

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

California Independent System Operator) Docket Nos. ER06-629-000
Corporation) ER06-629-001

California Independent System Operator) Docket No. ER06-630-000
Corporation, Pacific Gas and)
Electric Company, San Diego Gas)
& Electric Company, and Southern)
California Edison Company)

**REQUEST FOR REHEARING AND CLARIFICATION
OF
SOUTHERN CALIFORNIA EDISON COMPANY, SAN
DIEGO GAS & ELECTRIC COMPANY, PACIFIC GAS
AND ELECTRIC COMPANY, AND THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR
CORPORATION**

Pursuant to Rules 212 and 713 of the Federal Energy Regulatory Commission's
(FERC or Commission) Rules of Practice and Procedure, 18 C.F.R. §§385.212 and
385.713 (2004), and Section 313 of the Federal Power Act (FPA), 16 U.S.C. § 825/
(2005), Southern California Edison Company (SCE), the California Independent System

Operator Corporation (CAISO),¹ Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E) hereby submit their Request for Rehearing and Clarification of the Commission's Order on Small Generator Interconnection Compliance Filings (*SGI Order*) issued on November 16, 2007.²

I. SPECIFICATION OF ERRORS AND CLARIFICATIONS REQUESTED

1. The Commission erred by rejecting the CAISO's proposal to allow re-studies under the Small Generator Interconnection Procedures (SGIP), if necessary, for interconnections of small generators to the CAISO Controlled Grid. The Commission's decision is not supported by substantial evidence and is arbitrary and capricious.
2. The Commission erred by rejecting the CAISO's proposed Section 4.11 of the SGIP, which required Interconnection Customer to comply with the Interconnection Handbook of the applicable Participating Transmission Owner (PTO). The Commission's rationale is not supported by substantial evidence and its decision is arbitrary and capricious.
3. If the Commission intended to reject the proposal in the Small Generator Interconnection Agreement (SGIA) to require Interconnection Customers to follow the PTOs' Interconnection Handbook, the Commission erred. The Commission accepted this provision in the Large Generator Interconnection Procedure (LGIP) proceeding and SCE's Wholesale Distribution Access Tariff (WDAT) SGI filings. If Small Generators interconnecting to the CAISO Controlled Grid are not required to follow the PTOs' Interconnection Handbook under the SGIA, the result would be unduly discriminatory.
4. The Commission erred by rejecting the Parties' proposal to allow the PTOs six months, rather than three months, to provide a final accounting of construction costs. The Commission's rationale is not supported by substantial evidence and its decision is arbitrary and capricious.

¹ The CAISO joins solely in Sections III.A, III.D, and III.E of this Request for Rehearing. It is not joining in any other section of the Request for Rehearing and expressly takes no position on any arguments or positions taken therein.

² 121 FERC ¶ 61,177 (2007).

5. The Commission erred by rejecting CAISO's proposal to extend certain timelines under the SGIP. Specifically, the Commission erred by denying the requested changes to Sections 3.3.4, 3.4.5, and 3.5.7 of the SGIP and to Section 10 of the Feasibility Study Agreement, Section 9 of the System Impact Study Agreement, and Section 7 and 8 of the Facilities Study Agreement. The Commission's decision is not supported by substantial evidence and is arbitrary and capricious.
6. The Commission erred by rejecting the CAISO's and PTO's proposal in SGIA Article 12.12 regarding Reservation of Rights, which specifies which parties have FPA Section 205 filing rights for the various sections of the SGIA. The Commission's rationale for rejecting this provision – that the SGIA should be less complex for generators – is arbitrary and capricious because the provision sets forth the rights as between the CAISO and the PTOs and does not restrict the rights of generators.

