

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

**California Independent System) Docket No. ER04-445-000
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO
MOTIONS TO INTERVENE, COMMENTS, LIMITED PROTESTS AND
PROTESTS**

I. INTRODUCTION

On January 20, 2004, the California Independent System Operator Corporation (“ISO”)¹ filed its version of the Large Generator Interconnection Procedures (“LGIP”) and related filings in compliance with Order No. 2003² in the above captioned docket. A number of parties have moved to intervene in the present proceeding with respect to the ISO’s LGIP filing. Some of the motions to intervene include limited protests and protests concerning the compliance filing.³ Three intervenors have filed comments that were predominantly supportive of the

¹ Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² FERC Stats. & Regs. Preambles ¶ 31,146 (2003).

³ Motions to intervene, comments, limited protests and protests were filed by the following entities: The Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (“Southern Cities”); The California Department of Water Resources and State Water Project (“CDWR” and “SWP”); The California Electricity Oversight Board (“EOB”); The California Public Utilities Commission (“CPUC”); Calpine Corporation (“Calpine”); The Northern California Power Agency (“NCPA”); The Cogeneration Association of California and the Energy Producers and Users Coalition (“CAC/EPUC”); Constellation Generation Group, LLC (“Constellation”); Duke Energy North America and Duke Energy Trading and Marketing (“Duke”); Mirant Corporation (“Mirant”); NRG Companies (“NRG”); PPM Energy, INC. (“PPM”); Pacific Gas and Electric Company (“PG&E”); The Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency (“Cities/M-S-R”); San Diego Gas & Electric Company (“SDG&E”); Sempra Energy Resources (“Sempra”); Southern California Edison Company (“SCE”); Tenaska Inc. (“Tenaska”); The Transmission Agency of Northern California (“TANC”); and The City of Vernon, California (“Vernon”).

ISO's compliance filing. In addition, five parties intervened, but raised no substantive issues with the ISO's filing.⁴

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F. R. § 385.213, the ISO now submits its Answer to the motions to intervene, limited protests and protests submitted in the above captioned docket⁵. The ISO does not oppose the intervention of parties that have sought to intervene in this proceeding. However, as explained below, the ISO believes that its LGIP compliance filing should be accepted by the Commission in its entirety as just and reasonable.

II. ANSWER

A. The ISO Will Continue Appropriate Oversight of the Interconnection Study Process

In its LGIP filing, the ISO proposes to continue the practice whereby Interconnection Studies are conducted primarily by the Participating Transmission Owners ("PTOs"), under the ISO's direction and oversight. To

⁴ An intervention primarily supportive of the ISO's compliance filing was filed by the CPUC. In addition, the pleading filed by PG&E indicated general support of the ISO's filing with minor modifications. SCE indicated that it generally supports the ISO filing and that it participated extensively in the stakeholder process that preceded the filing.

The EOB, NRG, Sempra, Vernon, and Southern Cities intervened, but raised no substantive issues with the ISO's filing. Interventions by these entities will not be discussed further in this Answer.

⁵ Some of the parties that have submitted pleadings concerning the ISO's compliance filing with respect to the LGIP request affirmative relief in pleadings styled as protests. The ISO is not prohibited from responding to these pleadings. Florida Power & Light, 67 FERC ¶ 61,315 (1994). Additionally, to the extent that this answer is deemed an answer to protests, the ISO requests waiver of Rule 213 (18 C.F. R. § 385.213) to permit it to make this answer. Good cause for the waiver exists given the nature and complexity of this proceeding and the usefulness of this Answer in ensuring the development of a complete record. See, e.g., Enron Corp., 78 FERC ¶ 61,179 at 61,733, 61,741 (1997) El Paso Electric Co., 68 FERC ¶ 61,181 at 61,889 & n. 57 (1994).

emphasize this continuing practice and division between the overall management responsibility and the performance of certain necessary functions, Section 3.2 of the LGIP spells out the respective roles of the ISO and the PTOs in language similar to Section 5.7.4.2 of the current ISO Tariff.

Several parties have commented on the roles of the ISO and the PTOs in this process. Duke argues that the ISO Tariff should specifically declare the ISO's decisional control over the Interconnection Studies. Duke at 4-5. Mirant suggests the ISO should develop a system-wide base-case load-flow model from which the PTOs could act as contractors in their performance of the technical studies. Mirant at 10-11. SCE asserts that the informational assessment of neighboring systems is an unreasonable burden on the PTOs, and that each PTO should perform the Interconnection Feasibility Studies and the Interconnection System Impact Studies necessary to determine the impact upon their own systems. SCE at 9-12.

