

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

**TGP Development Company, LLC,
Complainants
v.
California Independent System
Operator Corporation,
Respondent**

Docket No. EL11-17-000

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO COMPLAINT**

The California Independent System Operator Corporation (“ISO”) hereby submits its answer to the complaint under Section 206 filed in this proceeding by TGP Development Company, LLC (“Terra-Gen”).¹ Terra-Gen filed its complaint and motion to stay seeking to postpone the February 8, 2011 due date for the second interconnection financial security postings for four projects in the ISO transition cluster (Q394, Q396, Q398, Q399) and to insulate Terra-Gen from the tariff consequence that the projects are deemed withdrawn for failure to post. By separate pleading filed February 14, the ISO submitted its answer to Terra-Gen’s motion for stay of the posting requirement, asking that the Commission deny the motion to stay Terra-Gen’s February 8, 2011 posting date.

By letter dated February 8, 2011, the date the interconnection financial security was due, Terra-Gen notified the ISO of its desire to withdraw the

¹ The ISO submits this answer pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure (18 C.F.R. §§ 385.206(f), 385.213) and the Notice of Complaint issued in this proceeding on February 1, 2011. The ISO is also sometimes referred to as the CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

interconnection requests for the four Terra-Gen projects associated with this proceeding, subject to certain conditions.² The ISO advised Terra-Gen by letter dated February 10, 2011 that no provision for a conditional withdrawal is included in the ISO tariff and, thus, the projects were deemed withdrawn as of February 8, 2011 based on the failure to post the required interconnection financial security.³ Terra-Gen was informed it had five business days from the date of the ISO letter to post the second installment of interconnection financial security.⁴ As of the date of this filing, Terra-Gen has not cured its default under the ISO tariff and, if the interconnection financial security is not posted by the close of ISO business today, February 17, 2011, the projects can only be reinstated by order of the Commission.⁵

The Commission should dismiss Terra-Gen's complaint on this basis alone. Terra-Gen has clearly indicated it has no intention of posting the second installment of interconnection financial security for these projects as required by the ISO tariff. As explained in the ISO's answer to the motion for stay, this is

² A redacted copy of the Terra-Gen letter is included as Attachment A. The redacted portions of the letter, although not confidential information under the ISO tariff, could be considered sensitive. Moreover, the redacted portions of the letter are not necessary to support the ISO's position and, therefore, the ISO chose not to file a confidential version with the Commission. See ISO Tariff, Appendix Y, Section 13.1 (requiring information to be marked as confidential for it to be considered confidential information); and ISO Tariff, Section 20.2 (specifying the types of information that are treated as confidential).

³ A copy of the ISO letter is included as Attachment B.

⁴ ISO Tariff, Appendix Y, Section 3.8.

⁵ See ISO Tariff, Appendix Y, Section 3.8 (providing that the interconnection customer should dispute the withdrawal under Section 13.5 within the same five day cure period); and Section 13.5 (outlining the procedural options for a project deemed withdrawn under Section 3.8 of the GIP).

exactly the sort of circumstance the financial security posting requirements are designed to protect against.⁶

The Commission should further dismiss the complaint because Terra-Gen has failed to state facts sufficient to demonstrate that the ISO second posting requirement set forth in Section 9.3.1 of the Generator Interconnection Process (GIP) is unjust or unreasonable as applied to Terra-Gen's four projects.⁷

I. The circumstances presented illustrate the flawed logic of Terra-Gen's complaint and support dismissal.

Terra-Gen's four projects are situated in the ISO's transition cluster. They seek to connect to the ISO controlled grid at Southern California Edison's (SCE's) Control Substation. At the time of their Phase I interconnection studies, there were two earlier-queued projects in the serial study group that were electrically related by virtue of having sought to locate in the same electrical and geographically relevant area. Terra-Gen's complaint takes issue with Q185, and the manner in which it was incorporated into the base case for study of Terra-Gen's four plants. As the parties know now, Q185 ultimately withdrew from the queue on January 3, 2011.

