP must develop a “least-regrets” transmission plan to facilitate achievement of the state’s renewable energy goals. (If the primary objectives were limited to, as stated, “essentially the same as those of the interconnection process” (p. 3), then the RETPP would not constitute the proactive transmission planning that is envisioned.) The CAISO states in a footnote (p. 17 at n.14) that it “believes that the guiding concept of ‘least regrets’ infrastructure development should remain integral to the planning process,” but fails to incorporate the approach needed to implement this principle into its RETPP planning methodology, or specify that it will be “the guiding concept” for the CTPG’s analysis.

As we explained in our earlier comments, the principle of least regrets planning for RETPP requires that the planning studies cover a multitude of renewable resource development scenarios, with each scenario leading to a separate set of transmission projects. Those transmission upgrades that are common to most scenarios should be identified as Category 1 (unconditional) projects. All other projects would be identified as Category 2 (conditional) projects. The additional criteria identified by the CAISO, as well as other criteria, may be used to prioritize Category 2 projects and perhaps move some projects from Category 2 to Category 1.

A “least regrets” approach would be consistent with the FERC “used and useful” and “cost causation” ratemaking principles against which the RETPP approach will ultimately be measured. *See, e.g., Illinois Commerce Comm’n v. FERC*, Nos. 08-1306, 576 F.3d 470 (7th Cir. 2009) (rejecting FERC cost allocation plan because it lacked substantial evidence of cost causation).

Use of a least regrets approach to determining an RETPP transmission plan and Category 1 transmission projects will ensure that Category 1 transmission projects are capable of interconnecting a wide variety of potential renewable generation projects, thereby promoting competition among renewable generation projects for the benefit of all CAISO ratepayers. This outcome, together with FERC’s open access transmission rules, would eliminate the need for any economic testing of Category 1 transmission projects because, by definition, they will be necessary. Economic testing would appropriately be used to make choices among alternative means of achieving the same planning goal.

Second, the scenarios used to develop the least regrets plan must be those developed in the RETI process. Those scenarios have benefited from the substantial two-year RETI stakeholder process and will therefore greatly increase the likelihood that the components of the CAISO plan will be accepted as “needed” in the certificate of public convenience and necessity (CPCN) processes at the California Public Utilities Commission (CPUC). The CAISO should make clear that RETI is the foundation upon which the RETPP rests.

Finally, the other planning methods and tests discussed in the Final Draft Proposal, particularly those under the Phase 2 RETPP planning, are either not necessary to the development of a least regrets plan or are contradictory to the objective of developing transmission to foster a robust competitive marketplace for renewable energy.

2. Over-Reliance on the CTPG to Conduct Transmission Planning

We continue to have serious concerns with the CAISO’s proposal to rely on the California Transmission Planning Group (CTPG) for its RETPP studies, and the guidelines under which the CTPG will operate. Our concerns are reinforced because “the CTPG process is still under development” and there is apparently not yet a definitive plan

for close CTPG-RETI coordination. Draft Final Report, p. 13 & n.7. Indeed, the CAISO concedes that the transparency and openness of the CTPG process has been only “partially resolved” (p. 6) and is “still undergoing further development” *Id.* p. 7. Thus, any CTPG results that are inconsistent with key RETI planning criteria may need to be revisited and revised. CTPG guidelines, study parameters, analytic relationship to RETI, and stakeholder participation and comment procedures should have been established before the CTPG embarked upon its journey, not after its ship has set sail.

While we share the CAISO’s strong desire to move forward quickly with the RETPP analysis, there is no reason why the CAISO could not have established clear rules of the road by now to address widespread stakeholder procedural concerns, which are not new. The CAISO should do so now, and without further delay. There are several key elements that must be a part of those guidelines.

First, the CAISO must clarify that the CTPG will perform studies based on the “least regrets” principle and multi-scenario transmission planning methodology, as discussed above.

Second, the CAISO must clarify that the CTPG will use the results of generation build-out scenarios produced in the RETI process as inputs into its RETPP studies, at least for the first round of the RETPP process, given the substantial stakeholder discussion that has occurred in the RETI forum. (Indeed, the RETI process has included, and continues to encourage, the participation of all CTPG principals.) RETI must be the foundation of the CTPG analysis.

Third, the CAISO should clarify that the CTPG must meet all its results milestones on schedule; most notably, the CTPG shall have its final study results by May of 2010.

Fourth, the CAISO should clarify that it retains ultimate decision-making authority and responsibility for the results of CTPG for the CAISO footprint. This includes the responsibility of the CAISO to consider and address any stakeholder objections and, if CTPG fails to successfully meet any of the three criteria above, to take over and complete the RETPP studies.

3. The CAISO Must Provide More Clarity on the Transition From the LGIP to the RETPP

The Draft Final Proposal asserts that the CAISO has developed a conceptual framework for coordinating the LGIP, the TPP and the RETPP, but it only offers four “ideas” on how those processes will be integrated. Draft Final Proposal at p. 9. This acknowledgment is particularly troubling given the advanced state of the RETPP proposal, the statement that the RETPP Phase 1 study is “already in progress” (p. 6), and the fact that the current LGIP study queue is on a schedule that should lead to study completion by October 2010 (p. 9).

