

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

**California Independent System)
Operator Corporation)**

Docket No. ER04-445-005

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION FOR LEAVE TO FILE
ANSWERS, AND ANSWERS TO PROTESTS**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2004), the California Independent System Operator Corporation (CAISO) hereby files this motion for leave to file answers and answers in the above-referenced dockets.

On August 30, 2005, the CAISO submitted its interim Standard Large Generation Interconnection Procedures ("LGIP") in compliance with the Commission's July 1, 2005 "Order Accepting in Part and Rejecting in Part Order Nos. 2003, 2003-A, and 2003-B Compliance Filings," 112 FERC ¶ 61,009 (2005) ("July 1 Order"), its June 16, 2005 "Order on Rehearing," 111 FERC ¶ 61,401 (2005) ("Order No. 2003-C"), and its August 26, 2005 "Order Granting Extension of Time and Motion for Clarification and Denying Request Rehearing," 112 FERC ¶ 61,231 (2005) ("August 26 Order"). Two protests to the interim LGIP were filed.¹ The CAISO believes that additional information would assist the Commission's deliberations with respect to the issues raised by CAC and Southern Cities in their protests. The CAISO therefore requests leave to file an answer,

¹ Protests were filed by: (1) the Cogeneration Association of California and the Energy Producers and Users Coalition (collectively "CAC") and (2) Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (collectively "Southern Cities").

and files its answer, to the protests.² As explained below, the protests are without merit and the Commission should accept the interim LGIP filing without modification.

I. CAC’S PROTEST IGNORES THAT INTERCONNECTION STUDIES FOCUS ON PHYSICAL IMPACTS TO EQUIPMENT, NOT FINANCIAL ARRANGEMENTS

CAC protests the CAISO’s removal of the word “net” from the definition of “Generating Facility Capacity.” As CAC correctly notes, the CAISO reintroduced the definition of Generating Facility Capacity to comply with the Commission’s directive to limit application of the LGIP to generating facilities greater than 20 MW in size.³ The CAISO modified the pro forma LGIP definition of Generating Facility Capacity by deleting the word “net,” so that the definition, as proposed, reads: “The capacity of the Generating Facility and the aggregate capacity of the Generating Facility where it includes multiple energy production devices.” In its transmittal letter, the CAISO proposed the modification “because a Generating Facility’s ability to impact the grid is most fundamentally a product of its gross capacity, rather than its net capacity.”

CAC questions the CAISO’s proposed blanket application of gross load in the definition of Generating Facility Capacity by noting that, at least under some circumstances, Station Power and/or behind-the-meter generation should be netted. While the CAISO agrees that its stated justification of “ability to impact the grid” was not sufficiently precise, the CAISO disagrees that the interim LGIP should be modified. The

² The CAISO requests waiver of Rule 213(a)(2) (18 C.F.R. § 385.213(a)(2)) to permit it to make this answer. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. (See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).)

³ Terms used with initial capitalization and not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the CAISO Tariff, as amended.

LGIP relates to the detailed evaluation of the impact of interconnecting Generating Facilities on the physical components of the transmission grid to ensure reliable operation. That evaluation includes not only a load flow analysis, but also short-circuit duty, stability, and post-transient analyses. A load flow analysis is primarily affected by the net capacity of a new Generating Facility installation. However, short-circuit duty, stability, and post-transient analyses are primarily affected by the gross capacity of a Generating Facility. The Commission's *pro forma* Small Generator Interconnection Procedures allow time for only abbreviated analyses. As the gross capacity of the Generating Facility begins to exceed 20 MW, the need to perform a detailed analysis as allowed by the LGIP time frames becomes not only more necessary, but essential.

CAC cites to two Commission cases that are inapposite to the present circumstances. The first is *Duke Energy Moss Landing v. California Independent System Operator Corporation*, 109 FERC ¶ 71,170 (2004) ("Duke Energy"). Duke Energy challenged the CAISO's treatment of Station Power. At its core, Duke Energy addressed financial implications of the CAISO Tariff by seeking to modify the circumstances in which a Generating Unit could net Station Power against generation output for purposes of settlement.⁴ Nothing in that decision purported to address whether Station Power should be netted when conducting interconnection studies to determine the effect of the Generating Facility's physical characteristics on operation of the grid.

Similarly, *California Independent System Operator Corporation*, 104 FERC ¶ 61,196 (2003) ("QF PGA Case") addressed many complex issues associated with the

⁴ Duke Energy at PP. 3-5.

CAISO's implementation of a *pro forma* QF-specific Participating Generator Agreement, but it did not address whether behind-the-meter generation should be ignored for Interconnection Study purposes. The QF PGA Case did conclude, "a QF will produce a certain amount of energy at the facility and directly consume all or part of that energy for itself or others before delivering any surplus energy to the CAISO." However, this determination constituted a factual predicate to the primary issues addressed – whether it is necessary to require QFs to schedule gross generation and load and whether the CAISO should procure and allocate costs of Ancillary Services to QF gross behind-the-meter load.⁵ Resolution of these issues did not need to address whether the system must be designed in a way that accounts for QF gross load.

Thus, in the orders cited by CAC the Commission has not directly addressed the issue of the type of analyses and studies necessary to protect the reliability of the grid as they relate to the size of the Generating Facility, whether it be a QF or not. As discussed above, short-circuit duty, stability, and post-transient analyses are primarily affected by the gross capacity of a Generating Facility installation – whether or not it is a QF – and as the gross capacity of the Generating Facility installation begins to exceed 20 MW, the need to perform a detailed analysis as allowed by the LGIP time frames becomes not only more necessary, but essential.

