



BEFORE THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

Re: California Independent System Operator (CAISO) Tariff Amendment - Compliance with FERC Order No. 1920 Long-Term Regional Transmission Planning (LTRTP) - Failure to Provide for Sovereign Tribal Participation

Submitted by:

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These comments are submitted to the California Independent System Operator Corporation in response to CAISO's proposed Tariff Amendment implementing FERC Order No. 1920 governing Long-Term Regional Transmission Planning. Copies of these comments are being provided electronically consistent with CAISO stakeholder and transparency practices.



I. INTRODUCTION

These comments address the California Independent System Operator’s (CAISO) proposed Tariff Amendment implementing *FERC Order No. 1920*, with particular focus on Section 24.11.1 governing the development of Long-Term Scenarios for Long-Term Regional Transmission Planning (LTRTP).

Although the Tariff repeatedly acknowledges the relevance of the laws, regulations, and policy goals of federally recognized Tribes, the proposed framework fails to establish any meaningful, Government-to-Government process for identifying, incorporating, or respecting those laws and policies. As written, the Tariff risks non-compliance with *Order No. 1920* and undermines both Tribal sovereignty and the integrity of long-term transmission planning outcomes. The Federal Energy Regulatory Commission (FERC) has made clear that transmission providers must establish an open and transparent process that provides federally recognized Tribes with a meaningful opportunity to propose factors and provide timely input into the development of Long-Term Scenarios.¹ Meaningful participation necessarily requires engagement early in the planning process, prior to the development and entrenchment of assumptions, scenarios, and analytical frameworks that shape long-term transmission outcomes. Absent such engagement, planning assumptions risk diverging from on-the-ground legal, policy, and economic realities within Tribal jurisdictions, creating foreseeable compliance and implementation failures.

In California, these failures are particularly acute. CAISO is a California-based public benefit corporation whose planning decisions directly affect Tribal lands, resources, and communities within the State. California law recognizes Tribal Nations as sovereign governments and affirms the State’s obligation to engage in Government-to-Government Consultation where state actions may affect Tribal interests.²

Absent revision, CAISO’s proposed Tariff Amendment risks a Commission finding that CAISO has failed to establish a compliant process for Tribal participation under *Order No. 1920*. The Commission made clear that transmission providers must provide federally recognized Tribes with a meaningful opportunity to engage and provide timely input capable of shaping Long-Term Scenarios. A framework that acknowledges Tribal law while failing to establish a Government-to-Government process for identifying and incorporating that law exposes the Tariff to remand or rejection for non-compliance with the requirements of *Order No. 1920*.

II. FAILURE TO CONDUCT TRIBAL CONSULTATION PRIOR TO THE TARIFF AMENDMENT

CAISO acknowledges that on November 6, 2025, it held a single meeting to help develop relationships and establish more regular channels to engage with Tribal representatives in advance of *Order No. 1920* implementation.

¹ *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection Reforms*, *Order No. 1920*, 188 FERC 61,028 ¶¶ 528-31 (2024).

² Cal. Gov’t Code §§ 65352.3, 11135; Cal. Exec. Order No. B-10-11 (Sept. 19, 2011); Cal. Exec. Order No. N-15-19 (June 18, 2019).

A single informational meeting held after the development of the Tariff framework does not constitute Consultation. Consultation is a process grounded in respect for Tribal sovereignty, early engagement, and the opportunity to shape outcomes before decisions are made. The absence of Consultation early and often in the process of drafting this Tariff Amendment is particularly concerning given that Tribal laws and policies are identified as non-discountable factors directly affecting Long-Term Regional Transmission Needs.³ FERC explicitly requires that Tribes be afforded a meaningful opportunity to influence how planning factors are identified and applied, not merely an opportunity to comment after core elements of the planning framework have been established.⁴ A process that seeks Tribal input only after the structure of Long-Term Scenarios has been determined does not satisfy this requirement.

California law similarly requires early engagement with Tribal governments prior to decisions that may affect Tribal communities, lands, or resources. *Executive Order B-10-11*⁵ directs state agencies to engage in Consultation “early in the decision-making process,” while *Executive Order N-15-19*⁶ reaffirms California’s commitment to Government-to-Government Consultation and Tribal self-determination. The proposed post hoc informational meeting does not satisfy these standards. This deficiency is further inconsistent with long-standing federal policy recognizing the Government-to-Government relationship between the United States and Tribal Nations, including the obligation to engage Tribes early and in good faith on actions that may affect Tribal interests.⁷

III. SECTION 24.11.1.1 - INPUT FACTOR CATEGORIES

Section 24.11.1.1(a), (b), and (g) require CAISO to identify and use factors reflecting federally recognized Tribes’ laws and regulations, decarbonization and electrification policies, and policy goals affecting Long-Term Regional Transmission Needs. The Tariff provides no mechanism for CAISO to identify these factors other than reliance on generalized stakeholder processes.

