

153 FERC ¶ 61,227  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Nevada Power Company

Docket Nos. ER15-2623-000  
ER15-2625-000

ORDER REJECTING PROPOSED AGREEMENTS

(Issued November 19, 2015)

1. On September 8, 2015, in Docket No. ER15-2623-000, Nevada Power Company (Nevada Power) filed a proposed Operation and Maintenance Agreement (O&M Agreement) and a proposed License and Sale Agreement (L&S Agreement) between Nevada Power and DesertLink, LLC (DesertLink). Concurrently, in Docket No. ER15-2625-000, Nevada Power and Sierra Pacific Power Company (Sierra Pacific) (jointly, NV Companies) filed a proposed amended and restated Transmission Use and Capacity Exchange Agreement (Amended TUA) among Nevada Power, Sierra Pacific, Great Basin Transmission South, LLC (Great Basin South) and Great Basin Transmission, LLC (Great Basin). In this order, we reject the proposed O&M Agreement, L&S Agreement, and Amended TUA (collectively, Agreements) as premature, without prejudice to Nevada Power or NV Companies refiling the Agreements at a later date, as discussed below.

**I. Background**

2. Nevada Power is a public utility that serves retail and wholesale customers in Southern Nevada. Nevada Power and its affiliate, Sierra Pacific, are direct, wholly owned subsidiaries of NV Energy, Inc. (NV Energy). NV Energy is a wholly owned subsidiary of Berkshire Hathaway Energy Company. DesertLink is a subsidiary of LS Power Development, LLC (LS Power).<sup>1</sup>

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<sup>1</sup> See Nevada Power, Docket No. ER15-2623-000 Transmittal at 2.

3. Nevada Power states that, in December 2014, as part of its regional transmission planning process, the California Independent System Operator Corporation (CAISO) approved a transmission line connecting Nevada Power's Harry Allen 500 kV substation to the Eldorado Substation operated by Southern California Edison Company (SoCal Edison) (HAE Project), with a competitive solicitation process for the project to be initiated in January 2015.<sup>2</sup>

4. Nevada Power, Sierra Pacific, and Great Basin, another subsidiary of LS Power, currently are parties to a Transmission Use and Capacity Exchange Agreement (TUA) that is on file with the Commission. According to Nevada Power, the TUA governs the parties' rights and obligations with regard to the jointly-owned One Nevada Transmission Line (ON Line). Nevada Power explains that the ON Line is the first phase of a multi-phase transmission line project, and, as such, the TUA also provides for the further development of two additional transmission line segments at the northern (SWIP-N Segment) and southern ends of the ON Line.<sup>3</sup>

5. Nevada Power states that the southern segment, the Southern Nevada Intertie Project (SNIP Segment), was planned to be an approximately 60-mile, 500 kV transmission line that would run from Nevada Power's Harry Allen substation to the Eldorado Substation, which is the same path identified for the HAE Project for which CAISO is soliciting bids. Nevada Power explains that the plans for the SNIP Segment long pre-dated CAISO's solicitation process for the HAE Project, but the projects are fundamentally the same. In light of CAISO's solicitation process for the HAE Project, Nevada Power states that Great Basin and Nevada Power have reconsidered the TUA's treatment of the development of the SNIP Segment. Nevada Power explains that, as a result, Great Basin's affiliate, DesertLink, submitted a bid to develop the HAE Project on April 30, 2015 and that CAISO is scheduled to select a winning developer by November 17, 2015, subject to extension.<sup>4</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 2-3.

## II. Amended TUA

6. NV Companies state that the proposed Amended TUA contains certain amendments and modifications to the original TUA accepted by the Commission.<sup>5</sup> NV Companies explain that the proposed Amended TUA re-allocates transmission rights over the ON Line in phase 2 of the joint development of the project (i.e., the time after either the northern SWIP-N Segment or southern SNIP Segment interconnecting to the ON Line is built). According to NV Companies, under the Amended TUA, the existing contractual limitation to Nevada Power's capacity rights over the ON Line under phase 2 is replaced by a floor of 900 MW, with more capacity rights possible depending on the ultimate rating of the line after the HAE Project or SWIP-N Segment are placed in service. NV Companies explain that the floor of 900 MW will be triggered no matter who constructs the HAE Project, but that future capacity rights will differ depending on whether, in what sequence, and by whom any combination of the SWIP-N Segment, SNIP Segment, or the HAE Project is built.<sup>6</sup>

