

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System Operator        )       Docket No. ER07-447  
Corporation    )

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM  
OPERATOR CORPORATION FOR LEAVE TO FILE  
ANSWER, AND ANSWER TO PROTEST**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2006), the California Independent System Operator Corporation (“CAISO”)<sup>1</sup> hereby files this motion for leave to file answer and answer to Calpine Corporation’s (“Calpine”) Motion to Intervene Out of Time and Protest (“Protest”), filed on February 14, 2007. The Protest represents the lone opposition to the CAISO’s January 19, 2007 Request for Waiver of Tariff Provision (“Waiver Request”). The CAISO requests leave to answer because the additional information contained herein will assist the Commission’s deliberations with respect to the issues raised in the Protest.<sup>2</sup> As explained below, Calpine has misunderstood the effect of the proposed clustering approach; therefore, its arguments are without merit, and the Commission should grant the Waiver Request.

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<sup>1</sup> Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

<sup>2</sup> The CAISO also recognizes that, under the Commission’s Rules, answers are generally submitted within fifteen days after the filing being addressed. The CAISO submits that no party will be harmed by permitting the CAISO to file this answer two business days after the fifteen-day window, and therefore, requests that the Commission accept this answer as timely.

## I. INTRODUCTION

On January 19, 2007, the CAISO filed with the Commission a request for a one-time waiver of the 180-day “Queue Cluster Window” limitation included in Section 4.2 of the CAISO’s Large Generator Interconnection Procedures (“LGIP”).<sup>3</sup> The CAISO sought this narrow waiver in order to conduct a clustered Interconnection System Impact Study (“SIS”) for certain generating facilities applying to interconnect in the Tehachapi Wind Resource Area (“TWRA”). Therein, the CAISO explained that this request was justified because it meets the criteria for waiver established by Commission precedent. Specifically, the CAISO demonstrated that allowing the CAISO to establish a retroactive clustering period for the facilities interconnecting in the TWRA will result in lower costs to generation developers, transmission owners, and the CAISO itself by obviating the need to conduct duplicative and redundant incremental studies. The CAISO also explained that granting the waiver would not harm third parties. In particular, those projects interconnecting in the TWRA would benefit, in terms of both costs and efficiency, from a clustering approach, while projects outside of the TWRA would not be affected by the request because they would continue to be studied on an individual basis.

Calpine’s Protest concerns its proposed addition of a new 159 MW gas-fired unit to the existing Pastoria Energy Facility Expansion (“PEFE”), which is interconnected to Southern California Edison’s (“SCE”) Pastoria Substation. The PEFE is one of the nineteen projects that would be treated as part of the Tehachapi cluster if the Commission were to grant the Waiver Request. SCE conducted a SIS and a Technical

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<sup>3</sup> The LGIP is set forth in Appendix U to the ISO Tariff.

Assessment Study under the auspices of the CAISO's pre-LGIP Amendment No. 39 interconnection procedures. The CAISO's March 7, 2006 review of the Technical Assessment Study concluded that the PEFE could be accommodated assuming the presence of all transmission upgrades triggered by generation projects higher in the queue. These assumed transmission upgrades involve significant infrastructure additions, including, for instance, construction of a new 230 kV switching station, and new double-circuit 230 kV facilities, as well as 500 kV facilities, that have been incorporated into the CAISO's comprehensive Tehachapi Transmission Project ("TTP").

## **II. DISCUSSION**

Calpine contends that the CAISO's request will harm Calpine and therefore fails to meet the Commission's standards for waiver approval. Specifically, Calpine contends that granting the waiver request will impose significantly higher costs on the PEFE because, according to Calpine, "it will be forced to share in the transmission upgrade costs of significant development projects further down the queue from itself."<sup>4</sup>

Based on Calpine's statements, it is clear that Calpine has misunderstood how the proposed clustering approach will affect its interconnection. There are only two possible scenarios under the proposed clustering approach. Under the first, more probable scenario, SCE will provide the up-front financing for the Network Upgrades to the obvious advantage of Calpine. Under the second scenario, where some unforeseen obstacle results in the withdrawal of SCE's commitment to finance the network upgrades for the TTP, the CAISO will attempt to mitigate the risk of additional costs accruing to all affected developers by estimating, as closely as possible, the Network

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<sup>4</sup> Calpine Protest at 5.

Upgrades and costs that would have been triggered by each particular project. In other words, Calpine's contention fails because it will not be worse off if the Commission grants the CAISO's limited Waiver Request.

Calpine's argument ignores SCE's affirmative commitment to provide "up-front" financing for the Network Upgrades identified through the clustered SIS, subject only to application by the California Public Utilities Commission ("CPUC") of its backstop cost recovery mechanism pursuant to Section 399.25 of the California Public Utilities Code.<sup>5</sup> The CAISO noted SCE's commitment in the Waiver Request, and SCE confirmed this commitment in its comments supporting the Waiver Request, filed on February 9, 2007. Therefore, contrary to Calpine's contention, the underlying objective of the CAISO's Waiver Request is to facilitate protecting Calpine and similarly situated generation developers from exposure to any costs associated with the Network Upgrades necessary to interconnect facilities in the TWRA.