II. INTRODUCTION

On February 10, 2006, the CAISO submitted its Standard SGIP in compliance with Order No. 2006 and its progeny.³ At the same time, the CAISO, SCE, PG&E, and SDG&E⁴ jointly submitted the Standard SGIA, which would similarly apply to small generators under 20 megawatts interconnecting to the CAISO Controlled Grid.⁵

In its SGIP Filing Letter, the CAISO explained that the proposed independent entity variations in the SGIP and SGIA being filed “are the result of a stakeholder process undertaken in this matter by the CAISO in response to FERC Order Nos. 2006 and 2006-A.”⁶ The CAISO also explained that it had consulted with the California Public Utilities

³ See Letter from CAISO to Magalie Roman Salas, Docket No. ER06-629-000, February 10, 2006 (“SGIP Filing Letter”).

⁴ Collectively, SCE, PG&E and SDG&E are referred to as the “PTOs”. Together, the PTOs and the CAISO are sometimes referred to as the “Parties”.

⁵ Letter from the CAISO and the PTOs to Magalie Roman Salas, Docket No. ER06-630-000, February 10, 2006 (“SGIA Filing Letter”).

⁶ SGIP Filing Letter at 3 (footnote omitted).

Commission, the California Energy Commission, and the PTOs prior to developing its initial proposal.⁷ Thereafter, the CAISO worked with the PTOs to develop an initial proposal, which was posted on the CAISO website for stakeholder review. The CAISO held stakeholder meetings, at which it briefed stakeholders on the proposed draft SGIA, SGIP and associated tariff language, took comments, and answered questions. The CAISO, in conjunction with the PTOs, revised the documents based on stakeholder comments, posted the documents again, and accepted additional comments.⁸ By means of this process, the CAISO and the PTOs developed a set of interconnection procedures tailored to California's particular circumstances that followed the spirit of the Commission's Order No. 2006.

After the SGIP and SGIA were filed, the Commission issued its standard notice for comments and protests. **No party filed a protest disputing any provision in the proposed SGI documents.** Nevertheless, in the SGI Order, the Commission rejected numerous provisions that the CAISO and its stakeholders found necessary to synchronize the Commission's *pro forma* SGIP and SGIA with the CAISO's interconnection process. Many of the provisions that the Commission rejected are necessary to properly interconnect small generators to the CAISO Controlled Grid in a non-discriminatory manner and were not the subject of any small generator protests. Moreover, the Commission rejected several provisions that it had accepted in the Large Generator

⁷ *Id.*

⁸ *Id.* at 3-4.

Interconnection (“LGI”) filings of the CAISO and the PTOs for reasons that are wholly unrelated to any differences between large and small generators.

Although the Commission’s goal of shortening the time to interconnect is laudable – and is shared by the PTOs and the CAISO – that goal cannot be accomplished at the expense of the safety and reliability of the electric system. Additionally, that goal cannot be accomplished by setting false deadlines that all parties confirm cannot realistically be met. The CAISO has over 140 interconnection requests in its interconnection queue, and its interconnection process is meticulous, even for smaller generators. As noted by the CAISO, the interconnection process requires significant coordination among the CAISO, the PTOs and the generators. Although the process can be accelerated to some degree with small generators, these interconnections cannot be accomplished without proper review and sufficient time for the necessary coordination. As explained in detail herein, the Commission’s insistence that small generator interconnections must be done rapidly at any cost conflicts with principles of reasoned decisionmaking, and the Commission should grant clarification and rehearing on the issues set forth herein.

III. ARGUMENT

A. The Commission’s Rejection of the CAISO’s Restudy Provisions in the SGIP was Erroneous.

In Order No. 2006, the Commission concluded that Transmission Providers could not perform re-studies under the SGIP. The Commission concluded that, “While a restudy provision in the LGIP context is meaningful because system conditions may change between completion of a particular study and the Parties’ signing the LGIA, it is

unlikely that any significant change in system conditions will occur that was not foreseen by the Transmission Provider at the time of study because the SGIP has a much shorter timeline.”⁹ As SCE noted in its prior Request for Rehearing, this rationale is not supported by any evidence.¹⁰ See *Midwest ISO Transmission Owners v. FERC*, 373 F.3d 1361, 1368 (D.C. Cir. 2004) (holding that the Commission must at least “examine[] the relevant data and articulate[] a [] rational connection between the facts found and the choice made.”); see *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (internal quotation marks and citations omitted) (there must be a “rational connection between the facts found and the choice made.”).