7. To effectuate the new arrangement under the Amended TUA, NV Companies propose three groups of amendments. The first group of amendments will become effective upon regulatory approval (Immediately Effective Amendments). NV Companies state that the Immediately Effective Amendments are necessary to resolve ambiguities in the original TUA and set the stage for the future incorporation of one of the two sets of contingent amendments. Regardless of whether the HAE Project is completed, the first group of amendments will take effect immediately upon regulatory approval.<sup>7</sup> The other two groups of amendments (Annex B-1 Amendments and Annex B-2 Amendments, respectively) are contingent but mutually exclusive amendments that address capacity rights allocations under various scenarios regarding the future development of the SNIP Segment, SWIP-N Segment, and the HAE Project.<sup>8</sup>

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<sup>5</sup> Sierra Pacific, Docket No. ER15-2625-000 Transmittal at 1 (citing *Nevada Power Co.*, 133 FERC ¶ 61,166 (2010)).

<sup>6</sup> *Id.* at 2, 11.

<sup>7</sup> *Id.* at 13-14.

<sup>8</sup> *Id.*

NV Companies state that other changes included in the proposed Amended TUA consist of minor conforming changes to reflect the passage of time and changing facts.<sup>9</sup>

8. NV Companies state that the proposed two sets of contingent amendments, the Annex B-1 Amendments and the Annex B-2 Amendments, reflect an existing agreement between the parties to the Amended TUA regarding the state of their mutual agreement based on the binary triggers of: (1) CAISO's decision to move forward with the HAE Project; and (2) the development timing of the SNIP Segment and SWIP-N Segment if CAISO does not proceed with the HAE Project.<sup>10</sup>

9. NV Companies state that in the first scenario, the parties anticipate that the HAE Project will be developed and constructed by DesertLink or another party pursuant to CAISO's transmission planning solicitation process. Under this scenario, reflected in the Annex B-1 Amendments, the provisions associated with the SNIP Segment would be removed and replaced with provisions addressing the HAE Project.<sup>11</sup>

10. NV Companies explain that under the second scenario, the HAE Project would not be constructed at all. Under this scenario, reflected in the Annex B-2 Amendments, the Amended TUA would retain provisions regarding the development of the SNIP Segment, and make other changes, as needed.<sup>12</sup>

11. NV Companies propose to submit an informational filing to incorporate the provisions of the Annex B-1 Amendments or Annex B-2 Amendments, as applicable, into the body of the proposed Amended TUA, and to delete the Annex B-1 Amendments or Annex B-2 Amendments in their entirety, if one Annex becomes effective and incorporated into the body of the Amended TUA, and the other Annex is rendered moot or ineffective by virtue of the provisions of the other Annex becoming effective.<sup>13</sup> In addition, NV Companies request that the Commission accept this commitment to make

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<sup>9</sup> NV Companies state that the original TUA was executed before the ON Line was constructed so many of the provisions dealing with future construction of the ON Line are modified in the proposed Amended TUA to reflect the current state of the parties relationship and the current state of development of all affected segments. *See id.* at 14.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 14-15.

such a filing and confirm that such filing will be for informational purposes only, such that the scope of the Commission's review will be limited to the accuracy of the restatement of the agreement. In the alternative, NV Companies state that they would not object to referring to such a future filing to amend the proposed Amended TUA as a compliance filing as long as the scope of the compliance filing, and the Commission's review thereof, is clear.<sup>14</sup> NV Companies assert that such clarity is important because, if the informational filing were deemed a substantive amendment to the agreement, it could trigger other regulatory approvals and consents, and could interfere with project financing and progress.<sup>15</sup>

12. NV Companies explain that the proposed Amended TUA's two sets of amendments may give the appearance that the Commission is being asked to rule on a hypothetical set of events, but that this agreement is not hypothetical because it merely builds in the various potential outcomes of the CAISO bidding process for the HAE Project, one of which is certain to materialize.<sup>16</sup> NV Companies argue that "acceptance of the [Amended TUA] is necessary for the parties to effectuate their contractual arrangement, secure necessary financing arrangements, and move the project forward."<sup>17</sup> In addition, NV Companies assert that acceptance will "provide needed certainty on the parties' rights" under the Amended TUA.<sup>18</sup> NV Companies request that the Commission issue an order on the proposed Amended TUA on or before November 6, 2015 to provide needed certainty on the parties' rights thereunder.<sup>19</sup>