Terra-Gen purports to link a flaw in its interconnection studies with the claim that "the CAISO failed to clear the Serial Study Group interconnection requests, including Q185".⁸ It asserts causation between this purported failure

⁶ ISO Answer to Motion for Stay, EL11-17-000, at p. 13.

⁷ Alternatively to the request that the Commission dismiss the complaint, this pleading also constitutes the ISO's demonstration that Section 9.3.1 of the ISO Tariff is just and reasonable as applied to Terra-Gen's four projects.

⁸ Terra-Gen Complaint, EL11-17-000, at p.11.

and the failure of Q185 to choose “full deliverability” status (a choice it had along with the less expensive “energy only” delivery status). Terra-Gen offers no evidence to support this alleged causal connection and ignores the fact that an interconnection customer under the Standard LGIP (the pre-cluster serial process) does not have to choose a deliverability status in the study cycle – the election is essentially made at the interconnection agreement negotiations stage.⁹ Terra-Gen also seems to assume, erroneously, that the ISO makes a base case assumption about earlier-queued upgrades by putting itself in the shoes of the higher-tiered customer and assuming what would be the more commercially likely election for that customer to make. As explained fully in the ISO’s answer to the motion for stay, the ISO tariff requires the ISO to conduct Phase I studies in a way that determines the maximum cost responsibility of the interconnection customer.¹⁰

⁹ See ISO Tariff, Appendix U (Standard LGIP), Section 8.4, which provides that:

Within ten (10) Business Days of providing a draft Interconnection Facilities Study report to the Interconnection Customer, the applicable Participating TO(s), the CAISO and the Interconnection Customer shall meet to discuss the results of the Interconnection Facilities Study. *Within ten (10) Business Days of this meeting the Interconnection Customer shall make the election of which Delivery Network Upgrades identified in the Interconnection Facilities Study are to be installed.* Any operating constraints on the Interconnection Customer’s Generating Facility arising out of the Interconnection Customer’s election not to install the Delivery Network Upgrades shall be as set forth in Article 9 and Appendix C of the LGIA. (emphasis added.)

¹⁰ ISO Tariff, Appendix Y, Section 6.2 [*Scope and Purpose of Phase I Interconnection Study*] of the Cluster LGIP (now renumbered without change as Section 6.4 under GIP), which provides in pertinent part that:

The Phase I Interconnection Study shall (i) evaluate the impact of all Interconnection Requests received during the two Cluster Application Windows for a particular year on the CAISO Controlled Grid, (ii) preliminarily identify all Network Upgrades needed to address the impacts on the CAISO Controlled Grid of the Interconnection Requests, (iii) preliminarily identify for each Interconnection Request required Interconnection Facilities, (iv) assess the Point

Terra-Gen then asserts that the ISO did not choose what Q185 would likely have chosen because “constrained transmission access in the region means that energy-only interconnection was (and is) not commercially attractive for generation projects seeking to interconnect to SCE’s system in the vicinity of the Control Substation”.¹¹ This assertion imbeds another inaccuracy about the commercial landscape in 2008 and 2009: that deliverability was required for commercial viability of Q185. This is contrary to ISO’s understanding of the circumstances at that time, as PPAs did not necessarily require a plant to have full capacity deliverability status to the same extent as appears to be required of a project at this time.

Nonetheless, all of this circumstantial embroidery is irrelevant. In fact, the ISO is required under the interconnection tariff to conduct the Phase I study (updated in Phase II) in a manner that derives the “maximum cost responsibility for Network Upgrades assigned to each Interconnection Request.”¹² Following the tariff, the ISO studied Terra-Gen’s projects with the assumption that the earlier-queued Q185 would be energy only facility in the base case, and it was the transition cluster projects in the area that triggered delivery network upgrades necessary to provide full capacity deliverability status for Terra-Gen’s four projects. Terra-Gen apparently hoped that Q185 would trigger delivery upgrades

of Interconnection selected by each Interconnection Customer and potential alternatives to evaluate potential efficiencies in overall transmission upgrades costs, (v) *establish the **maximum cost responsibility** for Network Upgrades assigned to each Interconnection Request in accordance with GIP Section 6.5,* and (vi) provide a good faith estimate of the cost of Interconnection Facilities for each Interconnection Request. (emphasis added.)