Although it may be true that restudies are not necessary in other parts of the country, the CAISO has concluded that interconnections of small generators to the CAISO Controlled Grid require restudies under certain circumstances, as the size of the generator and the timing of the interconnection process has very little, if anything, to do with whether a re-study would be necessary under the current interconnection process. As explained in numerous pleadings, and again below, in California, it is not true that “if the SGIP timelines are respected and Small Generators are interconnected promptly, there should be no need for restudy.”¹¹ As the CAISO explained in its SGIP Filing Letter:

Small Generating Facility Interconnection Requests are placed in the same queue with higher queued projects

⁹ Order No. 2006 at P 193, *quoted in part*, SGI Order at P 54.

¹⁰ SCE sought rehearing of this decision, and an appeal is pending at the U.S. Court of Appeals for the District of Columbia (Case No. 06-1031).

¹¹ SGI Order a P 55.

administered under the LGIP process. Changes in the CAISO interconnection queue, therefore, will have direct and significant impact on the Queue Position of a lowered queued Small Generating Facility's interconnection study results. The CAISO recognizes one of the intents of the Small Generator Interconnection Procedures is to expedite interconnections of Small Generating Facilities, however, re-study provisions in the context of the LGIP are just as applicable to Small Generating Facilities being studied sequentially in relative hierarchy of the CAISO interconnection queue due to changing system conditions.¹²

By discounting the CAISO's concern, the Commission has failed to adequately address the very real problem presented by the CAISO. This constitutes legal error. *See Farmers Union Cent. Exchange, Inc. v. F.E.R.C.*, 734 F.2d 1486, 1499-1500 (D.C. Cir. 1984) (noting that Commission may not "entirely fail[] to consider an important aspect of the problem"); *see also Public Svc. Comm. of the Commonwealth of Kentucky*, 397 F.3d 1004, 1008 (D.C. Cir. 2005) ("The Commission must [] respond meaningfully to the arguments raised before it."). As noted by the CAISO, restudies must be performed when a higher-queued Interconnection Customer drops out of the queue, or when system conditions change such that the prior study results are no longer reliable.¹³ Either of these two events may occur at *any* time and without significant lead time. There is simply no means by which the CAISO can predict when a higher-queued Interconnection Customer might drop out of the queue. Under such conditions, the ability for the CAISO

¹² CAISO Filing Letter at 13.

¹³ As part of Docket No. AD08-2-000, the CAISO, PTOs and other stakeholders are evaluating modifications to the LGIP that are intended to reduce the incidents of restudy, i.e., clustering combined with other reforms reflecting added developer commitment. While these efforts are likely to significantly reduce the number of restudies, it will not obviate them completely.

to perform a restudy, and to charge the Interconnection Customer for such study, is necessary to ensure that the proper upgrades are put in place.

Thus, the Commission's conclusion that the CAISO has not demonstrated that it is entitled to an independent entity variation based on the Commission-approved interconnection process used in California – and the Commission's general conclusion that a shorter timeline for interconnection¹⁴ obviates the need for restudies – is not supported by the evidence. *See East Texas Elec. Coop., Inc. v. FERC*, 331 F.3d 131, 136 (D.C. Cir. 2003) (noting that FERC “must provide a coherent and adequate explanation of its decisions”). The CAISO should be permitted to perform any and all studies that are necessary to accurately reflect system conditions and to maintain the safety and reliability of its electric system. The cost of such studies is properly assigned to the Interconnection Customer.¹⁵

It should be emphasized that restudy might actually benefit the Interconnection Customer, as the results could reveal that such Interconnection Customer no longer triggers the need for certain upgrades. The implicit acceptance of the restudy provisions by generators confirms this reality and its neutral impact on Interconnection Customers. Either way, however, the Commission has not supported the position that a restudy is

¹⁴ Notably, the timeline for interconnection is still several months. For example, the Interconnection Customer has thirty Business Days to execute each of the study agreements, as well as the SGIA, and the Interconnection Customer is entitled under the SGIP and the SGIA to seek additional time at various points of the process.

