

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

California Independent System Operator Corporation	Docket Nos. ER10-1401-000 ER10-2191-000
Green Energy Express LLC 21st Century Transmission Holdings, LLC	Docket No. EL10-76-000
Southern California Edison Company	Docket Nos. ER10-732-000 ER10-732-001
Southern California Edison Company	Docket Nos. EL10-1-000 EL10-1-001 EL10-1-002
Southern California Edison Company	Docket Nos. ER10-796-000 ER10-796-001
Southern California Edison Company	Docket No. EL10-81-000

**MOTION FOR LEAVE TO FILE POST TECHNICAL CONFERENCE
SUPPLEMENTAL COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

On August 24, 2010, the Commission held a technical conference to discuss issues related to the California Independent System Operator Corporation's ("ISO") revised transmission planning process tariff amendment filed in Docket No. ER10-1401 and the other proceedings captioned above. Pursuant to the Supplemental Notice of Agenda and Procedures for Staff Technical Conference issued on August 19, 2010, the ISO and other parties have submitted initial and reply comments. In their September 17, 2010, reply comments, Green Energy Express LLC and 21st Century Transmission Holdings LLC ("GEE/21st") presented certain arguments that they had not made or had not fully developed in their initial comments or in any other filings in the above-captioned proceedings. As the proponent of the revised transmission planning

process, the ISO believes that the ISO's response to these arguments will assist the Commission in its evaluation of the ISO's proposal. As explained below, these arguments reflect certain factual misunderstandings which should be corrected. The ISO therefore submits that good cause exists for the Commission to accept and consider these supplemental comments and requests that the Commission grant leave and accept these comments.

In their reply comments, GEE/21st for the first time dispute explanations that the ISO provided in its protest to their petition for a declaratory order in Docket No. EL10-76. Although GEE/21st filed an answer to the ISO's (and others') protests in that proceeding on August 5, 2010, GEE/21st never addressed the arguments raised in the ISO's protest. GEE/21st address the ISO's arguments for the first time in its post-technical conference reply comments.

As GEE/21st note, in the ISO's that protest, the ISO explained that the references to participating transmission owners ("PTOs") in the Large Generator Interconnection Procedures ("LGIP") refer only to existing PTOs because, under the Transmission Control Agreement ("TCA"), an entity does not become a PTO until its facilities are turned over to ISO.¹

GEE/21st challenge the ISO's explanation. They argue:

The [ISO's] interpretation of the Existing Tariff is not only in conflict with reality but also, if taken to its logical conclusion, could justify for incumbent PTOs exclusive rights to build and own *any and all* categories of transmission facilities that could be placed under the operational control of the CAISO. If eligibility to construct and own transmission upgrades and additions is defined either (i) by

¹ Motion for Leave to Intervene and Protest of the California Independent System Operator Corp., Docket No. EL10-76, filed July 23, 2010 ("ISO Petition Protest").

reference to existing PTOs with effective TO Tariffs under Section 2.2.5 of the TCA, or (ii) by entities with “existing facilities owned by [PTOs],” then apparently in the [ISO’s] view under the Existing Tariff only incumbent PTOs will have the ability to construct and own transmission upgrades and additions.²

This argument is simply incorrect. The ISO’s statements concerned specifically the definition of participating transmission owner as used in the tariff and the LGIP. This definition is relevant only where the tariff or LGIP provides that PTOs have the responsibility to own and build particular types of transmission expansions and upgrades, such as LGIP Network Upgrades and reliability-driven projects. It *does not* apply where the tariff does not restrict construction responsibility to PTOs, such as is the case with economically driven projects under the current tariff³ or economically driven or policy-driven projects under the proposed tariff provisions implementing the ISO’s revised transmission planning process.⁴ It therefore *cannot* justify granting PTOs exclusive rights to build and own all projects.

GEE/21st also point to the ISO’s statement in a footnote in the ISO Petition Protest that, by definition, the generator interconnection process contemplates connection to facilities already turned over to the operational control of the CAISO.⁵ GEE/21st contend that this is not true in practice and that the ISO has directed generator interconnections on facilities that have not yet been constructed, “let alone turned over to the operational control of the CAISO.”⁶

GEE/21st cite as examples the proposed Red Bluff and Pisgah substations that

² GEE/21st Reply Comments at 4-5.

³ See ISO Tariff § 24.1.1.