¹¹ Terra-Gen Complaint, EL11-17-000, at p. 15-16.

¹² ISO Tariff, Appendix Y, Section 6.2 (Scope and Purposes of Phase I Interconnection Study, renumbered in GIP as Section 6.4); and Section 7.1 (Scope of Phase II Interconnection Study, number remains same in GIP).

that were lumpy enough to allow some or all of Terra-Gen's projects to be deliverable without subjecting Terra-Gen to the cost.¹³

As Terra-Gen suggests, it hoped Q185 modeled as full capacity would absorb delivery network upgrades:

If the CAISO had assumed that Q185 would elect to install some portion of the Delivery Network Upgrades identified in the [transition cluster] Phase II report, or if the CAISO had delivered a facilities study to Q185 ...prior to commencing the Transition Cluster, and [if] Q185 had elected to have some portion of the Delivery Network Upgrades installed, *then all or some portion of the facilities indentified in the Phase II report as necessary to interconnect the TGP projects would no longer be required.*¹⁴

Terra-Gen notes that, had the ISO made Terra-Gen's desired assumption, then its study reports would have come out inaccurately low and Terra-Gen would have had a lower second financial posting requirement.¹⁵ Terra-Gen apparently concedes, however, that the ultimate withdrawal of Q185 would reimpose the costs of the delivery network upgrades back upon Terra-Gen because it recognizes that as of January 3, 2011, the date Q185 withdrew, references to Terra-Gen's study costs were correct ("the study could not be deemed to be "final" until the interconnection status of Q185 was established with certainty"¹⁶).

Terra-Gen next argues that it should have 180 days from the date that the "uncertainty of Q185" was closed out by its withdrawal to post the second

¹³ Terra-Gen Complaint, EL11-17-000 at p12.

¹⁴ *Id.*

¹⁵ *Id.* at p. 12.

¹⁶ *Id.* at p. 8

installation of interconnection financial security.¹⁷ By Terra-Gen's logic, it received the correct numbers too soon, should have additional time to review its business model, and would be harmed by having to post on February 8 because the posting amounts triggered by the "now accurate" Phase II Studies may trigger capital outlay beyond its "risk tolerance."¹⁸

II. Providing Terra-Gen the relief it seeks would compel the untenable rule that studies are not final until all assumptions are proven to be accurate.

Various passages in Terra-Gen's complaint reveal its theory that that the Phase II Studies were not final until assumptions supporting the Q185 project were resolved in fact:

In stark contrast to the 180 days required under the CAISO Tariff, TGP has been afforded approximately 35 days to evaluate final Phase II study results *because **the effect of Q185 on TGP's cost responsibility was not established until approximately January 3, 2011.***¹⁹

[T]he study could not be deemed to be "final" until the interconnection status of Q185 was established with certainty.

[U]nder the plain terms of Section 9.3.1, the CAISO did not issue a "final" Phase II interconnection study that triggers a financial security posting obligation until approximately January 3, 2011, because that was the date when the status of Q185 became certain

¹⁷ *Id.* at p. 16 ("under the plain terms of Section 9.3.1, the CAISO did not issue a 'final' Phase II interconnection study that triggers a financial security posting obligation until approximately January 3, 2011, because that was the date when the status of Q185 became certain, and the various upgrades identified in the Phase II studies became 'final.' Thus, TGP should have 180 days from January 3, 2011, to decide whether to make its financial security posting.").