The ISO maintains that the roles spelled out within LGIP Section 3.2 regarding the performance of required technical studies largely reflect current business practices that should continue to work. The PTOs have the requisite technical and historical knowledge of their own transmission and distribution systems, and the ISO will continue to review and approve each technical study as well as the overall interconnection process.

The ISO does not believe it necessary or appropriate to increase its costs in order to assume a function that the PTOs have performed well, and will be expected to continue to perform appropriately with the ISO's independent

oversight. If unforeseen problems do arise, the ISO has the option to develop its own base-case model and conduct its own technical studies, but the ISO currently sees no reason to do so.

The ISO believes Section 3.2 effectively grants the ISO authority to oversee, coordinate and direct the interconnection process. Moreover, in instances where there is disagreement between the Interconnection Customer and the PTO, the ISO will act as arbiter as part of its overall responsibility for managing the interconnection process.

A significant responsibility borne by the ISO is to ensure the performance of Interconnection Studies that analyze the system-wide impact of the interconnection and are not limited just to one PTO's portion of the ISO Controlled Grid. The LGIP manages this broader analysis by enhancing the service provided to those Interconnection Customers whose projects are located near the boundaries between different PTOs' portions of the ISO Controlled Grid.

The informational assessment to be conducted pursuant to LGIP Section 6.2 and LGIP Section 7.3 is a task that could easily be performed by the interconnecting PTO as part of the scope of the Interconnection Feasibility Study or the Interconnection System Impact Study. Such an assessment is an appropriate check on the potential grid impact to a neighboring PTO in cases where adverse impacts to the neighboring PTO are unlikely to occur, and would not substitute for a necessary Interconnection Feasibility Study or Interconnection System Impact Study in cases where adverse impacts are expected on the neighboring system.

The ISO disagrees with SCE's contention that this coordinated assessment is an unreasonable burden on PTOs. The assessment would be performed only "to the extent necessary and reasonably practicable" in order to avoid unnecessary cost and time for the Interconnection Customer to sponsor two separate studies. LGIP Section 6.2. The ISO believes this "one-stop shop" benefit to the Interconnection Customer outweighs by far the minimal costs of PTO coordination that this informational assessment would require. Moreover, as part of its supervisory role over the interconnection process, as spelled out in Sections 6 and 7 of the LGIP, the ISO will determine the need for an informational assessment for specific projects, or direct the performance of separate studies by separate PTOs for other projects, thus ensuring the appropriate analysis of the entire ISO Controlled Grid.

For instance, if the ISO were reasonably certain that a particular Interconnection Study would reveal adverse impacts on both PTO systems, the ISO would then direct both PTOs to each perform separate but closely coordinated Interconnection Studies. If impacts on a neighboring PTO are unlikely but the ISO wanted to have additional assurance of this, then the ISO might direct only one PTO to perform a study and request the neighboring PTO to provide input to that study. This second situation would result in a PTO studying the neighboring PTO's system for informational purposes to allow the ISO to confirm its decision not to direct the neighboring PTO to conduct a separate Interconnection Study. In most instances, the ISO's ability to direct the

interconnecting PTO to perform the informational assessment should reduce the contractual burden on the second PTO and on the Interconnection Customer.

The performance of an Interconnection Study of a proposed new Generating Facility to be located near the seam between two PTOs' portions of the ISO Controlled Grid requires an analysis of a study area that could span across both PTOs' portions of the ISO Controlled Grid. Thus, the LGIP creates a balance between the efficiency of an Interconnection Customer getting the necessary studies conducted in a timely manner with the current business practices in the region. Yet, at the same time the LGIP ensures the proper technical analysis, with the ISO's appropriate oversight, for interconnections on any part of the ISO Controlled Grid.

B. The LGIP Appropriately Provides that Re-Studies Will Be Conducted Upon Reasonable Showing of Need

Constellation argues that clarification is necessary with respect to Section 6.4 and 7.4 of the LGIP in order to ensure that re-studies will not unduly burden Interconnection Customers. Constellation at 5. Calpine suggests that re-studies should be limited in number and that the phrase "any other effective change in information which necessitates a re-study" should be stricken from the LGIP. Calpine at 21.