### **III. O&M Agreement and L&S Agreement**

13. Nevada Power explains that it has agreed to be the O&M provider for the HAE Project, should DesertLink win the CAISO solicitation. The O&M Agreement is between Nevada Power and DesertLink and provides that, if DesertLink is selected to own and construct the HAE Project, Nevada Power will provide for the operation, maintenance, repair and restoration of the transmission facilities. Under the O&M

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<sup>14</sup> *Id.* at 15.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 26.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 29.

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

Agreement, Nevada Power agrees to perform, or cause to be performed, the physical operation and maintenance of, capital improvements to, repair and reconstruction of, security of, and outage scheduling and restoration of the transmission facilities and the other operation and maintenance services expressly provided for in the O&M Agreement.<sup>20</sup>

14. Nevada Power states that, under the L&S Agreement, DesertLink would purchase certain never-energized and unused transmission towers/poles and other related equipment owned by NV Energy, and acquire a license to use certain open circuit positions to attach conductor and related equipment, in each case, for use in the HAE Project. The effectiveness of the L&S Agreement is conditioned on, among other things, DesertLink winning the CAISO solicitation and CAISO confirming the use of the facilities that are the subject of the L&S Agreement for the HAE Project.<sup>21</sup>

15. Nevada Power asserts that acceptance of the proposed O&M Agreement and L&S Agreement “will permit development of a CAISO-approved regional transmission project on favorable terms to both parties, and to CAISO ratepayers, should [DesertLink] be selected as the winning bidder.”<sup>22</sup> Nevada Power states that the O&M Agreement and the L&S Agreement do not become effective until certain conditions are satisfied, including the award of the HAE Project to DesertLink. Accordingly, Nevada Power asks the Commission to issue an order finding the O&M Agreement and the L&S Agreement just and reasonable and accept them for filing, subject to an informational notice to set the effective date in the Commission’s eTariff system within 30 days after the O&M Agreement and L&S Agreement become effective by their terms.<sup>23</sup> Nevada Power requests that the Commission issue an order on the O&M Agreement and L&S Agreement on or before November 6, 2015 to remove regulatory uncertainty

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<sup>20</sup> Nevada Power, Docket No. ER15-2623-000 Transmittal at 3-4.

<sup>21</sup> *Id.* at 3, 5.

<sup>22</sup> *Id.* at 7.

<sup>23</sup> On October 29, 2015, NV Companies filed a notice to inform the Commission that, on October 5, 2015, the Public Utilities Commission of Nevada granted the necessary approval of the proposed Agreements. Additionally, NV Companies corrected a typographical error in the Docket No. ER15-2623-000 Transmittal Letter with regard to when Nevada Power will file an informational notice to set the actual effective date of the O&M Agreement and the L&S Agreement.

regarding DesertLink's HAE Project proposal and to aid in the parties' development and financing efforts.<sup>24</sup>

16. Nevada Power requests privileged treatment, in accordance with 18 C.F.R. § 388.112 (2015), for portions of the information contained in the O&M Agreement and L&S Agreement. Nevada Power states that it considers such information to be "trade secrets and commercial or financial information obtained from a person and privileged or confidential."<sup>25</sup> Nevada Power asserts that the O&M Agreement and L&S Agreement deal with the proposed development of a transmission line project that is subject to an ongoing competitive solicitation and that release of the confidential portions of the agreements could harm DesertLink's competitive position. Accordingly, Nevada Power states that good cause exists for the Commission to grant Nevada Power's request for privileged treatment of this information. Nevada Power adds that it has appended a proposed protective agreement, based in part on the Commission's model protective order, which would govern the release of the protected materials.<sup>26</sup>

#### **IV. Notice of Filings and Responsive Pleadings**

17. Notice of Nevada Power's and NV Companies' filings was published in the *Federal Register*, 80 Fed. Reg. 55,610, with interventions and protests due on or before September 29, 2015. Timely motions to intervene were filed in both dockets by LS Power and Exelon Corporation. SoCal Edison filed a timely motion to intervene, limited protest and comments in both dockets. On October 14, 2015, Nevada Power filed an answer to SoCal Edison's protest.