Tribal laws, regulations, codes, and policy objectives are not centrally catalogued, are not uniformly published, and often require direct Government-to-Government engagement. Without a structured Government-to-Government process, CAISO cannot reasonably ensure that Tribal legal obligations and policy goals have been identified and incorporated into the development of Long-Term Scenarios, as required by *Order No. 1920*.⁸ Reliance on generalized stakeholder processes is insufficient where the governing authority and applicable law reside with sovereign Tribal governments rather than public interest participants.

California courts and statutes have long recognized that Tribal governments are distinct sovereigns, not stakeholder groups, and that meaningful engagement requires direct

³ Cal. Indep. Sys. Operator Corp., *Tariff Amendment to Comply with Order No. 1920*, Attachment A § 24.11.1.1(a)-(b) (Dec. 9, 2025).

⁴ Order No. 1920, 188 FERC 61,028, ¶¶ 528–530.

⁵ Cal. Exec. Order No. B-10-11 (Sept. 19, 2011).

⁶ Cal. Exec. Order No. N-15-19 (June 18, 2019).

⁷ Exec. Order No. 13,175, 65 Fed. Reg. 67,249 (Nov. 6, 2000).

⁸ Order No. 1920, 188 FERC 61,028, ¶¶ 528–31.



communication with the Tribal government itself, not reliance on generalized public participation mechanisms.⁹

Order No. 1920 does not treat governmental laws and policies as interchangeable with stakeholder preferences. Rather, the Commission distinguished legally binding governmental obligations from generalized stakeholder input and required transmission providers to account for such obligations as non-discountable factors in long-term planning. CAISO cannot rely on generalized stakeholder processes to surface Tribal laws and policies because Tribes retain inherent sovereign authority unique from general stakeholders.

IV. SECTION 24.11.1.2 - ACCOUNTING FOR FACTORS

In Section 24.11.1.2 CAISO states that for factors listed in categories (a)-(c), it will treat legally binding obligations as mandatory and will not discount their effects in the development of Long-Term Scenarios. This commitment is undermined by the absence of any process to ensure Tribal legal obligations are identified. When state-related factors are implicated, CAISO explicitly relies on the state in determining how to account for those factors. No parallel commitment exists for Tribal governments. This asymmetry fails to recognize Tribal Nations as governing authorities with jurisdictional interests equivalent in legal significance, within their territories, to those exercised by states within theirs. *Order No. 1920* does not authorize transmission providers to discount or marginalize Tribal law by omission, nor does it permit substituting generalized assumptions for direct governmental input.¹⁰

Under California law, failure to identify and account for applicable Tribal policies and legal interests at the planning stage increases the risk of subsequent project delays, litigation, and invalidation of approvals under the *California Environmental Quality Act (CEQA)*, which requires early Consultation with California Native American Tribes to identify and address Tribal concerns before impacts are locked in.¹¹

V. SECTION 24.11.1.3 - STAKEHOLDER INPUT PROCESS

Section 24.11.1.3(a) provides a minimum four-week comment period for Tribes to propose factors, submit data, and explain how those factors should be reflected in Long-Term Scenarios. This approach improperly places the burden of compliance on Tribal Nations, many of whom must act through formal governmental processes, including Council deliberation, interdepartmental coordination, leadership authorization, and face limited capacity. A four-week comment period, particularly where it follows rather than precedes development of the planning framework, is insufficient to support informed and meaningful participation by Tribal governments and is inconsistent with FERC's requirement that Tribal input be timely and capable of influencing outcomes.¹²

⁹ Cal. Gov't Code § 65352.3; *Jamul Action Comm. v. Simermeyer*, 78 Cal. App. 5th 944 (2022).

¹⁰ Order No. 1920, 188 FERC 61,028, ¶¶ 528–531.

¹¹ Cal. Pub. Res. Code §§ 21080.3.1–21080.3.2.

¹² Order No. 1920, 188 FERC 61,028, ¶¶ 528–31.