In response to these comments, the ISO notes that the Commission's pro forma LGIP also provides no limit on re-studies, and that all studies and re-studies within the ISO's proposed LGIP are to be performed only "as reasonably required." LGIP Sections 6.4, 7.4. As the independent manager of the overall

interconnection process, the ISO will be in the position to ensure that there will not be an excessive number of re-studies and that each re-study will be necessary and appropriate.

Moreover, Section 6.4 of the LGIP includes additional procedures that ensure that the Interconnection Customer is notified and provided with adequate time to approve a re-study. These specific steps are similar to the procedural framework established for the Interconnection Feasibility, Interconnection System Impact, and Interconnection Facilities Studies. Namely, the relevant PTO must adhere to specific timelines for the performance of these studies, and the Interconnection Customer is notified upon their completion according to specific milestones. Similarly, the deposit requirements for re-studies reflect the process followed in the previous studies and should not be considered an unreasonable burden, especially since the Interconnection Customer would be required to pay eventually for the costs of any necessary re-study.

Section 6.4 of the Commission's pro forma LGIP specifies three events that could trigger the need for a re-study: a higher queued project dropping out of the queue, a modification of a higher queued project, or a re-designation of the Point of Interconnection. However, the ISO believes that there are other circumstances that could potentially necessitate a re-study. A previous study that produced unexpected results, for example, or the expedited construction of transmission facilities in support of the In-Service Date, or any other changes that significantly alter the assumptions from previous studies could create sufficient reason for a re-study. The phrase "and any other effective change in information

which necessitates a re-study" is intended to capture completely such cases that may reasonably warrant a re-study. Again, as the independent overseer of the interconnection process, the ISO will be in the position to prevent repeated or unnecessary re-studies that unduly harm the Interconnection Customer.

C. The Study Timelines Within This LGIP Are Reasonable and Appropriate and Provide the Benefit of ISO Oversight

Cities/M-S-R and TANC assert that the timeline for Interconnection Studies within the ISO’s proposed LGIP would double compared to the Commission’s pro forma LGIP. Cities/M-S-R at 8-9; TANC at 6. Tenaska argues that the ISO should adhere to study timelines set forth in the pro forma LGIP. Tenaska at 3-4.

The ISO offers the following table for clarification on the study timelines proposed in the LGIP:

			For ISO review and comment	Re-Study Total		
	FERC	ISO	Added	FERC	ISO	Added
IR Process (initial submission acknowledgement)	5	6	1			
Interconnection Feasibility Study	45	60	15	45	60	15
Interconnection System Impact Study	90	120	30	60	80	20
Facilities (2 durations - 20% accuracy & 10% accuracy)	90 / 180	120 / 210	30	60	80	20
Total approx time (Calendar Days)	230 / 320	306 / 396	76	165	220	55
Total approx time (Months)	7.6 / 10.6	10.2 / 13.2	2.5	5.5	7.3	1.8

The rows in this table identify the set of timelines within the LGIP, which includes the timeline for acknowledgement of the Interconnection Request as well as the Interconnection Feasibility Study, the Interconnection System Impact

Study, and the Interconnection Facilities Study. The bottom rows total the set of timelines (by Calendar Days and months).

The second column identifies the Calendar Days allowed under the Commission's pro forma LGIP. The base timeline under the pro-forma LGIP would range from 230 days (approximately 7.6 months) to 320 days (approximately 10.6 months). The variance between 230 and 320 days is based on whether the Interconnection Customer chooses an Interconnection Facilities Study with a 20% or 10% level of accuracy.

The third column identifies the Calendar Days allowed under the ISO's LGIP. The fourth column lists the number of days added by the ISO in order to review, approve and provide oversight over each study.

The fifth and sixth columns show the Calendar Days allowed for re-studies and the number of days added for the ISO's review and approval.

None of these timelines take into account the approximately 30 days in which the Interconnection Customer can execute and return a tendered agreement for each study, after the PTO's time allotment for tendering the study agreement to the Interconnection Customer.

The ISO submits that the total number of days added to the ISO's LGIP, compared to the Commission's pro-forma LGIP, is reasonable. The ISO timeline would range from 10.6 to 13.2 months, compared to a range of 7.6 to 10.6 months in the Commission's pro-forma LGIP.

This increase of approximately 19% to 25% in the overall duration of the "study phases" (for 10% accuracy or 20% accuracy respectively) is appropriate

because it allows independent oversight and review of each technical study performed by the PTO, a valuable benefit especially for the Interconnection Customer. It would not be appropriate, and could impinge upon the adequacy of the technical studies, if these timelines were not moderately expanded from the Commission's pro-forma LGIP so as to allow the PTO sufficient time to perform the studies and the ISO sufficient time to review and approve each study.

