

Chairman Jon Wellinghoff
Commissioner Philip D. Moeller
Commissioner Marc Spitzer
Commissioner John R. Norris
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

May 28, 2010

Dear Chairman Wellinghoff and Commissioners:

As Chairman Wellinghoff so aptly stated recently, transmission is “the make-or-break in this country of whether or not we can develop [renewable] resources that need to be developed to lower our carbon footprint, to revitalize our economy and to get this country going where we need to get it going.”¹ We, key stakeholders in California’s quest to increase the amount of renewable generation interconnected to the grid, agree with Chairman Wellinghoff and urge this Commission to take clear and expedient action to facilitate necessary transmission so that these critical renewable resources can in fact, be developed.

As you know, California has embarked on an ambitious goal to procure and interconnect renewable generation, ultimately seeking to ensure that 33% of California’s load will be served from renewable sources. In order to reach this 33% goal, there is an indisputable and immediate need to build a significant amount of new transmission to interconnect renewable generators.

As California has worked to increase renewables, it has found that building transmission is one of the most difficult hurdles to accessing areas rich in renewable generation. Typically, under the Commission’s generator interconnection policies, the generator is responsible to finance the upfront cost of the transmission network upgrades associated with interconnecting its plant, although the Participating Transmission Owner may choose to finance these costs in place of the generator. This approach to limiting customer exposure to generator development risk had worked reasonably well in the case of conventionally-fueled generation, which has great flexibility in location and can easily be sited closer to existing transmission in order to limit interconnection costs. However, the model has proven problematic for most renewable generation since these resources are typically found far from California’s load centers and existing transmission and may require extensive network upgrades with their attendant high costs. It is very difficult for renewable generation developers to obtain financing for both the generating project and significant transmission. However, in order for the transmission owning utility to finance these projects in a way that makes commercial sense, the utility must have reasonable

¹ Comments made by Chairman Jon Wellinghoff at the Renewable Energy World Conference & Expo North America, February 23, 2010.

assurance of cost recovery if the project has to be abandoned for reasons outside of the utility's control.

The clearest path to cost recovery assurance for large renewable interconnection transmission projects is Commission approval of the 100% abandoned plant incentive available under Section 219 of the Federal Power Act. Approving 100% abandoned plant allows the transmission owner to finance the project while providing the generator with the assurance that it will not have to finance the costly upgrades. Providing such assurance of rate recovery early in the process is the clearest way to overcome the "chicken and egg" problem of which comes first – transmission or renewable generation.

The undersigned California stakeholders request that the Commission demonstrate its commitment to this policy in a tangible way. In implementing Section 219 incentive rate treatment for transmission investment, the Commission recognized the "unique and substantial challenges faced by large new transmission projects" and further that "for the Nation to be able to integrate the next generation of resources, we must encourage investors to take the risks associated with constructing large new transmission projects that can integrate new generation and otherwise reduce congestion and increase reliability."² Order No. 679 was thus intended to "encourage new transmission investment or otherwise remove impediments to such investment."³

In practice, however, this goal of encouraging transmission is not being achieved, as recently demonstrated by the impediments faced by a California utility that is willing to invest in large new transmission infrastructure in order to integrate new renewable generation. As it stands today, utility attempts to upfront finance transmission investments have been delayed and thwarted by conditional Commission orders. Necessary incentives have been conditioned upon CAISO approval,⁴ while essential terms of the interconnection agreements that evidence CAISO approval have been rejected.⁵ These disconnected actions at the Commission have diluted the ability of the utility to secure incentives necessary to move projects, including the Eldorado-Ivanpah Transmission Project, forward. At the same time, these actions have introduced an overall level of uncertainty about the recovery of abandoned plant costs should the generator fail to materialize. This uncertainty is now impacting whether utility investment in other transmission projects can move forward – and threatens to chill investment in renewable energy overall. Importantly, this delay and uncertainty are likely to have negative implications on renewable generators' attempts to secure project financing for generation through the Department of Energy's programs under the American Reinvestment and Recovery Act of 2009 ("ARRA").

² FERC Order No. 679, PP 24, 25.

³ FERC Order No. 679, P 25.

⁴ Order on Petition for Declaratory Order, *Southern California Edison Co.*, 129 FERC ¶ 61,246 (2009).

⁵ Order Conditionally Accepting Large Generator Interconnection Agreement, *Southern California Edison Co.*, 131 FERC ¶ 61,016 (2010). Order Accepting In Part And Rejecting In Part The Executed Large Generator Interconnection Agreement, *Southern California Edison Co.*, 131 FERC ¶ 61,071 (2010).