18. In its protest, SoCal Edison states that it is unclear if the services charge in the proposed O&M Agreement and the sales price for the transferred assets in the proposed L&S Agreement are appropriate. SoCal Edison notes that information regarding these issues is redacted from the proposed O&M Agreement and proposed L&S Agreement and that Nevada Power's proposed protective agreement for viewing the redacted information is overly restrictive and effectively prevents SoCal Edison from determining

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<sup>24</sup> Docket No. ER15-2623-000 Transmittal at 8.

<sup>25</sup> *Id.* at 8-9 (citing 5 U.S.C. § 552(b)(4) (2012); 18 C.F.R. § 388.107(a)(2)(d) (2015); *Jurewicz v. United States Dep't of Agric.*, 741 F.3d 1326, 1331 (D.C. Cir. 2014)).

<sup>26</sup> *Id.* at 9.

if the proposed O&M Agreement and proposed L&S Agreement are just and reasonable.<sup>27</sup>

19. In particular, SoCal Edison asserts that section 8(c) of Nevada Power's proposed protective agreement is not included in the Commission's model protective order. Section 8(c) of the proposed protective agreement prevents an intervenor that is involved in bidding on transmission projects within the CAISO region, like SoCal Edison, from obtaining redacted cost information. SoCal Edison asserts that such an intervenor must retain outside counsel who can review the information, but outside counsel is prohibited from sharing the information with any employee of the intervenor. SoCal Edison argues that this effectively prevents SoCal Edison from participating in the ratemaking process in a meaningful way.<sup>28</sup>

20. Accordingly, SoCal Edison asks the Commission to approve the protective agreement with the exclusion of section 8(c), require the inclusion of less restrictive alternatives, or set section 8(c) for hearing.

## **V. Discussion**

### **A. Procedural Matters**

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

22. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Nevada Power's answer, and will, therefore, reject it.

### **B. Substantive Matters**

23. We reject the proposed Agreements as premature, without prejudice to Nevada Power or NV Companies refiling the proposed Agreements at a later date, as discussed below. The Commission has the discretion to determine how and when to best

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<sup>27</sup> SoCal Edison Protest at 4-5.

<sup>28</sup> *Id.* at 6-7.



address the issues before it,<sup>29</sup> and has rejected filings as premature in other instances where proposed provisions were contingent on unknown future events.<sup>30</sup>

24. It would be premature to accept the proposed Agreements under the circumstances here. The proposed O&M Agreement and proposed L&S Agreement will not become effective unless and until CAISO awards the HAE Project to DesertLink.<sup>31</sup> Similarly, the proposed Amended TUA contains contingent amendments, some of which will become effective provisions of the final agreement and some of which will become moot and ineffective, depending on uncertain future events related, but not limited, to the selection and development of the project.<sup>32</sup>

25. If the Commission were to accept proposed contingent amendments and agreements that may or may not become effective depending on the outcome of the CAISO bidding process and development of the HAE Project, it could cause confusion for interested parties because the Commission could have agreements on file that have never become effective or that contain moot terms and conditions which are not part of the final agreement between the parties. NV Companies allege that Commission

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<sup>29</sup> See, e.g., *Fla. Mun. Power Agency v. FERC*, 315 F.3d 362, 366 (D.C. Cir. 2003) (“Administrative agencies enjoy ‘broad discretion’ to manage their own dockets.”) (citing *Telecomm. Resellers Assoc. v. FCC*, 141 F.3d 1193, 1196 (D.C. Cir. 1998)); *Tenn. Gas Pipeline Co v. FERC*, 972 F.2d 376, 381 (D.C. Cir. 1992) (“The agency is entitled to make reasonable decisions about when and in what type of proceeding it will deal with an actual problem”); *Nader v. FCC*, 520 F.2d 182, 195 (D.C. Cir. 1975) (“[T]his court has upheld in the strongest terms the discretion of regulatory agencies to control the disposition of their caseload.”); *ISO New England Inc. and New England Power Pool*, 132 FERC ¶ 61,046, at P 16 (2010) (“The Commission has the discretion to determine how best to address the issues before it.”).