Moreover, the argument propounded by Cities/M-S-R and TANC is flawed because they unfairly compare the minimum timeline in the Commission's pro forma LGIP of approximately 7.6 months – which assumes that the Interconnection Customer will choose a 20% accuracy level for the Interconnection Facilities Study and that the Interconnection Customer will return every study agreement on the same day it is tendered -- with the maximum timeline in the ISO's LGIP of 16.5 months – which assumes the Interconnection Customer will choose a more specific, 10% accuracy level that allows an Interconnection Facilities Study over a longer time period, and that the Interconnection Customer will utilize the full 30 days available (a total of 3 months for a minimum of three studies) to return every tendered study agreement.

The ISO believes that a more careful examination of the extended timelines within its LGIP and a balanced comparison with the Commission's pro forma LGIP demonstrates the appropriateness of the extra days built into the ISO's proposed LGIP. The independent review, commentary, and approval of complex and highly technical studies which are critical to the success of the

interconnection projects by the ISO provides great value to the Interconnection Customer, and fully justify the modest timeline increases set forth in the LGIP.

D. The ISO's Interconnection Service Should Distinguish Between "Reliability" and "Network" Upgrades

Tenaska argues against maintaining the distinction between "Reliability" and "Delivery" Network Upgrades. Tenaska at 4. The ISO strongly disagrees.

The ISO's proposed distinction between "Reliability" and "Delivery" Network Upgrades appropriately separates those Network Upgrades that are "must do" Network Upgrades, necessary to maintain the safety and reliability of the transmission grid, from the type of "voluntary" Network Upgrades (in the sense that the Interconnection Customer may decide not to build them). As the ISO explained in its transmittal letter accompanying the LGIP, this distinction provides useful information to Market Participants on the type of Network Upgrades necessary to suit the business plans for the particular Generating Facility under study. Transmittal Letter at 22. The ISO also agrees with the comments submitted by the CPUC, that state that this distinction should be maintained because it could have significant practical utility in the context of the CPUC's procurement review activities. CPUC at 3-4. The identification of "Reliability" and "Delivery" Network Upgrades also is consistent with the Commission's intention that Interconnection Studies specify both those facilities required to interconnect to the ISO Controlled Grid and the additional facilities that ensure the full output of the resource under a specified set of conditions.

Moreover, the ISO believes that the information provided by the ISO's LGIP, specifically the Deliverability Assessment and the identification of "Reliability" and "Delivery" Network Upgrades, appropriately anticipates possible regulatory changes in California and aligns interconnection policy with the ISO's goals for the resource adequacy framework under development by the state.

More practically, the ISO submits there is significant value in defining types of Network Upgrades and assessing the deliverability of a Generating Facility within the interconnection process. Under the LGIP, the Interconnection Customer will benefit by having access to more information about the range of options for Network Upgrades that would underlie the possible marketability of the power from its Generating Facility. The PTOs will benefit by virtue of the clear identification of Delivery Network Upgrades that they may choose to build in the event that the Interconnection Customer does not build such facilities. Finally, the ISO, all Market Participants, and the general public benefit by the identification of Delivery Network Upgrades that the ISO might direct the applicable PTO to build so that economic projects benefiting the entire transmission grid are constructed in a timely manner.

E. The Cost-Benefit Test is Essential to Protect Ratepayers Until LMP is Fully Implemented

A number of generators and marketers argue against the ISO's proposed economic test for the recovery of the costs of Network Upgrades, including Duke, Tenaska, PPM, Calpine, Constellation and Mirant, as well as TANC and Cities/M-S-R. Calpine at 14-15; Cities/M-S-R at 9-10; Constellation at 3; Duke at 6-7;

Mirant at 5-9; PPM at 6-7; TANC at 6-7; Tenaska at 4-5. In contrast, PG&E and the CPUC support the economic test for new interconnections. CPUC at 8; PG&E at 3-4.

As discussed in the filing letter for the LGIP, the ISO favors the economic test because it provides a reasonable safeguard against excessive costs of Network Upgrades that don't make economic sense, which ultimately are paid by ratepayers throughout the state. Transmittal Letter at 19-21. The ISO has frequently maintained that locational price signals should drive investment decisions and that interconnection policy and procedures should not threaten to mute these signals. See, e.g., Comments of the California Independent System Operator Corporation on the Commission's Advanced Notice of Proposed Rulemaking on Standardized Generator Interconnection Procedures and Agreements, Docket No. RM02-1 (Feb. 1, 2002).