California Consultation standards similarly recognize that compressed timelines undermine meaningful Tribal participation. State policy requires agencies to provide Tribes with sufficient time and information to engage through their governmental decision-making processes, rather than limiting engagement to written comments submitted on a fixed administrative schedule.¹³

Section 24.11.1.3(c) requires only one public meeting open to all. A general public meeting does not constitute Consultation and does not provide a culturally appropriate or Government-to-Government forum for addressing sovereign legal and policy matters. Reliance on generalized public processes conflates Tribes with stakeholders and fails to reflect their distinct legal status, contrary to federal Consultation principles and the intent of *Order No. 1920*.¹⁴

VI. SYSTEMIC RISKS OF FAILING TO INCORPORATE TRIBAL LAW AND POLICY

Failure to meaningfully incorporate Tribal laws and policies into LTRTP creates predictable and avoidable risks, including increased difficulty siting and permitting transmission and generation projects, greater likelihood of project delays and reevaluations under Section 24.11.1.1(g), reduced system reliability and resilience, higher long-term costs to ratepayers, and diminished opportunities for Tribal-led energy development and regional economic growth. These failures materially impair the ability of Tribal Nations, utilities, and project developers to market energy generation projects with confidence. Uncertainty in transmission planning, heightened permitting risk, and the potential for later project reevaluation undermine project finance ability and weaken long-term offtake commitments. As a result, these deficiencies directly frustrate the objectives of *Order No. 1920*, which seeks to improve long-term transmission planning efficiency, reduce future project disruption, and enhance system reliability through more accurate and inclusive planning assumptions.¹⁵

Over time, exclusion of Tribal legal and policy considerations from long-term planning also constrains opportunities to develop energy-intensive or industrial facilities, limits the ability to attract new industry to Tribal and rural regions, and exacerbates regional inequities in economic development and infrastructure investment. In California, these consequences are compounded by the State's clean energy and economic development goals, which depend on coordinated transmission planning that avoids avoidable conflict and delay.¹⁶

VII. RECOMMENDED REMEDIES

To bring the Tariff into compliance with *Order No. 1920*, CAISO should implement the following measures to ensure meaningful, Government-to-Government Tribal participation in Long-Term Regional Transmission Planning:

- Establish a formal Tribal Consultation framework specific to Long-Term Regional Transmission Planning
- Conduct Early, targeted outreach to all affected federally recognized Tribes prior to finalizing factors, assumptions, or Long-Term Scenarios

¹³ Executive Order No. B-10-11 (Cal. 2011); California Gov't Code § 11135.

¹⁴ *Order No. 1920*, 188 FERC 61,028, ¶¶ 528–31.

¹⁵ *Order No. 1920*, 188 FERC 61,028, ¶¶ 10–13, 528.

¹⁶ Cal. Pub. Util. Code §§ 740.12, 740.20.



- Develop a Tribal-specific engagement timeline distinct from general stakeholder processes, including longer notice periods that reflect Tribal governmental decision-making processes and the need for internal authorization
- Provide technical assistance resources to support Tribal participation
- Commit to ongoing, recurring Consultation throughout each LTRTP cycle, rather than one-time or ad hoc meetings, consistent with FERC’s expectation that Tribal engagement be an integral and continuing component of long-term transmission planning,¹⁷ and consistent with California’s policy of respecting Tribal sovereignty and self-determination in state planning and infrastructure designs.¹⁸

The Alliance applauds CAISO for recognizing the unique status of Tribal Nations as distinct entities and not simply stakeholders. To build on the momentum generated by the November 6, 2025 Tribal meeting, CAISO should look to deepen partnerships with Tribes, Inter-Tribal Coalitions, and Tribal-serving organizations. Only through intentional and respectful engagement will the necessary Tribal input be gathered. Should CAISO have questions about structure, cadence, or venue for these engagements, the Alliance is open to lending our internal expertise as well as uplifting individuals and organizations within California to help shape this process.

VIII. CONCLUSION

Tribal Nations are governments with laws, policies, and jurisdictions that materially affect Long-Term Regional Transmission Needs. A planning process that acknowledges Tribal law while failing to consult Tribal governments is structurally flawed, legally vulnerable, and inconsistent with the intent of *FERC Order No. 1920*. CAISO must revise its Tariff to reflect a planning framework that treats Tribal Nations as sovereign governmental partners rather than as one category among many participants, and that satisfies both the letter and spirit of *Order No. 1920* and federal trust responsibilities.

Respectfully submitted,

A handwritten signature in black ink that reads "Chéri A. Smith".

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¹⁷ Order No. 1920, 188 FERC 61,028, ¶¶ 528–31.

¹⁸ Cal. Exec. Order No. B-10-11 (Sept. 19, 2011); Cal. Exec. Order No. N-15-19 (June 18, 2019).