UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Pacific Gas and Electric Company	)	Docket No. ER09-1336-000

MOTION TO INTERVENE AND PROTEST OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

The California Independent System Operator Corporation ("ISO") submits this Motion to Intervene and Protest in the captioned proceeding.[1]

I. Introduction

On June 19, 2009, Pacific Gas and Electric Company ("PG&E") requested that the Commission accept a non-conforming *pro-forma* Large Generator Interconnection Agreement ("LGIA")[2] for the interconnection of PG&E's generation facility known as the Humboldt Bay Re-Powering Project ("the Humboldt Project") to the ISO grid. The Commission should reject PG&E's request to accept the non-conforming *pro-forma* LGIA.

The Humboldt Project is a PG&E owned generation project. In its request, PG&E is seeking to grant itself a waiver from the security requirements of Section 11.5 of the *pro forma* LGIA that requires PG&E in its role as the Interconnection Customer to provide security to PG&E as the Participating Transmission Owner.[3] The ISO is informed and believes that PG&E has applied LGIA Section 11.5 to all other non-utility

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[1] The ISO submits this Motion and Protest pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. § 385.211 and 18 C.F.R. § 385.214.

[2] Capitalized terms not otherwise defined herein have the meaning set forth in CAISO Tariff Appendix A "Master Definition Supplement."

[3] PG&E Transmittal Letter dated June 19, 2009 at p.3 and Attachment 2 thereto at Appendices A.9 and B.2 (d) and (e).

generating projects interconnecting to PG&E's transmission system. If granted, PG&E's proposal would result in granting undue preferential treatment to PG&E as an Interconnection Customer by virtue of PG&E's status as the Participating Transmission Owner. A non-utility owned generation project would not receive the same consideration from PG&E. The ISO recommends that the Commission reject PG&E's request to accept the non-conforming *pro forma* LGIA as it is inconsistent with the Commission's orders and the ISO tariff.

II. Motion to Intervene

PG&E desires to interconnect its Humboldt Project to PG&E's own transmission system, which is under the operational control of the ISO. Interconnection of generation projects to the transmission grid is a critical component of non–discriminatory open access transmission service.[4] The ISO is responsible for processing and administering all requests for interconnections of generation projects to the transmission grid under the ISO's operational control and as a result has a unique interest in this proceeding. Accordingly, the ISO requests that it be permitted to intervene with full rights of a party. No other party can adequately represent the ISO's interests.

III. Protest

In its filing, PG&E asserts that the LGIA provisions requiring it to post security for costs relating to construction, procurement, and installation of the applicable interconnection facilities "are simply not applicable to this PG&E utility-owned generation project."[5] The ISO disagrees. The ISO understands that the Commission's

[4] CAISO Tariff at Section 25 and Appendix U; *Standardization of Generator Interconnection Agreements and Procedures*, 104 FERC ¶ 61,103 at PP 8 and 9 ("Order No. 2003").

[5] PG&E Transmittal Letter dated June 19, 2009 at p. 3.

orders and the ISO tariff related to the interconnection of generation projects require the ISO to provide non-discriminatory and standardized service for all interconnection requests. Contrary to PG&E's assertion, funding and security requirements apply equally to all utility owned generation projects and non-utility owned generation projects. As provided in Section 2.2 of the Large Generator Interconnection Procedures and Section 11.5 of the *pro forma* LGIA, the ISO has applied these funding and security requirements to other utility-owned generation projects. For example, the LGIA between San Diego Gas & Electric Company ("SDG&E") and the ISO relating to Miramar Energy Facility II, a generation project owned by SDG&E, provides:

> SDG&E (IC) and SDG&E (PTO) shall comply with all funding and security requirements in accordance with the LGIA and consistent with the comparability standards set forth in Article 2.2 of the LGIP.[6]

The comparability standard set forth in Section 2.2 of the ISO's Large Generator Interconnection Procedures reads as follows:

> The CAISO shall receive, process and analyze Interconnection Requests in a timely manner as set forth in this LGIP. The CAISO will use the same Reasonable Efforts in processing and analyzing Interconnection requests from all Interconnection Customers, whether the Generating Facilities are owned by a Participating TO, its subsidiaries, or Affiliates or others.

Under this provision, it is the ISO's view that the ISO does not have authority to treat utility owned generation projects any differently from non-utility owned generation projects or to agree to waive funding and security requirements applicable to an

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[6] Appendix A.8 Funding and Security Requirements at p. 75 of LGIA between SDG&E and ISO dated August 25, 2008 and submitted to the Commission's Electric Quarterly Report database in September 2008. Appendix B of that LGIA reflects that SDG&E as the Interconnection Customer will submit security to SDG&E as the Participating TO for estimated tax liability and additional Reliability Network Upgrades, if applicable. See, Appendix B.1, Table 2 (d) and (f).