¹⁵ *See* Order No. 2003 at P 37 (“The Interconnection Customer will pay the actual costs for performing each of the Interconnection Studies and restudies.”).

never necessary for a small generator, and thus the Commission should clarify that the CAISO is entitled to perform a necessary restudy at the Interconnection Customer's cost.

B. The Commission Should Reverse its Rejection of the CAISO's Proposed SGIP Section 4.11, Requiring the Interconnection Customer to Meet the Requirements of the PTOs' Interconnection Handbook or, at a Minimum, Clarify that Such Provision May be Retained in SGIA Article 1.5.4.

1. The Commission Erred by Rejecting the CAISO's Proposed SGIP Section 4.11.

In its compliance filing, the CAISO included a provision – which was also included in the CAISO's LGIP, SCE's Wholesale Distribution Access Tariff (WDAT) LGIP *and* SCE's WDAT SGIP¹⁶ (and ultimately similar provisions in SDG&E's WDAT SGIP)¹⁷ – that requires an Interconnection Customer to comply with the applicable PTO's Interconnection Handbook.¹⁸

In the SGIP Filing Letter, the CAISO noted that it was requesting this independent entity variation for the same reason that it had requested such provision in the LGIP.¹⁹ The CAISO asserted that an Interconnection Customer must be aware of, and conform its facilities to, the specific characteristics and practices of the PTO system to which it is interconnecting. Although parties in the LGIP docket protested the inclusion of this provision, the Commission accepted the proposal. In that Order, the Commission stated

¹⁶ *Southern California Edison Co., et al.*, 113 FERC ¶ 61,022 at P 28 (2005) (“WDAT SGIP Order”).

¹⁷ *Southern California Edison Co., et al.*, 114 FERC ¶ 61,197 (2006) (order approving uncontested settlement).

¹⁸ CAISO's Proposed SGIP, Section 4.11.

¹⁹ SGIP Filing Letter, at 14.

that it agrees that “each PTO’s transmission system may have certain standards and protocols for the interconnection of new generation that must be followed in order to protect the safety and reliability of those systems.”²⁰ The Commission has not explained why the same rationale would not apply here, especially since no intervenors objected to the provision as they did in the LGIP docket. *See BP West Coast Products, LLC v. FERC*, 374 F.3d 1263, 1282 (D.C. Cir. 2004) (where the Commission has not “examined the relevant data and articulated a rational connection between the facts found and the choice made,” it has acted arbitrarily and capriciously).

Even more significant is that, as noted above, the Commission approved the PTOs’ **WDAT SGIP** with a provision that requires Interconnection Customers to comply with SCE’s Interconnection Handbook.²¹ With respect to SCE’s WDAT SGIP, the Commission specifically stated, in relevant part:

The Commission also accepts the revisions to section 4.11 of the WDAT SGIP and article 1.5.4 of the WDAT SGIA, including revisions to the WDAT SGIP table of contents to reflect section 4.11, which essentially require the interconnection customer to comply with the distribution provider’s interconnection handbook when designing, constructing, operating, or maintaining interconnection facilities. Previously, the Commission allowed a Participating Transmission Owner to require compliance with its interconnection handbook as consistent with Order No.

²⁰ *California Independent System Operator Corp., et al*, 112 FERC ¶ 61,009 at PP 167-169 (2005) (“LGIA Order”).

²¹ *WDAT SGIP Order* at P 28.

2003. We likewise, find Edison's proposed revisions consistent with Order No. 2006.²²

The Commission has not explained its departure from the utilities' WDAT SGIPs (which were not subject to the independent entity variation), and its rejection of the parallel provision here creates a discriminatory situation where all large generators (whether connected to the CAISO Controlled Grid or to a utility's Distribution System) **and** small generators interconnecting to a utility's Distribution System are required to comply with SCE's Interconnection Handbook, but small generators connecting to the CAISO Controlled Grid are not so required. There is no principled reason that would justify this anomalous result, and thus the Commission should reverse this portion of the SGI Order. *See Gas Trans. Northwest Corp. v. FERC*, 363 F.3d 500, 504 (D.C. Cir. 2004) ("Divergence from agency precedent demands an explanation.") (internal quotation marks and citation omitted). All Interconnection Customers should be required to follow the relevant PTOs' Interconnection Handbook in the manner set forth by the Commission in its prior orders on this subject.