Since California does not currently have any market-driven price incentives such as locational marginal prices to which developers would need to be sensitive in making siting decisions, the ISO believes it is necessary to maintain some ability to review the economic justifications for the costs of Network Upgrades. The ISO also notes that the CPUC endorses the concept that ratepayers should reimburse only those Network Upgrade costs that offer an overall benefit to the transmission grid, especially since developers may be oblivious to these costs without such a backstop. CPUC at 8. The CPUC also has recently opened a proceeding to consider how it would defer to the ISO's

assessment of need when a project is justified based on an adopted economic methodology.

It should be understood that this kind of economic test will take into account the benefits of specific projects, including the reliability benefits of constructing and interconnecting new Generating Facilities. For example, if the construction of a new Generating Facility would result in eliminating the need for a planned reliability project, then the associated cost savings of not building that project would be considered in the balance of this cost-benefit test. Where these types of benefits outweigh the costs of Network Upgrades, the Interconnection Customer can expect full reimbursement for financing these Network Upgrades.

It is also important to emphasize that without such an economic benefits test, California ratepayers risk being saddled with the excessive costs of uneconomic transmission expansion. Therefore a review of costs and benefits of large-scale expansion projects of the transmission system is not only reasonable, but also represents sound public policy. The ISO is currently working with Market Participants and the CPUC to develop such an economic test and lay out a detailed methodology for such a test.

The ISO anticipates that interconnection projects would remain subject to this economic test only until the ISO's transition to a locational marginal pricing ("LMP") congestion management system, planned as part of its market redesign efforts, is fully implemented and developers can assess the value of the financial congestion rights they should receive as compensation for funding Network

Upgrades. Absent a clear locational price signal, however, a cost-benefit test should remain an important component of the ISO's LGIP.

F. The ISO's Deliverability Assessment Will Provide Valuable Information to Interconnection Customers

SDG&E asserts the ISO's proposed Deliverability Assessment is premature, inadequately defined, and unrealistic. SDG&E at 2-6. The ISO disputes this assertion and, as discussed in its filing letter for the LGIP, maintains that the Deliverability Assessment is a key component of this interconnection process as well as a potentially valuable tool for state agencies and Market Participants involved in resource adequacy issues. Transmittal Letter at 15-17.

Given that the implementation of FERC Order No. 2003 and the CPUC resource adequacy policy initiatives are simultaneously under development, the ISO believes it is imperative to develop a workable Deliverability Assessment at this time. This Deliverability Assessment is included as part of the ISO's proposed process for Interconnection Studies and is intended to be compatible with the CPUC resource adequacy policy initiatives. Indeed, the CPUC explicitly notes its support for the establishment of a deliverability standard in the ISO's LGIP, and the ISO anticipates continued coordination in the development and implementation of this standard. CPUC at 7.

This proposed Deliverability Assessment is important because it will provide valuable information to the Interconnection Customer about the Network Upgrades needed to ensure that the full output of its Generating Facility can be transmitted to load under peak system conditions. For the first time, this specific

assessment will be available for developers of new Generating Facilities as part of the ISO's interconnection process, without delaying or affecting the LGIP timelines for Interconnection Studies. Pending the implementation of a resource adequacy requirement in California, this Deliverability Assessment will promote and anticipate the establishment of a workable standard for deliverability that all Market Participants can use in determining the value of a new Generating Facility.

The ISO has posted on its internet website a proposed methodology for this Deliverability Assessment, and a general presentation was conducted at the ISO's November 12, 2003 stakeholder meeting. Nonetheless, the ISO agrees with Calpine's suggestion for additional public technical meetings on the methodology and assumptions for this Deliverability Assessment. Calpine at 19. The development and implementation of this deliverability component will be done in close coordination with the CPUC's procurement proceeding, as suggested in SCE's comments. SCE at 12-13. Moreover, the ISO strongly encourages and supports the involvement of those Market Participants that will utilize this Deliverability Assessment at future meetings to be sponsored by the ISO addressing this issue.

G. The ISO's Crediting Policy for Network Upgrades Strikes the Proper Balance Currently

The ISO's proposed policy for crediting the costs of Network Upgrades detailed in the ISO's LGIP elicited a number of comments. Mirant agrees that the Interconnection Customer should be able to choose refunds or Firm

Transmission Rights (“FTRs”). Mirant at 9-10. Constellation asserts that refunds should always be available for the Interconnection Customer and that FTRs should not be the only available option. Constellation at 5. SCE argues that Interconnection Customers should not be able to choose FTRs in lieu of refunds. SCE at 3-8.