¹⁸ *Id.* at p. 21 ("TGP may be forced to withdraw these projects because...(2) *the additional burden of having to obtain and post a higher amount of financial security than required for the project may be beyond the Interconnection Customer's ability or risk tolerance*). (emphasis added)

¹⁹ *Id.* at p. 4, emphasis added.

and the various upgrades identified in the Phase II studies became 'final.'²⁰

For the reasons stated in Section I above, this assertion is contrary to the requirement set forth in the ISO tariff which requires interconnection studies to be performed in a manner that identifies the maximum cost responsibility for the interconnection customer for whom the study is being conducted. This approach is logically untenable, as uncertainty is a fact of transmission study and engineers address such matters by stating the assumptions on which a study is based. Terra-Gen's approach would render an interconnection study process, particularly a cluster approach, infeasible if studies could not be utilized for further purposes until such time as all underlying assumptions were closed by execution of an interconnection agreement or withdrawal. Moreover, Terra-Gen has offered no evidence to support their contention that it is "unjust and unreasonable" for the ISO to consider a Phase II study final for purposes of posting under Section 9.3.1 before assumptions that are the basis of the Phase II interconnection study are closed.

III. The study report was final and the LCRIF option does not change this fact.

As an alternate reason why its Phase II study report was not final, Terra-Gen cites the fact that the ISO included in the study the notion of a Location Constrained Resource Interconnection Facility (LCRIF) as a potential alternative for the customer to consider. The report included an operational study that

²⁰ *Id.* at p. 16.

identified the potential for an LCRIF, noting a possible scenario under which some of the non-ISO transmission upgrades identified in the study as shared generation interconnection facilities might later be classified as LCRIF. Terra-Gen goes to great pains to classify this as an open element of the report and to question why mention of an LCRIF should not result in Terra-Gen being similarly situated with an interconnection customer's report that includes determination of cost responsibility under an LCRIF²¹. The answer to this is simple: *in the case of AES Wind, the LCRIF is an approved LCRIF and there exists an open issue pertaining to cost responsibility for interconnection facilities, which rendered the Phase II study not final.* As the ISO has explained to the Commission, the LCRIF at issue with respect to AES Wind pertains to the first approved LCRIF which has received ISO Board approval.²²

In the case of Terra-Gen, this is a situation where several generating projects are seeking to connect to the same general area, opening the possibility that generators might coordinate with the participating transmission owner for approval of an LCRIF if they meet the qualifications. This did not happen. Nor is it up to the ISO to undertake this effort. The mere possibility that there could be an LCRIF—where an LCRIF *may be* a cost mitigation solution *for generators to pursue* should not dictate a conclusion that a study is not final. The ISO raised the existence of the LCRIF mechanism under a separate provision of the ISO tariff (Section 24) because the cost figures for the interconnection were high. If Terra-Gen's argument were to be accepted, then the ISO would serve itself best

²¹ Terra-Gen Complaint, EL11-17-000 at p. 14-15.

²² See ISO Answer to Motion For Stay, Docket EL11-14-000 (January 4, 2011), at p. 3-4.

by never mentioning to any interconnection customer the existence of the LCRIF mechanism or doing an operational study that might allow generators to pursue this mechanism themselves as an alternative to building their own gen-ties, because, by the mere mention of the mechanism, the ISO would render its report open and not final.

IV. Failure to include Terra-Gen in the ISO tariff waiver should not be considered actionable under Section 206.

The ISO explained in its answer to Terra-Gen's protest filed in the ISO's waiver proceeding that the scope of the ISO's waiver request was appropriately limited to customers who were erroneously told that their posting date had been extended, and that the ISO has repeatedly confirmed to Terra-Gen that it is not similarly situated to the seven customers for which the waiver was sought.²³ Nor does Terra-Gen assert that it is similarly situated with the seven customers for which waiver was sought. Terra-Gen also had the right to file a waiver request with regard to the posting requirement based on its own unique facts and circumstances, but did not do so. Instead, Terra-Gen protested its exclusion from the waiver filing and initiated this complaint proceeding. The failure to expand the scope of the waiver request to include other customers that are not similarly situated is not unjust or unreasonable – the ISO is petitioning its regulator for authorization to do so for a group of customers that are similarly situated by virtue of the ISO having given erroneous advice and this group does not include Terra-Gen.