The Draft Final Proposal further recognizes the concerns of generation developers with projects in the current LGIP queue that integration of major LGIP-identified upgrades into the RETPP process may lead to project delays. However, it dismisses those concerns with the assertion that any such delays will only be two months, because the RETPP projects will be presented to the CAISO Board for approval in December 2010. This explanation, however, does not allay our concerns about the transition from the LGIP to the RETPP, in large part because it omits important details about the mechanics of how the study processes will be harmonized, and the timing effect on the construction of the identified upgrades.

Under the LGIP, generation developers will receive draft LGIAs within 30 days from the Phase 2 Study completion date. Production of those draft LGIAs requires defined transmission projects that PTOs commit to construct, with defined timing and cost information. Once those agreements are finalized, developers will have bankable agreements with known transmission development timelines that support reasonably accurate in-service date projections for their projects.

That, in turn, will allow developers to finalize commitments under power purchase agreements, financings, and federal grants and loan programs for renewable energy projects. Developers would generally expect to reach closure on these critical commercial components in the February 2011 timeframe.

Under the RETPP, however, the projects identified during the Phase 2 study analysis will not be presented to the Board until December 2010, and commitments and

costs to build those projects will not begin to be known until March 2011 at the earliest. This is, of course, assuming that there are no delays in these processes to start with.

Since there are no up-front obligations to build any of the projects identified in the RETPP—the CAISO will begin entertaining *proposals* to build identified projects in January 2011 (p. 8)—there is no certainty about what transmission projects will be built, when or by whom. Indeed, PTOs have 90 days to bid on projects (*i.e.*, until April 2011) and, if they do not, there will be an additional round of bidding on the projects by independent transmission companies (p. 6), and then some as-yet-undefined comparative analysis if there are competing bids. If no bids emerge, the obligation to build defaults back to the PTOs at a still later date.

In short, generation developers will be faced with the possibility of unacceptable commercial risks for six months, or more, while the RETPP bidding process plays out, not the two months the CAISO claims. For many projects, this risk of delay may threaten the viability of their projects, raise their financing costs or impede financing altogether, or impose other costs and/or risks.

In addition to these critical timing questions, the CAISO has not fully explained how it will integrate the LGIP Phase 2 studies with the RETPP studies. The way in which the studies are harmonized is critical because it implicates whether, as a practical matter, generation developers will have a voice in how their projects are treated.

As noted above, the CAISO states that the Phase 1 RETPP studies are already in progress, while it is presumably at the same time conducting studies under Phase 2 of the LGIP. Yet, the CAISO also indicates that the results of the Phase 2 LGIP studies will be inputs into the RETPP studies. See Draft Final Proposal at p. 19 (“requests for interconnection in the LGIP . . . will largely be incorporated into the RETPP”).

Since the LGIP Phase 2 studies will not be complete until October 2010, while Phase 1 of the RETPP is scheduled for completion in May 2010 (p. 12), it is unclear how the results of the LGIP will be considered in the RETPP analysis. While we agree that integration of the RETPP, LGIP and TPP analyses is highly desirable, if not downright necessary, it is important for the CAISO to explain mechanically how and when it will harmonize the results of these studies, and the effect it will have, if any, on the identified

transmission projects. Otherwise, generation developers have no way to anticipate and plan for project delays.

Further, in the LGIP, identified transmission upgrades are generally assumed to be the collective financial responsibility of all generation developers in the respective study clusters. It is not clear from the Draft Final Proposal how this principle will hold in the transition from the LGIP method to the RETPP method.

To address these concerns, we believe that, first and foremost, the CAISO must provide a more detailed and refined explanation of how the RETPP and LGIP will be harmonized, the timing of the transition from one study method to the other, and what the impact will be on the transmission development timeline.

Finally, given the uncertainty about the process, and the serious commercial implications to developers, the CAISO must provide all generation developers in the Transition Cluster and those in the Serial Queue who have not signed their LGIAs with the choice whether to transition from Phase 2 of the existing LGIP to the RETPP or to remain within their respective LGIP processes through LGIA signing. A generation developer must be permitted to decline the CAISO's recommendation to move or not move its project into the RETPP based on its commercial interests. The CAISO should be able to overrule a generator developer's choice to stay in LGIP rather than be moved into RETPP only if it finds, with sufficient reasoning or evidence, that the choice is impractical to implement or will create a material adverse effect on other generators in the queue process.

4. The CAISO Must Further Clarify that the PTO Obligation is to *Upfront Finance and Build*

While the Draft Final Proposal states (p. 28) that PTOs will be "eligible" for up-front funding of RETPP projects, with later recovery of the associated revenue requirement through the TAC, the draft is ambiguous about whether PTOs will have the obligation to up-front finance RETPP transmission. Along with its clarification that PTOs will retain the ultimate obligation to build any projects for which no bids are submitted, the CAISO should further clarify that the PTOs who build RETPP projects,

whether through bidding or by default, must also up-front finance those projects. This principle is fundamental to the RETPP approach.

Moreover, the CAISO's verbal clarification at the January 12th meeting that developers would continue to be required to post financial security for such projects, per the LGIP requirements and forfeiture provisions, is inconsistent with CAISO policies in this area. Currently, developers are not required to post any financial security for transmission projects financed up-front by PTOs. The CAISO has provided no justification for this significant policy change, and it should not be included in the RETPP proposal without such justification.

We appreciate this opportunity to comment and look forward to participating in the final stages of the development of this proposal, and in its implementation.