⁴ See proposed ISO Tariff §§ 24.5.1-24.5.2.

⁵ GEE/21st Reply Comments at 3 & n.10, citing ISO Petition Protest at 6, n.5. GEE/21st adds the word “existing” to the ISO’s description of the facilities.

⁶ GEE/21st Reply Comments at 3-4.

are the subject of a request by Southern California Edison for transmission rate incentives in Docket No. EL10-81.

As an initial matter, as the ISO pointed out in its reply comments, the ISO's interpretation of the LGIP coincides with that of the Commission. In a recent decision, the Commission has reaffirmed that the LGIP contemplates interconnection to existing transmission owner facilities not to non-existent lines.⁷ In addition, GEE/21st misunderstand both the meaning of the LGIP and the process by which the Southern California Edison projects were developed.

As the ISO stated in the same footnote, "the definition of Reliability Network Upgrades and Delivery Network Upgrades under the ISO's LGIA contemplates upgrades to a [PTO's] Transmission System beyond the Point of Interconnection."⁸ The ISO acknowledges that this statement was incomplete, in that Network Upgrades occur *at or* beyond the Point of Interconnection.⁹ This is consistent with Commission precedent that generator interconnection Network Upgrades are those upgrades "at or beyond" the point of interconnection.¹⁰ In any event, that the ISO's statement was incomplete does not change the fact that the new substations to which GEE/21st refer are just such Network Upgrades. In each case, the generators sought interconnection *to existing facilities* under the ISO's operational control. The Lugo-Pisgah project involved interconnections (evaluated under the ISO's cluster study process) to the existing 220 kV Lugo-

⁷ ISO Reply Comments at 19 n. 38, citing *Southwest Power Pool, Inc* 132 FERC ¶ 61,137 (2010).

⁸ ISO Petition Protest at 6 n.5.

⁹ See definition of Reliability Network Upgrades and Delivery Network Upgrades in Appendices A and Z of the ISO tariff.

¹⁰ *Nevada Power Company*. 111 FERC ¶ 61,161 (2005), *order on reh'g*, 113 FERC ¶ 61,007 (2005) ("Nevada Power").

Pisgah transmission lines. The Red Bluff project concerned requests to interconnect to the Eagle Mountain substation on the 500 kV Devers-Palo Verde line, which were evaluated under the earlier serial study process. In each case the system impact studies determined that the interconnections could not be accommodated through the capacity of the existing substations and other transmission elements. The new substations were identified as the appropriate upgrades to *existing facilities*.¹¹ The approval of these projects is thus entirely consistent with the ISO's statements and the provisions of the LGIP. As the Commission has previously recognized, the Network Upgrades to interconnect new generation can include facilities such as brand new 500 kV sub-stations.¹²

GEE/21st next challenge the ISO's explanation in its initial comments that, because of the interactions between the tariff and the TCA, only PTOs can build location-constrained interconnection ("LCRI") facilities.¹³ Specifically, the ISO pointed out that costs of LCRI facilities are temporarily recovered through a PTO's transmission revenue requirement until they can be assigned to generators that come on-line and that, under the TCA, an entity that owns only generation ties, such as LCRI facilities, cannot become a PTO and cannot, therefore, have a transmission revenue requirement.¹⁴

GEE/21st argue that there is no basis for the ISO's assumption that a nonincumbent transmission developer would seek to construct "solely" radial

¹¹ See Petition for Declaratory Order of Southern California Edison Co., Docket No. EL10-81, filed August 4, 2010, at 14-20, Attachment F at 2-12.

¹² *Nevada Power*, 113 FERC ¶ 61,007 at P 16-17. The definition of Reliability and Delivery Network Upgrades in the ISO's *pro forma* LGIA tariff provisions includes additions, modifications, and upgrades to the PTO's transmission system at or beyond the point of interconnection.

¹³ GEE/21st Reply Comments at 5-6.

¹⁴ ISO Initial Comments at 12.