²³ ISO Answer to Interventions and Protests, ER11-2503-000 (January 28, 2011), at p. 7.

CONCLUSION

For the foregoing reasons, the Commission should dismiss the Terra-Gen Section 206 complaint.

Dated: February 17, 2011

Respectfully submitted,

By: /s/ John C. Anders

Nancy Saracino

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ATTACHMENT A



Terra-Gen Power, LLC

February 8, 2011

Ms. Linda Wright
Project Manager
California Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630

Mr. Nathan Smith
Southern California Edison Company
2244 Walnut Grove Ave.
Rosemead, CA 91770

Re: Conditional Withdrawal of Queue Positions 394, 396, 398, and 399 from the Interconnection Queue and Request for Refund of Associated Interconnection Financial Security

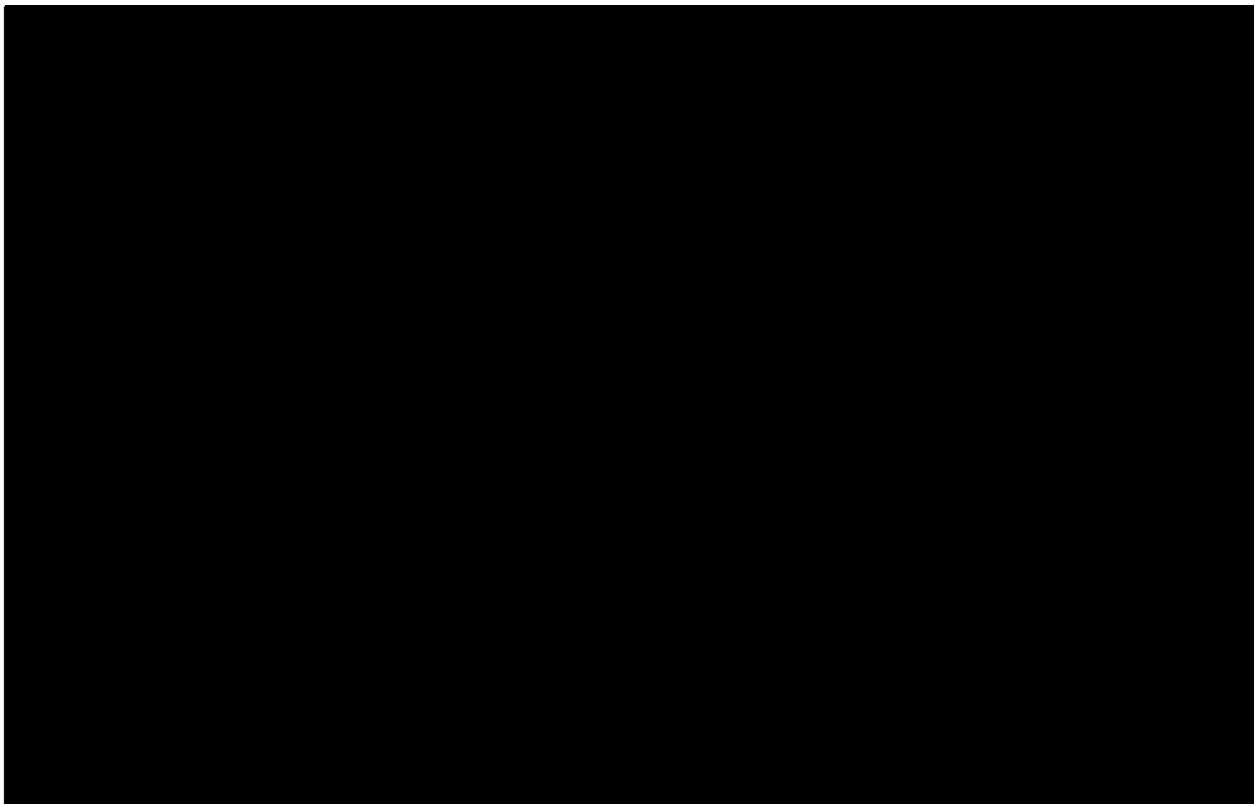
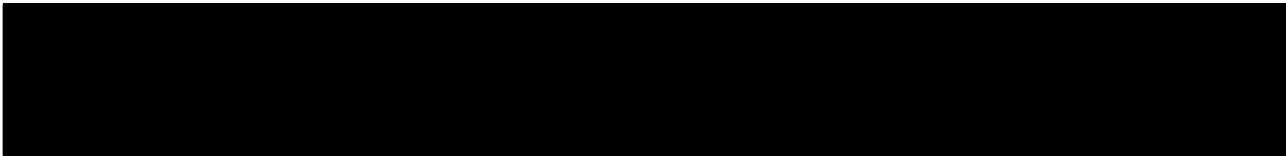
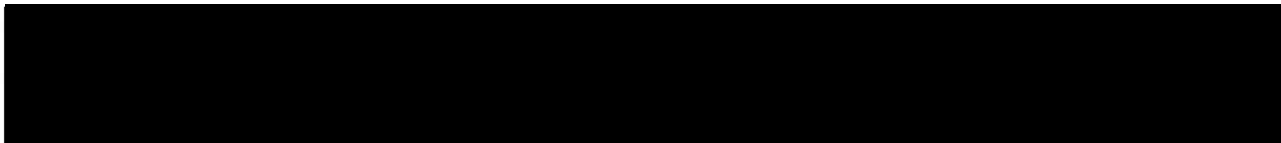
Dear Ms. Wright & Mr. Smith