The ISO continues to believe that Interconnection Customers should have the option of choosing between refunds or FTRs. As noted in the ISO’s filing letter for the LGIP, the ISO’s LGIP allows the Interconnection Customer to recoup its investment in economically viable projects over a five-year period. Transmittal Letter at 17. The Interconnection Customer can elect to receive direct refunds or applicable financial congestion rights (FTRs or any other form of financial congestion rights implemented by the ISO in the future) as compensation for initially funding Network Upgrades. The ISO envisions that financial congestion rights eventually will be the only compensation permitted for Network Upgrades, but refunds must remain the primary option for the Interconnection Customer for now because FTRs do not currently offer measurable value within the ISO’s Congestion Zones.

The ISO disagrees with SCE’s argument against letting the Interconnection Customer choose FTRs as reimbursement. The ISO believes FTRs should remain an option for the Interconnection Customer. When locational pricing is fully implemented, financial congestion rights like FTRs should provide measurable economic incentives for the Interconnection Customer to be sensitive to the costs of Network Upgrades. For some projects, it

is possible that these economic incentives already exist. In these instances, the Interconnection Customer could seek to build facilities that impose less cost while promising greater benefits from the associated congestion rights. This sensitivity toward market-driven economic incentives should promote transmission expansion where it is needed most and for which no other Market Participant has stepped forward to build these facilities.

Even if, under the current paradigm, no Interconnection Customer were to choose to accept FTRs in lieu of refunds for its investment in Network Upgrades, having the FTR option helps to prepare all Market Participants for the anticipated scenario when LMP is fully implemented and financial congestion rights like FTRs are the only reimbursement available to the Interconnection Customer. Also, under the ISO's proposed economic test, the costs of Network Upgrades that exceed \$20 million or \$200,000 per MW would not be refunded unless they were determined to be "economic." This provision, for the most part, mitigates the concern raised by SCE regarding possible impacts to transmission ratepayers if the Interconnection Customer can choose its reimbursement option.

The ISO reiterates its expectation that this pricing policy will mature so that, under an LMP model, the nodal prices will provide the best available locational signal for new interconnections, and that financial congestion rights will provide the appropriate value for the reimbursement of Network Upgrades. The CPUC shares the ISO's belief that, for the long-term, financial congestion rights are the preferred compensation for investment in Network Upgrades. CPUC at 4-7.

Similar to the way that the Deliverability Assessment anticipates a time when the state's resource adequacy policy imposes a deliverability requirement, so also does the option for refunds or FTRs anticipate the ISO's new market design under development and likely to be implemented in the near future. For this reason, Interconnection Customers should benefit by having a choice of refunds or FTRs as reimbursement in the current version of the ISO's LGIP.

H. Existing QFs Should Not Need to Submit a New Interconnection Request, and Should Not Need to Join the Interconnection Queue, if No Changes Are Made to the Capability or Electrical Characteristics of Their Generating Units

CAC/EPUC and Calpine correctly point out that Order No. 2003 provides that the requirement to submit an Interconnection Request does not apply to existing qualifying facilities (QFs) that undertake to sell power in the wholesale market without changing the characteristics of their facilities. CAC/EPUC at 4; Calpine at 25-26.

The ISO, however, does not believe that it is necessary to add any additional language in the LGIP in order to reflect this requirement because the provisions of the ISO Tariff, along with the proposed LGIP, already do so. Specifically, LGIP Section 3.1 provides that it is an "Interconnection Customer" that submits an Interconnection Request. ISO Tariff Section 5.7.1 states that an "Interconnection Customer" is the owner of a "planned Generating Facility," which is specified in that section to include (a) Generating Facilities that seek to interconnect to the ISO Controlled Grid, (b) existing Generating Units that are modified to increase their total capability, and (c) existing Generating Units that

are modified to change their electrical characteristics in a way that might affect grid reliability.

Since QFs that simply change the marketing of their power would not be covered by any of those provisions, such QFs would not be required to submit an Interconnection Request under the ISO's proposed LGIP and related ISO Tariff provisions. However, the ISO concedes that its proposed LGIP and related ISO Tariff provisions are not as clear as they could be in that regard. If the Commission should consider it necessary, the ISO would propose the following additional revisions to address the concern raised by CAC/EPUC and Calpine:

LGIP Section 3.1: Amend to read: "Pursuant to ISO Tariff Section 5.7.1, aAn Interconnection Customer shall submit to the ISO an Interconnection Request"

Definition of "Interconnection Customer": Amend to read: "Any entity ... that proposes to interconnect its Generating Facility with the ISO Controlled Grid, pursuant to ISO Tariff Section 5.7.1."