LCRI facilities. The ISO, however, made no such assumption. That a nonincumbent transmission developer might also wish to construct network facilities is simply not relevant to whether a nonincumbent transmission developer has a right to build LCRI facilities. Under the tariff, LCRI radial, gen-tie facilities and network facilities are vastly different types of projects. The approval procedures and cost-recovery procedures for each are distinct. A nonincumbent transmission developer is free to propose economically driven projects (and under the RTPP is free to propose to build economically driven and policy-driven transmission elements included in the comprehensive plan).¹⁵ If such a proposal is approved, it can then become a participating transmission owner and thereafter can build LCRI facilities¹⁶

GEE/21st state that there is no basis to adopt a blanket exclusion of all entities that are not current PTOs from proposing to build LCRI facilities.¹⁷ This ISO is not, however, proposing to “adopt” any policy about construction of LCRI facilities. That policy is already in place; it is the result of the current tariff and TCA. As explained in the ISO’s initial comments, it is also the policy that the Commission knowingly approved.¹⁸ Radial, gen-tie facilities are not integral to the ISO’s core function, and that is why the Commission-approved TCA does not

¹⁵ See ISO Tariff § 24.1.1; proposed ISO Tariff §§ 24.5.1-24.5.2.

¹⁶ GEE/21st also point out that the tariff provides that any entity can propose an LCRI facility. The ISO has already explained that the ability to propose facilities does not imply a right to build it. GEE/21st’s “selective” quotation from the ISO’s tariff omits several key words that completely undermine GEE/21st’s argument that the tariff provides that any Market Participant may construct a LCRI facility. Section 24.1.3 of the existing tariff provides as follows: “The CAISO, CPUC, CEC, a Participating TO or any other Market Participant may propose a transmission addition as a [LCRI].” The purpose of this provision cannot be to set forth who builds LCRI facilities because the ISO, CPUC, and CEC do not build and own transmission. ISO Petition Protest at 15-16.

¹⁷ GEE/21st Reply Comments at 6.

¹⁸ ISO Initial Comments at 13-14

permit an entity to become a PTO by turning over only gen-tie facilities to the ISO's operational control. The ISO did not propose to change that policy, and the burden is on parties wishing to revise the policy to explain how circumstances have changed so as to render the current provisions not just and reasonable. They have not met that burden, and there is no basis for modifying the policy.¹⁹

GEE/21st also note that in the context of economically driven transmission additions and upgrades such as the Trans Bay Cable project and the Path 15 upgrades, entities that are currently not participating transmission owners may propose to build and own transmission facilities and complete the process for gaining participating transmission owner status after receiving appropriate Board approvals to do so.²⁰ This observation, however, simply highlights the distinction, discussed above, between economically driven projects and LCRI facilities. The entities building these projects were project sponsors and are authorized to build economically driven projects under the current ISO Tariff. Moreover, in accordance with the TCA, TransElect became a PTO only after its Path 15 upgrades were completed, placed in service, and its TO tariff became effective.²¹ Likewise, Pattern Energy, the owner of the TransBay Cable, is not yet a PTO because, under the terms of the TCA, it will not become a PTO until its TO tariff becomes effective, which is upon commercial operation of the line.²²

To the extent GEE/21st are suggesting that the ISO Board's approvals of the TransBay and Path 15 upgrades and corresponding applications to become

¹⁹ See ISO Initial Comments at 22-28.

²⁰ GEE/21st Reply Comments at 6.

²¹ FERC Letter Order dated October 14, 2003, in Docket No. ER03-1217.

²² *California Independent System Operator Corporation*, 117 FERC ¶ 61,029 at PP 5, 18 (2006).

PTOs made Pattern and TransElect *de facto* participating transmission owners, that is simply incorrect. GEE/21st provide no evidence to support such a claim, nor is there any.²³

Finally, GEE/21st take issue with the ISO's proposal that PTOs have the responsibility to build expanded LGIP Network Upgrades if the original Network Upgrade "would have been included" in an LGIA as a result of the Phase II study process.²⁴ GEE/21st assert that the ISO comments "make it apparent that much will be left to the [ISO's] discretion, without open and transparent guidelines as to when a ROFR will and will not apply."²⁵

GEE/21st misunderstand the meaning of the phrase "would have been included" in an LGIA. The ISO could not apply as a criterion whether the Network Upgrades were already in an LGIA because, given the timing of the generator interconnection process and the revised transmission planning process, no LGIAs will have been executed regarding enhanced LGIP Network Upgrades at the time these upgrades are identified for consideration in the revised transmission planning process.²⁶ In any event, the phrase does not provide the ISO with any discretion. Network Upgrades are ultimately included in an LGIA if they are identified in the LGIP Phase II studies, the generator posts the required financial security, and all other steps are taken that lead up to the

²³ By its own terms, the TCA cannot be effectively executed until the signatory has facilities to turn over to the ISO's operational control. See sections 2.2.1, 2.2.3 (v), 2.2.5.