As you are aware, TGP Development Company, LLC ("TGP"), filed a complaint against the California Independent System Operator Corporation ("CAISO") at the Federal Energy Regulatory Commission ("FERC") on January 27, 2011, in Docket Number EL11-17-000 (the "Complaint"). The Complaint alleges, among other things, that the Phase II Interconnection Study reports for queue positions 394, 396, 398, and 399 did not become final until approximately January 3, 2011, and therefore the second postings of Interconnection Financial Security are not due under the CAISO tariff until 180 days after that date. Notwithstanding the Complaint, the CAISO continues to assert that the second postings of Interconnection Financial Security are due on February 8, 2011.

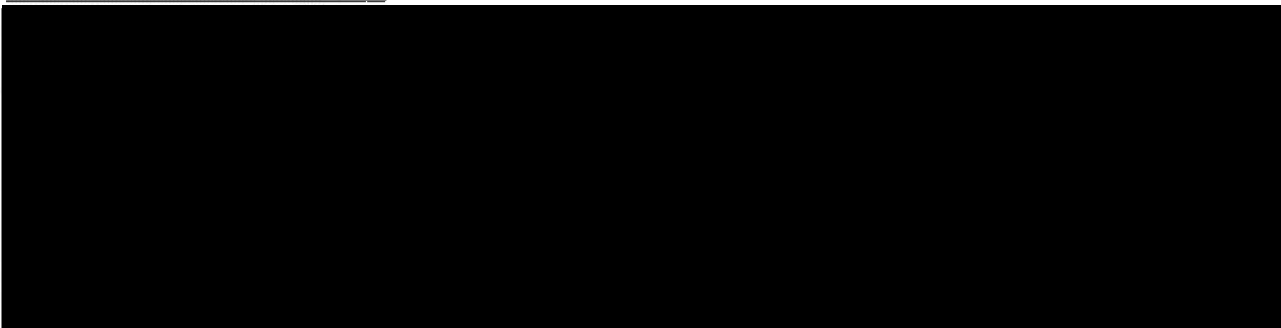
While TGP requested the FERC to stay TGP's second posting obligation pending resolution of the Complaint, the FERC has declined to do so. Thus, in order to minimize potential disputes regarding the amount of the Interconnection Financial Security to be refunded, TGP hereby conditionally withdraws queue positions 394, 396, 398, and 399 from the interconnection queue in order to qualify for the partial refund of securities posted to date. If the FERC subsequently grants the relief requested by TGP in the Complaint, then this withdrawal will be deemed rescinded, and TGP expects that its interconnection requests will be reinstated with their original queue positions.