Definition of "Interconnection Request": Amend to read: "An Interconnection Customer's request ... in accordance with Section 5.7.1 of the ISO Tariff, ~~to interconnect a new Generating Facility, or to increase the capacity of, or make a Material Modification to the operating characteristics of, an existing Generating Facility that is interconnected with the ISO Controlled Grid.~~

ISO Tariff Section 5.7.1: Amend to read: "~~For purposes of t~~This Section 5.7 and the Standard Large Generator Interconnection Procedures (LGIP), ~~a planned Generating Facility shall be apply to:~~

(a) each new Generating Facility that seeks to interconnect to the ISO Controlled Grid;
(b) each existing Generating Unit connected to the ISO Controlled Grid that will be modified with a resulting increase in the total capability of the power plant, regardless of whether that increased capability is expected to be delivered to the ISO Controlled Grid;
and

(c) each existing Generating Unit connected to the ISO Controlled Grid that will be modified, or whose on-site Load will be modified, without increasing the total capability of the power plant but has changed the electrical characteristics of the power plant or on-site Load such that its re-energization may violate Applicable Reliability Criteria.

The owner of a planned Generating Facility or Generating Unit subject to Section 5.7(a), (b), or (c), or its designee, is referred to for purposes of this Section 5.7 as shall be an Interconnection Customer required to submit an Interconnection Request and. All planned Generating Facilities are subject to comply with the Standard Large Generator Interconnection Procedures. This Section 5.7 and the Standard Large Generator Interconnection Procedures shall not apply to existing qualifying facility Generating Units that undertake to sell power in the wholesale market unless they change the

characteristics of their Generating Units in the manner described in Section 5.7(b) or (c) above.”

I. The LGIP Applies to QFs That Sell Only to an Interconnected Utility or to On-Site Customers

Calpine also asserts that the LGIP should be clarified to include an express recognition of Order No. 2003's provision specifying that a state will continue to exercise authority over interconnections of QFs whose output is sold only to an interconnected utility or to on-site customers. Calpine at 25.

The ISO submits that it would be illogical for a state authority with jurisdiction over a QF interconnection to establish a different set of interconnection rules for a QF interconnecting to the ISO Controlled Grid than those that apply to all other Generating Facilities interconnecting to the ISO Controlled Grid. The ISO proposes to implement its proposed version of the LGIP and other ISO Tariff amendments as submitted, and to seek confirmation from applicable state authorities that the requirements set forth in the LGIP and other provisions of the ISO Tariff will apply to QFs that may sell their output only to an interconnected utility or to on-site customers.

J. The LGIP Should Be Part of the ISO Tariff

Calpine argues that 1) the ISO's LGIP should “trump” any other ISO Tariff provision in the event of a conflict, 2) the dispute resolution process within the ISO's LGIP should be followed according to the Commission's pro forma LGIP, and 3) the ISO's LGIP should apply retroactively to June 4, 2002. Calpine at 23-25. The ISO disagrees with these arguments for the following reasons.

First, if the Commission accepts the LGIP, the LGIP will become a part of the ISO Tariff and stand on equal ground with all other parts of the ISO Tariff. No other specific part of the ISO Tariff receives favored treatment over another part. Equally important, the dispute resolution process within the ISO Tariff must be followed for conflicts arising from this interconnection process. Considerable confusion would result if the ISO were subject to differing dispute resolution procedures depending upon which part of the ISO Tariff was the focus of disagreement.

The ISO also opposes retroactive application of this LGIP. Such application would likely create an artificial rearrangement of the interconnection queue with unworkable implications for the refund of the costs of Network Upgrades, as well as numerous other problems. The ISO and Market Participants have relied for nearly three years on the assurance that current interconnection procedures would be effective, subject to the implementation of Order No. 2003. Any retroactive application would cause significant harm to Market Participants and considerable administrative problems for the ISO.

Additionally, the ISO does agree with Calpine that future changes to the study agreements must be approved by the Commission. All pro forma agreements implemented pursuant to the ISO Tariff, including the study agreements, may only be changed with the Commission's approval.