Interconnection Customer even if that Interconnection Customer is the same entity as the Participating Transmission Owner.

The ISO understands that, under the Commission's orders and the ISO tariff, PG&E's proposal to waive the Commission approved *pro forma* LGIA funding and security requirements would create an undue preference for utility owned generation projects seeking to interconnect to the ISO grid. If, as asserted by PG&E, funding and security requirements do not apply to PG&E as an Interconnection Customer for its utility owned generation project, then all else being equal that generation project will have a competitive advantage over other non-utility owned generation projects that participate in PG&E procurement solicitations. PG&E states that it is seeking changes to the Commission approved *pro forma* LGIA in order to apply an accounting treatment which would allow it to capitalize any security and financing costs at its weighted cost of capital as opposed to advancing such costs and earning "the FERC interest rate only."[7] While the ISO understands PG&E's proposed accounting approach may facilitate rate recovery of financing costs and possibly earn PG&E a higher return on investment for any network upgrades, this fact alone is not a sufficient reason to justify the non-conforming LGIA.

PG&E offers no citations to the Commission's orders establishing the Standard Large Generator Interconnection Procedures or the ISO tariff to support its assertion that PG&E as an Interconnection Customer should not be required to post security to PG&E as a Participating Transmission Owner. Instead, PG&E relies on the terms of a Generator Special Facilities Agreement ("GSFA") for another PG&E utility owned generation

[7] PG&E Transmittal Letter dated June 19, 2009 at p. 3.

project (“the Gateway Project”), which was approved in Commission Docket ER08-956. This example is inapposite. The Gateway Project arises from PG&E’s acquisition of the Contra Costa 8 power project from Mirant Delta, LLC, which acquisition included the GSFA that was executed in November 2003 when the *pro forma* LGIA requirements, including the requirements for posting security, were not in effect. The terms of the Gateway Project GSFA predate implementation of the Commission’s Order No. 2003 requirements, which established among other things the Large Generator Interconnection Procedures and the requirements for posting security for the interconnection of generation projects to the ISO grid. In contrast, a *pro forma* LGIA is available to govern the interconnection of the Humboldt Project to the ISO grid. As a result, the Gateway GSFA does not serve as precedent in this matter. Moreover, the Commission has previously rejected attempts to rely on the terms and conditions of a GSFA when a *pro forma* LGIA was available to allow generation facilities to participate in the ISO’s wholesale market.[8]

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[8] *Pacific Gas and Electric Company, Order on Revised Generator Special Facilities and Interconnection Agreement and Large Generator Interconnection Agreements, Establishing Settlement Judge Procedures, and Consolidating Proceedings*, 124 FERC ¶ 61,196 (August 28, 2008) at PP 19 and 20 in which the Commission stated:

> Once the LGIP and LGIA were approved, it was no longer appropriate to add the Transitioning Facilities to the grandfathered Integrated Agreements. Instead, the CAISO LGIA should govern the interconnection of the Transitioning Facilities to the CAISO-controlled grid because the CAISO is the transmission provider. This is consistent with the policy underlying Order No. 2003, which required public utilities, such as the CAISO, to file revised tariffs containing *pro forma* LGIP and LGIA in order to achieve greater standardization of interconnection terms and conditions, and thereby remedy undue discrimination. [Footnotes omitted.]
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> In Order No. 2003 and its progeny, we stated that, in general, ISO/RTO procedures must govern the interconnection of generators to the transmission systems those ISOs/RTOs operate, . . .

IV. Description of the ISO and Communications

The ISO is a non-profit public benefit corporation organized under the laws of the State of California with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The ISO is the Balancing Authority responsible for the reliable operation of a grid comprising the transmission systems of a number of public utilities including PG&E, as well as the coordination of the ancillary services and electricity markets within its Balancing Authority Area. The ISO requests that all communications regarding this motion and these proceedings should be addressed to the following individuals, whose names should be placed on the official service list established by the Secretary with respect to this submittal:

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18 C.F.R. § 385.203(b)(3).

V. Conclusion

The ISO understands that, under the Commission's orders and the ISO tariff, PG&E's proposal to waive the security requirements for the interconnection of the Humboldt Project to the ISO grid would create an undue preference for its utility owned generation project. PG&E has failed to show that good cause exists for granting this preference. Accordingly, the Commission should reject PG&E's non-conforming LGIA.

July 13, 2009

Respectfully submitted,

_/s/Andrew Ulmer______________

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Certificate of Service

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned 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 this 13th day of July, 2009 at Folsom, California.

/s/ Jane Ostapovich
Jane Ostapovich