[REDACTED]

[REDACTED]



As such, in light of the substantial additional cost of remaining in the queue, including the cost of making the 2nd IFS posting, the risk of complete forfeiture of the IFS if the PPA does not ultimately support the underlying project and the concerns with PPA discussed above, TGP and CAISO must consider the PPA to be unacceptable at this time within the meaning of the CAISO Tariff Section 9.4.2.1 for the purpose of maintaining TGP's queue position.



So in summary, TGP i) withdraws its interconnection requests 394, 396, 398 and 399, ii) requests that it be refunded [REDACTED] for its first IFS, iii) that if the FERC subsequently grants the relief requested by TGP in the Complaint, then this withdrawal will be deemed rescinded, and TGP expects that its interconnection requests will be reinstated with their original queue positions, and iv) TGP will then correct its first IFS.

Please contact me at 858-764-3735 with any questions.

Sincerely,

A handwritten signature in blue ink that reads "B. Raemy". The signature is written in a cursive style and is underlined with a blue line.

Bernard Raemy
Vice President & Head of Geothermal Development

ATTACHMENT B



February 10, 2011

VIA ELECTRONIC MAIL

Mr. Bernard Raemy
Vice President & Head of Geothermal Development
Terra-Gen Power, LLC
11512 El Camino Real, Suite 100
San Diego, CA 92120

Subject: Your February 8, 2011 Letter requested "Conditional Withdrawal"
Queue Positions 394, 396, 398, 399

Dear Mr. Raemy:

Your February 8, 2011 letter requests that the California Independent System Operator Corporation (ISO) conditionally withdraw the TGP Development Company (TPG) projects referenced by Queue Positions 394, 396, 398 and 399. Unfortunately, the ISO Generation Interconnection Tariff (recently updated effective December 19, 2010 and commonly referenced as the "GIP") does not provide for "conditional withdrawal" of interconnection requests.

In this regard, Sections 3.8 and 9 are the applicable provisions for withdrawal. Your February letter indicates that, with respect to each project, TGP has failed to submit the required second interconnection financial security posting within 180 days of the publication of the final study report, as TGP has elected withdrawal rather than posting. Accordingly, the ISO must deem the projects as withdrawn under Sections 9.3.1 and 3.8.

This letter constitutes the ISO's notice to TGP, under Section 3.8, that Queue Positions 394, 396, 398 and 399 are deemed withdrawn as of close of business on February 8, 2011 for "failure to adhere to the requirements of the GIP," and that, with respect to each such project the Interconnection Customer shall have five (5) Business Days from the date of this letter to cure the deficiency by posting the second Interconnection Financial Security posting and notifying the ISO that the posting has been made. Any refunds of financial security will be treated in accordance to ISO Tariff Appendix Y, Section 9.4.2.1 as if the withdrawal was made up to 180 days after the issuance of the Final Phase II Interconnection study report.

The ISO has no authority to reinstate the interconnection requests should certain subsequent conditions occur, as you request in your letter. When the ISO submits its answer to FERC in Docket No. EL11-17, in answer to TGP's motion to stay, the ISO will inform the FERC that TGP has not made the

Mr. Bernard Raemy
February 10, 2011
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California Independent System Operator Corporation

second postings, and that the ISO has provided written notice to TGP that the projects have been deemed withdrawn.

Sincerely,



Stephen A. Ruty
Director of Grid Assets

cc: Bill Di Capo (bdicapo@caiso.com)
Bob Emmert (remmert@caiso.com)
Joseph M. Karp (jkarp@winston.com)
Nathan Smith (nathan.smith@sce.com)
Linda Wright (lwright@caiso.com)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon each party listed on the official service list for the above-referenced proceeding, 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 Folsom, CA on this 17th day of February, 2011.

Anna Pascuzzo
Anna Pascuzzo