K. The LGIP Adequately Protects Confidential Information

Calpine argues the sharing of confidential information within these interconnections procedures should occur only with a signed confidentiality agreement. The ISO disagrees. The existing provisions of the ISO Tariff already provide appropriate protections for all parties involved in the Interconnection process. No stand-alone confidentiality agreement is necessary.

L. All Interested Stakeholders in California Were Involved and Helped to Shape the Major Policies in the ISO's LGIP

In its protest, Calpine contends that no meaningful stakeholder process was conducted to address the deviations in the ISO's Order No. 2003 compliance filing, and therefore, the ISO's LGIP filing is entitled to no Commission deference. Calpine at 3. The crux of Calpine's argument appears to be that the ISO's stakeholder process was not meaningful because, although the ISO undertook a stakeholder process that involved all Market Participants, only certain Market Participants (the PTOs) were involved in the more detailed process of "reconcile[ing] the LGIP and LGIA provisions with the existing structure of the ISO Tariff and the PTOs' historic interconnection procedures and agreements." Transmittal Letter at 4.

The ISO disagrees with Calpine's argument. The mere fact that the ISO worked closely with the PTOs to resolve the specific issues noted above does not, in and of itself, render the larger stakeholder process "meaningless." Instead, that process must be judged on its own merits.

The ISO's transmittal letter accompanying the LGIP Filing documents a thorough and meaningful stakeholder process in which every significant policy

matter was openly reviewed and discussed. As explained therein, the ISO conducted two open stakeholder meetings on these issues and published a White Paper and a revision to the White Paper. Transmittal Letter at 4. Between each of these steps, the ISO solicited comments from all Market Participants, and took these comments into account in each subsequent step. For example, the ISO included many of the comments received from Market Participants in the materials that it submitted to the ISO Board on November 25, 2003. LGIP Filing, Attachment L.

More specifically, the ISO's positions on major policies – including the single interconnection service, the crediting back to developers for transmission investment, the Reliability and Delivery Network Upgrades, the economic test, the Deliverability Assessment, and the timeline for studies – were the focus of presentations and discussions at the public stakeholder meetings. Interested participants have been fully engaged with these guiding policies and should not have been surprised with the major policies proposed to be implemented in the ISO's LGIP. Rather, they have been afforded multiple opportunities to provide their comments and the ISO has sought to consider and balance the conflicting positions of the parties.

Thus, Calpine's only viable objection is that it was not afforded an opportunity, prior to filing, to review the specific language of the proposed LGIP. However, as the ISO explained in its filing letter, such a review was simply not possible given the amount of time available between the ISO Governing Board's

approval of the major policy decisions embodied in the LGIP and the Commission's deadline for filing the LGIP. Transmittal Letter at 5, n.10.

M. The ISO's LGIP Will Apply to All Interconnections to the ISO Controlled Grid Until a Separate Order Is Issued for Small Generator Interconnections

Cities/M-S-R and TANC argue against subjecting all new Generating Facilities to the ISO's LGIP process. Cities/M-S-R at 7-9; TANC at 5-6. As the ISO explained in its filing letter, and within the LGIP Matrix of Changes (Attachment A to the LGIP Filing), the definition for "Large Generating Facility" was amended so that the ISO's LGIP will apply temporarily to all new Generating Facility interconnections pending the issuance by the Commission of a separate rule governing the interconnection of Generating Facilities of 20 MW or less. Transmittal Letter at 11-12; LGIP Filing, Attachment A at 6-7.

This approach seems more reasonable than leaving Generating Facilities 20 MW or less governed, for the current time, by outdated provisions of the ISO Tariff that have been superceded by the implementation of this LGIP.

The ISO expects the Commission to issue this "small generator" interconnection rule by this summer. At that time, the ISO expects to make simultaneous conforming amendments both to add the new procedures for small generator interconnections to the ISO Tariff and to make this LGIP applicable only to Generating Facilities above 20 MW.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept the ISO's LGIP as filed.

Respectfully submitted,
/s/ Michael Kunselman

Charles F. Robinson
General Counsel
Gene Waas
Regulatory Counsel

Kenneth G. Jaffe
Michael Kunselman

The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 608-7049

Swidler, Berlin, Shereff and Friedman, LLP
3000 K Street, Ste. 300
Washington, D.C. 20007
Telephone: (202) 424-7500

Dated: March 9, 2004

Certificate of Service

I hereby certify I have this day served the foregoing documents upon each person designated on the official service list compiled by the Secretary in this 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 9th date of March, 2004

/s/ Gene Waas
Gene Waas