Although SCE's commitment is contingent upon the CPUC's authorization of Section 399.25 backstop cost recovery, there is ample evidence that such authorization will be forthcoming for the entire scope of the Tehachapi Transmission Project ("TTP"). The CPUC, in its order addressing transmission needs in the Tehachapi area, recognized both the critical role the TWRA will play in meeting California's renewable

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<sup>5</sup> Public Utilities Code Section 399.25 directs the CPUC to deem "necessary" for siting approval purposes those transmission facilities identified in applications that are required to facilitate achievement of California's renewable power goals. That section also provides a "backstop" cost recovery mechanism that allows utilities to recover through retail rates any costs of the necessary facilities that are not otherwise approved by the Commission for recovery through wholesale transmission rates. See CPUC Decision 06-06-034 (2006).

power goals and that transmission upgrades are necessary to access TWRA's renewable resources.<sup>6</sup>

More importantly, on March 1, 2007, the CPUC granted SCE a certificate of public convenience and necessity to construct the first segment of the TTP (the Antelope – Pardee 230 kV circuit to be built at 500 kV specifications).<sup>7</sup> In so doing, the CPUC repeated:

As we have recognized in our prior decisions, transmission to the wind rich Tehachapi area is almost unique in its ability to qualify under the [Section 399.25] standard set forth above because of the size of the wind resource in this area, the constraints on the existing transmission system, and the level of interest on behalf of both utilities and merchant providers aspiring to develop projects there. Wind provides one of the most economical sources of renewable power, and the Tehachapi area offers the largest wind resource in California. It has the undeveloped potential of generating about 1400 gigawatt-hours per year, with about 4500 MWs of installed capacity. To capture this potential, the lines must go where the wind blows – there is no other choice.<sup>8</sup>

Consistent with the perceived importance of the TWRA to meeting California's renewable resource goals, the CPUC found that Segment 1 of the TTP "is needed to access a concentrated renewable area, and that those resources would not be accessed absent construction of those facilities. Consequently, the project is eligible for cost recovery through retail rates under § 399.25, to the extent such cost recovery is necessary."<sup>9</sup> Accordingly, given the CPUC's repeated directives to evaluate the TWRA

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<sup>6</sup> *Interim Opinion on Transmission Needs in the Tehachapi Wind Resource Area*, CPUC Decision 04-06-010 (2004) ("The Tehachapi area has the potential to meet a significant portion of California's renewable energy goals. In its Renewable Resources Development Report, the CEC reports that the Tehachapi area contains the largest wind resource in California, with undeveloped potential of about 14,000 gigawatt-hours per year (about 4,500 megawatts (MW) of peak capacity). This is the largest renewable resource potential in California, except for solar power installations which the CEC reports are not currently cost-competitive.")

<sup>7</sup> CPUC Decision 07-03-012 (2007).

<sup>8</sup> *Id.* (footnotes omitted).

<sup>9</sup> *Id.* at 3.

in a coherent and comprehensive manner, the realization of the preconditions to SCE's commitment to provide up-front financing for the TTP can be accepted with a high degree of certainty.

Moreover, as explained in the Waiver Request, the most recent configuration of the transmission upgrade plan for resources interconnecting in the TWRA is designed in such a way that all of the major upgrades necessary to interconnect and accommodate energy and capacity from TWRA generation projects will be Network Upgrades, rather than Interconnection Facilities. This increases the CAISO's confidence that SCE will be able to recover the costs of the major Tehachapi-related upgrades through CAISO transmission rates, without a need to rely on retail-level recovery through the CPUC.

Again, contrary to Calpine's contention, and as noted in the Waiver Request, even if the Commission does not allow recovery of upgrade costs through transmission rates, and SCE does not receive backstop recovery authority via the CPUC, the CAISO will attempt to mitigate the risk of additional costs accruing to developers by estimating, as closely as possible, the Network Upgrades and costs that would have been triggered by each particular project. Thus, the CAISO will seek to ensure that even if SCE cannot provide up-front funding for the transmission upgrade costs, those costs are allocated to developers in the fairest manner possible, taking into account the Queue positions of the projects at issue. Calpine's concern that it will suffer "significant financial harm," even under this worst-case scenario, is therefore misplaced.

The validity of Calpine's prediction of potential injury if SCE does not provide the up-front financing is further undermined by the fact that it rests on a fundamentally faulty premise – that its cost responsibility for Network Upgrades triggered by its project is

known and established. As noted above, Calpine has been expressly advised, as are all project developers, that if higher queued projects do not materialize as expected or otherwise withdraw from the queue, the PEFE may be required to assume the cost responsibility for upgrades previously assumed as a baseline in its SIS and Technical Assessment Study. Indeed, a significant project, that was higher queued than the PEFE and located in the TWRA, has withdrawn its application for interconnection. Accordingly, it may be that the PEFE, under a serial study approach, will be required to assume cost responsibility for significant transmission upgrades that were not previously assigned to Calpine. Therefore, it is currently impractical to predict the nature of costs that would be assigned to Calpine under a traditional serial study approach, and thus, even absent SCE's commitment to assume responsibility for transmission upgrades in the TWRA, Calpine's argument that the clustered study approach would result in it incurring significantly higher costs is speculative.

Finally, Calpine also contends that the CAISO's request is not of limited scope because it is attempting to retroactively expand its authority to cluster interconnection studies by over thirty-three months.<sup>10</sup> However, as the CAISO pointed out in the Waiver Request, the clustered SIS will apply only to those projects that plan to interconnect in the TWRA and that entered the Queue from September 4, 2003 - the date of the first "active" application in the TWRA – through May 24, 2006. This consists of nineteen projects representing approximately 4,500 MW of capacity out of a total of approximately one hundred and fifty projects representing over 43,000 MW of capacity currently in the CAISO's Interconnection Queue. Considering this complete picture, the CAISO's request can indeed be fairly characterized as one of limited scope.

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<sup>10</sup> Calpine Protest at 5.

### III. CONCLUSION

For the foregoing reasons, the CAISO respectfully urges the Commission to approve the Waiver Request and reject Calpine's protest thereof.

Respectfully submitted,

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