II. THE SOUTHERN CITIES PROTEST SHOULD BE REJECTED ON PROCEDURAL AND SUBSTANTIVE GROUNDS

Southern Cities protest LGIP Section 11.4, which provides: "Upon submission of an unexecuted LGIA, the Interconnection Customer, Participating TO and ISO may proceed to comply with the unexecuted LGIA pending FERC action." Simply put, the

⁵ QF PGA Case at PP. 11-22.

Southern Cities assert that the “may” should be converted to “shall.” The protest lacks merit both procedurally and substantively and should be denied by the Commission.

A. The Protest Constitutes an Improper Collateral Attack on the July 1 Order

Southern Cities challenge to LGIP Section 11.4 improperly goes beyond the scope of the CAISO’s August 30, 2005 compliance filing and constitutes an improper collateral attack on the Commission’s July 1 Order. The Southern Cities acknowledge that the contested revision to LGIP Section 11.4 was included in the CAISO’s January 5, 2005 LGIP filing. In fact, the CAISO’s “Matrix of Changes to FERC Pro Forma 2003-A LGIP” set forth the verbatim modification and its justification.⁶ The CAISO included the Matrix of Changes specifically to facilitate and expedite the Commission’s and other parties’ ability to review and understand the implications of proposed changes. The Southern Cities further admit that they “previously protested all revisions to the *pro forma* LGIP that altered the balance of rights and obligations between the CAISO and the Interconnection Customer.” Nevertheless, the July 1 Order accepted the CAISO’s proposed modifications, except as discussed in the body of that order, which did not refer to LGIP Section 11.4. Accordingly, LGIP Section 11.4 was not altered for the CAISO’s August 30, 2005 compliance filing.

Two defects in the Southern Cities’ protest follow from this chronology. First, the protest goes beyond the scope of the instant compliance filing and must be denied.⁷ Second, the arguments should have been raised on rehearing of the July 1 order, but

⁶ See, Attachment A at p. 87 to CAISO’s January 5, 2005 compliance filing.

⁷ See, e.g., *ARN Pipeline Company*, 111 FERC ¶ 61,290 (2005) at P.32.

were not. Therefore, the protest fails as an impermissible collateral attack on the July 1 Order.⁸

B. The Change to Section 11.4 Appropriately Recognizes the Three Party LGIA and Conforms with Section 11.3 of the LGIP

Even assuming the Southern Cities' protest is not defeated by its procedural defects, the protest should be rejected on its merits. Southern Cities assert that the CAISO's modification to Section 11.4 of the LGIP may disadvantage the Interconnection Customer by permitting the CAISO or Participating TO to block implementation of Interconnection Service pursuant to an unexecuted LGIA. However, Southern Cities ignore that Section 11.3 of the Commission's *pro forma* LGIP also granted the Transmission Provider the ability to delay Interconnection Service in many, if not most, circumstances by requiring Transmission Provider consent to proceed with design, procurement, and construction of facilities and upgrades under an unexecuted LGIA pending Commission action.⁹ The contested change to Section 11.4 merely conforms with the permissive language used in Section 11.3 of the *pro forma* LGIP and carried over in the CAISO's compliance filing.

The need to conform Section 11.4 to the permissive language used in *pro forma* Section 11.3 was necessitated by the three-party nature of the CAISO's LGIA. The *pro forma* LGIP contemplated a single entity constituting both the Transmission Provider

⁸ See, e.g., *California Independent System Operator Corporation*, 104 FERC ¶ 61,128 (2003) at P. 13; *PJM Interconnection, LLC*, 104 FERC ¶ 61,020 (2003) at fn. 8.

⁹ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, Stats. & Regs. ¶ 31,146, 68, Fed. Reg. 49,846 (August 19, 2003) (2003) ("Order No. 2003") at Appendix C, p. 38 ["If the Parties agree to proceed with design, procurement, and construction of facilities, and upgrades under the agreed-upon terms of the unexecuted LGIA, they may proceed pending Commission action."].

and transmission owner. As a result, the possibility of a disagreement to proceed with design, procurement and construction activities was diminished given that *pro forma* Section 11.3 provides that “[a]n unexecuted LGIA should contain terms and conditions deemed appropriate by the Transmission Provider for the Interconnection Request.”¹⁰ Where, as here, the Transmission Provider and the transmission owner are separate entities, the possibility of a disagreement over the terms of the unexecuted LGIA increases. In such circumstances, the CAISO reasonably believed it was problematic to require or coerce the transmission owner to begin procurement and construction activities pending Commission action.

Equally important, the Interconnection Customer is not without recourse should a dispute between the CAISO and Participating TO potentially affect the timing of implementation of Interconnection Service. The Interconnection Customer can seek expedited Commission review of the unexecuted LGIA or, if the provision, upon actual application, is unjust and unreasonable to Interconnection Customers, the provision can be changed pursuant to a Federal Power Act (“FPA”) Section 206 complaint. Indeed, if the CAISO perceived that Section 11.4 of the LGIP was prejudicing Interconnection Customers, it would likely modify the provision under its FPA Section 205 authority.

¹⁰ *Id.*

III. CONCLUSION

Based on the foregoing arguments, the CAISO respectfully requests that the Commission deny the protests filed by CAC and the Southern Cities.

Respectfully submitted,

/s/ Grant Rosenblum

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Dated: October 5, 2005



October 5, 2005

Via Electronic Filing

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: California Independent System Operator Corporation
Docket No. ER04-445-005**

Dear Secretary Salas:

Enclosed please find an electronic filing of Motion of the California Independent System Operator Corporation for Leave to File Answers, and Answer to Protests.

Thank you for your attention to this filing.

Respectfully submitted,

/s/ Grant Rosenblum
Grant Rosenblum

Counsel for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in the above-captioned dockets.

Dated at Folsom, California, on this 5th day of October 2005.

/s/ Grant Rosenblum

Grant Rosenblum