<sup>30</sup> See, e.g., *PJM Interconnection, L.L.C.*, 150 FERC ¶ 61,251 (2015) (rejecting proposed tariff revisions as premature where revisions could have been withdrawn based on the outcome of a pending court proceeding); *Watson Cogeneration Co.*, 144 FERC ¶ 61,202 (2013) (rejecting as premature a proposed provision of an agreement that provided certain rights if a third party received service using specific facilities, but no third party had requested any such service); *Midwest Indep. Transmission Sys. Operator, Inc.*, 142 FERC ¶ 61,182 (2013) (rejecting proposed tariff revision as premature where the option set forth in the revision was being discussed in an ongoing proceeding).

<sup>31</sup> See, e.g., Nevada Power, Docket No. ER15-2623-000 Transmittal at 5, 8.

<sup>32</sup> See, e.g., Sierra Power, Docket No. ER15-2625-000 Transmittal at 14-15, 18-19.

acceptance of the proposed Agreements would further the development and financing of the transmission project by providing regulatory certainty. While the Commission supports the development of needed transmission infrastructure, we are not persuaded that the certainty that the parties seek justifies accepting the proposed Agreements given the extent to which their effectiveness and final form are subject to uncertain future events. In these circumstances, it is premature to accept Nevada Power's and NV Companies' proposed Agreements.<sup>33</sup>

26. This rejection is without prejudice to Nevada Power or NV Companies refiling the proposed Agreements at a later date when they may be filed without the uncertainty, and contingent terms and conditions, present in the present filing. For example, if the O&M Agreement and L&S Agreement are not filed until after CAISO has selected a developer for the HAE Project, presumably Nevada Power will know whether the O&M Agreement and L&S Agreement are to be effective. In addition, we understand that the original TUA on file with the Commission no longer reflects the current arrangement, and encourage NV Companies to update this agreement to reflect changes in terms that do not involve uncertain and contingent conditions. If, with respect to development of the HAE Project, it is necessary for NV Companies to propose further revisions to reflect changing facts, then such further revisions should be proposed in a future filing, at the time that these facts are known.

27. Because we are rejecting the proposed Agreements as premature, we need not address SoCal Edison's arguments regarding Nevada Power's proposed protective agreement. We will address any actual future disputes on this issue, should they arise, when and if they are presented to us in future filings.

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<sup>33</sup> See, e.g., *El Paso Natural Gas Co.*, 107 FERC ¶ 61,057, at P 10 (2004) (rejecting proposed contracts as premature where the "contracts do not reflect the final agreement of the parties."). We also note that the Commission cannot determine if the proposed Agreements are a substantive nullity before CAISO awards the HAE Project because we do not know if the O&M Agreement and proposed L&S Agreement will become effective, or which terms of the Amended TUA will become effective. See, e.g., *CPV Shore, L.L.C.*, 148 FERC ¶ 61,096, at P 30 (2014) ("[T]he contracts before us are not valid, and therefore are a substantive nullity and cannot be accepted"); *Tex. Eastern Transmission Corp.*, 22 FERC ¶ 61,335, at 61,580 (1983) ("[W]e can accept and suspend only one set of alternate tariff sheets at one time. To accept more than one filing, subject to uncertain future events, does indeed create a 'substantive nullity.'").

The Commission orders:

The proposed Amended TUA, O&M Agreement, and L&S Agreement are hereby rejected, as discussed in the body of this order.

By the Commission. Commissioner LaFleur is dissenting in part with a separate statement attached.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Nevada Power Company

Docket Nos. ER15-2623-000  
ER15-2625-000

(Issued November 19, 2015)

LaFLEUR, Commissioner *dissenting in part*:

Today's order rejects, as premature, the Amended Transmission Use and Capacity Exchange Agreement (Amended TUA) and related agreements among Nevada Power, Sierra Pacific, Great Basin Transmission, and Great Basin Transmission South (collectively with Great Basin Transmission, Great Basin). I disagree with the decision to reject the Amended TUA, and I would accept it to allow the parties to update the terms and conditions of their existing arrangements.