²⁴ Proposed ISO Tariff § 24.4.6.5.

²⁵ GEE/21st Reply Comments at 7.

²⁶ It is possible, however, that LGIAs could be executed while the Network Upgrades are being evaluated in the transmission planning process. The generator cost cap in proposed Section 24.4.6.5 provides certainty that generators will not be responsible for the additional costs of expanded Network Upgrades if the original Network Upgrade "would have been included," or subsequently is included, in an LGIA.

execution of an LGIA. The ISO intended the phrase “would have been included” in an LGIA to refer specifically to Network Upgrades identified as needed in the LGIP Phase II studies but not yet set forth in an executed LGIA. Thus, the ISO would have no discretion regarding the identification of the Network Upgrades that “would have been included” in the LGIA. Nonetheless, if the Commission believes that further clarification would be appropriate, the ISO would be pleased to provide clarifying language to the tariff in a compliance filing.

The example that GEE/21st present in order to illustrate their concerns demonstrates their misunderstanding of the LGIP process, the ISO’s proposed treatment of enhanced LGIP Network Upgrades, and the illustration provided by the ISO in its initial comments. They provide an example of collector substation “A” identified as a needed Network Upgrade through the LGIP and included in LGIAs for certain interconnecting generators, and the ISO’s identification of the need for an “expansion” of this Network Upgrade, in the form of a new, high-voltage, long-distance transmission line and substation B that were identified in LGIP Phase II studies but never included in an actual LGIA.²⁷ GEE/21sts example does not reflect a situation that could occur under the revised transmission planning process. Because, under GEE/21sts example, the new line was identified in the Phase II LGIP study, it is needed by generation and will eventually be included in an LGIA if the generation if the cluster meets the financial posting milestones. Therefore, the only reason that a Network Upgrade identified in an LGIP Phase II study would not be included in an LGIA would be if the LGIA were not yet executed. When executed, the Network Upgrade would

²⁷ GEE/21st Reply Comments at 9.

be included and will be constructed by the PTO. Thus, the ISO has no discretion to conclude that a Network Upgrade that is omitted from an LGIA “would have been included in the LGIA” following evaluation under the revised transmission planning process and therefore should be built by the PTO. If the Network Upgrade had been identified in the Phase II LGIP study in the first place, it would necessarily be in an LGIA. The GEE/21st example simply does not implicate the “expanded LGIP upgrade” tariff provisions that the ISO has proposed.

Importantly, GEE/21st ignore the fact that the ISO’s revised transmission planning process provides a means by which policy-driven elements can ultimately supplant large LGIP Network Upgrades. The policy category of transmission permits the ISO to “look forward” and approve public policy transmission facilities before such facilities are identified in Phase II LGIP studies. Thus, if substation B and the “new line” are not required for generators in the cluster for which the ISO has completed the LGIP Phase II cluster study (*i.e.*, these facilities were not identified as needed in the LGIP Phase II studies), the revised transmission planning process would categorize these additions as policy-driven elements based on the fact that the generators who would connect to B are later in the ISO’s queue, or have been identified within the CPUC’s discounted core, or have otherwise been identified as likely to be built to meet the 33% RPS policy goal. Under these circumstances, the new line would be open to the competitive bid process in RTPP Phase 3 if included in Category 1 and at a later point if included in Category 2 and approved in a subsequent cycle.

Thus, the key point that GEE/21st misunderstands is that the PTO's scope to build LGIP-driven network upgrades would extend only to those upgrades *found to be needed* for generators that have gone through the LGIP Phase II cluster study or enhancements to those same upgrades. Any additional transmission facilities that are identified in the RTPP as needed to serve other new generation that has not yet gone through the LGIP Phase II cluster study would not be deemed LGIP-driven transmission and hence would not be given to the PTO to build as LGIP network upgrades.

The ISO hopes that this additional information assists the Commission in its evaluation of the ISO's proposed revised transmission planning process. The ISO further hopes that the information received through the technical conference and subsequent comments will enable the Commission to proceed expeditiously to approval of the ISO's proposal.

Respectfully submitted,

/s/ Michael E. Ward

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Dated: September 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service lists for the above-referenced proceedings, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 28th day of September, 2010.

/s/ Daniel Klein
Daniel Klein