2. At a Minimum, the Commission Should Clarify that it Intended to Accept the SGIA Article Section 1.5.4, Which Provides in the SGIA that Interconnection Customer Must Comply with the PTOs' Interconnection Handbook.

In the Parties' proposed SGIA Article 1.5.4, the Parties added the following sentences:

The Interconnection Customer shall comply with the [P]TO's Interconnection Handbook. In the event of a conflict between

²² *Id.* (footnote omitted).

the terms of this Agreement and the terms of the [P]TO's Interconnection Handbook, the terms in this Agreement shall govern.

Additionally, the Parties included a definition of "Interconnection Handbook" in the SGIA Attachment 1: Glossary of Terms. While the Commission specifically accepted the definition of Interconnection Handbook in the SGIA Attachment 1,²³ it was silent on the Parties' inclusion of the requirement in SGIA Article 1.5.4 that the Interconnection Customer comply with the applicable PTO's Interconnection Handbook. The Parties believe that the Commission intended to accept that provision based on its silence and its acceptance of the definition of the term "Interconnection Handbook" (which would have no relevance unless the addition to Article 1.5.4 were included in the SGIA); however, the PTOs seek clarification that this assumption is correct. For the reasons describe above in Section III.B.1 of this Request for Rehearing and Clarification, the Commission should clarify that it intended to accept Article 1.5.4 of the SGIA.

C. The Commission Erred by Rejecting the CAISO and PTO Proposal that the PTOs Should Have Six Months After Completion of Construction to Provide a Final Cost Accounting of Construction.

Article 6.1.2 of the SGIA filed by the CAISO and the PTOs provides that the relevant PTO shall provide the Interconnection Customer with a final accounting report of the actual construction costs of the relevant facilities within six (6) months of completing the construction and installation of such facilities, rather than within three (3) months as provided in the Commission's pro forma SGIA. As the Commission

²³ SGI Order at PP 114-115.

recognized, the CAISO and the PTOs explained that small generator interconnections are often very complex and require substantial coordination among the Interconnection Customer, the CAISO, and the PTO.²⁴ As SCE has also explained the mere fact that a generating facility is under twenty (20) megawatts does not necessarily mean that the facilities built to accommodate such interconnection will be any less complex than those facilities required to accommodate a generating facility that is over twenty (20) megawatts. In fact, SCE has interconnected a 2.4 MW project which required (1) replacement and relocation of existing ground bank transformers with larger transformers; (2) an upgrade of substation relay protection; (3) installation of a service cable run to the customer's switchgear; (4) installation of a hot line recloser blocking scheme; (5) reconductor of underground cable on a 12 kV circuit; (6) line extension of a neutral fourth wire on a 12 kV circuit to the customer's site; and (7) relocation of the automatic recloser device.²⁵ This actual example demonstrates that the interconnection of small generating facilities may necessitate substantial upgrades, and thus the Commission's conclusion that less time is needed to generate a final invoice under the SGIA than under the LGIA is unsupported by any evidence. *See BP West Coast Products, LLC*, 374 F.3d at 1282 (where the Commission has not "examined the relevant data and articulated a rational connection between the facts found and the choice made," it has acted arbitrarily and capriciously).

²⁴ SGI Order at P 109.

²⁵ *See* Filing Letter from James A. Cuillier to Magalie Roman Salas, May 19, 2005, Docket No. ER05-983-000.