When the Commission accepted the original Transmission Use and Capacity Exchange Agreement (Original TUA) in 2010, it praised this agreement as an “innovative proposal” for joint ownership and a “product of unique collaboration between the [p]arties.”<sup>1</sup> The Commission recognized that this partnership was a novel arrangement between an incumbent utility and merchant transmission developer working together to develop needed transmission facilities, and sought to encourage that arrangement. The Original TUA contemplated a carefully balanced transmission development package, and, as does the Amended TUA, contained provisions that were contingent upon unknown future events. Specifically, the Original TUA contemplated the construction of the One Nevada Line (ON Line) as Phase 1,<sup>2</sup> with Great Basin retaining rights to construct two extensions to the ON Line as part of Phase 2. The Original TUA allocated capacity rights following the completion of Phase 1, and then adjusted those capacity rights *if* Phase 2 extensions were constructed, with the precise allocations determined according to which Phase 2 extension first reached commercial operation.<sup>3</sup>

Understandably, the parties seek to amend the Original TUA because one of the

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<sup>1</sup> *Nevada Power Co.*, 133 FERC ¶ 61,166, at P28 (2010) (Original TUA Order).

<sup>2</sup> The ON Line entered service in January 2014, over three years after the Commission approved the Original TUA.

<sup>3</sup> Original TUA Order, 133 FERC ¶ 61,166 at PP 6-7 (describing the terms and conditions proposed in the Original TUA governing the potential reallocation of capacity on the ON Line if certain extensions were constructed as part of Phase 2).

contemplated Phase 2 transmission segments – the Southern Nevada Intertie Project, now referred to as the HAE Project – is proposed to be developed through the California Independent System Operator (CAISO) Order No. 1000 competitive solicitation process. This development, which was not foreseeable when the parties executed the Original TUA, fundamentally impacts the rights and responsibilities contemplated in that agreement. Now that the HAE Project is being developed through the CAISO Order No. 1000 process, even if Great Basin’s affiliate is chosen in the competitive solicitation process to develop the project, the terms of the Original TUA will no longer govern. Thus, the parties have renegotiated the terms of the Original TUA to reflect this new reality.

However, today’s order rejects the Amended TUA as premature because it contains amendments that are contingent upon certain future events related to the selection and development of the HAE Project. The order notes that the rejection is without prejudice to the parties re-filing “at a later date when they may be filed without the uncertainty, and contingent terms and conditions, present in the present filing,” and encourages them to do so in order to update the Original TUA, which today’s order acknowledges “no longer reflects the current arrangement.”<sup>4</sup> However, I am concerned that, notwithstanding the apparent simplicity of that condition, it is unclear how the parties can actually satisfy that directive in any reasonable time frame.<sup>5</sup> The core contingency contained in the Amended TUA is whether the HAE Project is ultimately constructed by June 1, 2023, an outcome that cannot be known before that date until the project enters service or is abandoned. The Commission routinely approves contracts and other filings that ultimately depend on whether a project gets built<sup>6</sup> – indeed, it did so when it approved the Original TUA that the parties seek simply to update – and I do not see a meaningful distinction between those circumstances and the amendment at issue here. I am particularly concerned that today’s order keeps an outdated agreement on file because of the amendment’s “prematurity,” while erecting potentially significant barriers to the parties’ ability to update the terms of their commercial arrangement in any reasonable or foreseeable timeframe.

While recognizing that the Commission should support the development of needed

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<sup>4</sup> Order at P 26.

<sup>5</sup> This is not an issue for the related agreements that the order addresses, as those agreements will be relevant only if CAISO chooses the Great Basin affiliate as the developer for the HAE Project, a fact which will be known within a matter of months.

<sup>6</sup> See, e.g., *Xcel Energy Sw. Transmission Co., LLC*, 149 FERC ¶ 61,182 (2014); *Xcel Energy Transmission Dev. Co., LLC*, 149 FERC ¶ 61,181 (2014); *Transource Wisconsin, LLC*, 149 FERC ¶ 61,180 (2014).

transmission infrastructure, today's order in fact undercuts the commercial certainty needed to promote that development. I believe the signals we send here are particularly important, given the continued growth in competitive transmission development through Order No. 1000, which could result in similar development partnerships between incumbent utilities and nonincumbent transmission developers. The order recognizes that the decision to accept the Amended TUA or reject it as premature is solely within the Commission's discretion, and I would exercise that discretion to accept the Amended TUA.

Accordingly, I respectfully dissent.

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Cheryl A. LaFleur  
Commissioner