To unlock the investment in transmission necessary for the development of renewable generation in California – and elsewhere – the Commission must unequivocally confirm, as a matter of policy: that, when a Regional Transmission Organization, in accordance with its open access transmission tariff, approves a transmission project to interconnect or deliver renewable generation in furtherance of the state’s renewable goals, the Participating Transmission Owner is eligible to recover 100% of its reasonably-incurred costs of investments that may ultimately be abandoned for reasons outside of its control. Although this policy is entirely consistent with the Commission’s policy articulated in Order No. 679,⁶ in reality, regulatory orders to date have prevented it from operating as intended.⁷

By taking decisive action through the implementation of the policy outlined above, the Commission will not be relieving the utility of all risk, such as the risk of disallowance for imprudence or the significant risks of construction. Rather, the Commission will be providing the needed certainty of abandoned plant cost recovery for large new transmission projects if underlying generation projects fail to materialize as planned. In doing so, the Commission will take a critical step to directly encourage the development, not only of crucial transmission, but of renewable generation. Such action will also send an important signal to the nation of the Commission’s support for the expeditious development of approved interconnection projects needed to meet renewable goals.⁸

For these reasons, we encourage the Commission to remove the regulatory impediments that have put timely achievement of California’s important renewables goals in serious jeopardy. To avoid jeopardizing generators’ qualification for ARRA funds, we request that the Commission take prompt action on this issue by early July 2010.

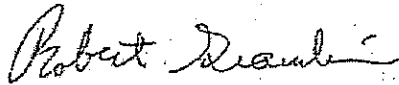
Sincerely,

(Signature page follows.)

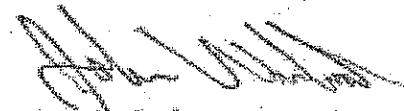
⁶ FERC Order No. 679, PP 155, 163 (noting that utilities may “encounter investment opportunities with significant risk associated with factors beyond their control, such as generation developers’ decisions to develop or terminate the development of potential resources” and finding that allowing recovery of 100% of prudently-incurred abandoned plant costs serves “to reduce the uncertainty associated with higher risk projects, thereby facilitating investment in these projects.”).

⁷ With respect to RTO-approved transmission projects to interconnect conventional-fueled generation, the utility will continue to have the right to request Order 679 abandoned plant treatment on a case-by-case basis.

⁸ While SDG&E fully supports the decisive action requested in this letter, based on an uncontested offer of settlement the Commission approved in *SDG&E*, 119 FERC ¶61,169 (2007), SDG&E is precluded from seeking incentive rate treatment pursuant to Order No. 679 for transmission projects to interconnect renewable projects, going into service prior to September 1, 2013, or at any time for SDG&E’s proposed Sunrise Powerlink. SDG&E is permitted, however, to seek recovery of 100% of abandoned transmission project costs, including Sunrise costs, on a non-incentive basis as the Commission allowed in *S. Cal. Edison Co.*, 112 FERC ¶61,014 at PP 60-61, *order denying reh’g*, 113 FERC ¶61,143 (2005).



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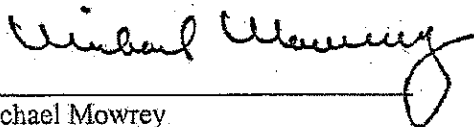
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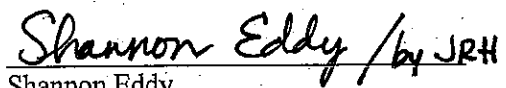
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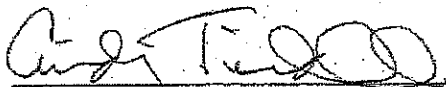
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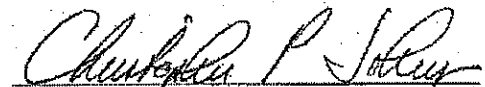
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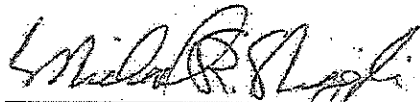
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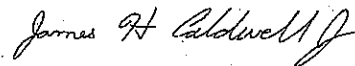
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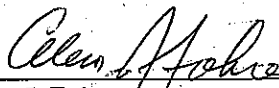
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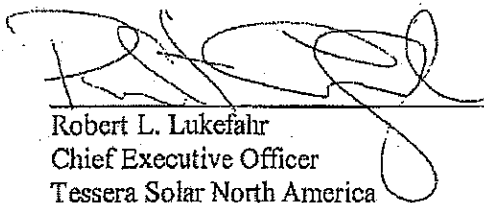
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