Additionally, the Commission has not explained why it granted the Parties' request for an extension of time for a true-up under the LGIA, but not under the SGIA. The fact that an interconnecting generator is small does not necessarily mean that the upgrades required to interconnect that generator will be small or that the accounting can be done any faster. Article 12.2 of the Commission's pro forma LGIA provides that the Transmission Provider has six (6) months after completion of the construction of the relevant facilities to provide a final cost accounting. In their compliance filing for the LGIA, the Parties proposed that the PTOs be granted twelve (12) months after the completion of construction to true-up the costs of the facilities. The Commission granted that request on the basis that the change was justified as an independent entity variation.²⁶ The Commission has failed to explain why the size of the interconnecting generator is relevant to the time it would take for the PTO to perform the cost accounting for the facilities built to interconnect such generator. In fact, it is possible that upgrades needed to interconnect a small generator could be the same, or greater, than the upgrades necessary to interconnect a large generator. The Commission's failed to explain why it granted the extension under the LGIA, but not under the SGIA (which would still shave off six months for the final cost accounting under the SGIA versus the LGIA). *See Gas Trans. Northwest Corp.*, 363 F.3d at 504 ("Divergence from agency precedent demands an explanation.") (internal quotation marks and citation omitted); *see also Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43 (The Commission wholly failed to "examine the relevant data

²⁶ LGIA Order.

and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” (internal quotation marks omitted)).

Moreover, on its face, three months is not sufficient time for the utilities to process all invoices related to the construction of the relevant facilities. The PTOs have performed numerous interconnections, and their vast experience has demonstrated that a minimum of six months (and preferably twelve months) is necessary to allow for receipt of vendor issued invoices and trailing charges once the project is technically complete, processing and review of such invoices, and internal accounting and recordkeeping. SCE’s Controllers’ department reports that it takes anywhere from six to twelve months for all charges under a particular work order to be processed, in large part because of issues with subcontractors. For example, if a subcontractor performs work near the end of the month, there might be a two to three month lag before its charges even hit the work order for a particular project. Those charges must be processed through a manual internal system to ensure that there are no errors or overcharges (which protects the Interconnection Customer), and this process can delay the closing of the work order. In sum, it is virtually impossible to ensure that all charges will properly “hit” a work order within three months of completion of the construction of a project. Even if the PTOs were able to negotiate shorter timelines for receipt of vendor invoices, three months does not allow sufficient time for them to review and process invoices if there is any inadvertent delay by one or more vendors. This puts the PTOs in the difficult position of either sending a final invoice to the Interconnection Customer before all charges are received and properly authenticated (which could work to the detriment of the

Interconnection Customer) or risking the loss of a portion its prudently-incurred costs that are properly attributable to the Interconnection Customer. The Commission's disregard of this very real problem constitutes legal error. *See Farmers Union Cent. Exchange*, 734 F.2d at 1499-1500 (noting that the Commission may not "entirely fail[] to consider an important aspect of the problem"). Because it is impossible for the PTOs to control the actions of the vendors, the PTOs urge the Commission, at the very least, to provide the PTOs with six months – which coincides with the pro forma LGIA's timeline – to submit a final cost accounting to the Interconnection Customer.

D. The Commission Erred by Rejecting the CAISO's Proposal Under the Independent Entity Variation to Extend Various Timelines in the SGIP to Accommodate the Interconnection Process in California.

In the SGIP Filing Letter, the CAISO explained that the CAISO determined that certain timelines set forth in Order 2006's *pro forma* SGIP needed to be expanded in the context of small generator interconnections to the CAISO Controlled Grid. During the stakeholder process, the CAISO posted the draft SGIP, including the provisions with the extended timelines, on its website, and none of the stakeholders objected to the modest variations from the pro forma SGIP. The CAISO also explained in its SGIP Filing Letter that certain extensions of timelines were needed because of the CAISO's centralized study process, "whereby the CAISO interacts collaboratively with the PTOs in the execution of the SGIP"²⁷

²⁷ See SGIP Filing Letter at 11.

For example, in Section 3.2 of the SGIP, the CAISO added 10 Business Days following the Scoping Meeting in order to “allow for the coordination and development of the scope and study plan of the applicable interconnection study agreement utilizing information gathered at the Scoping Meeting.”²⁸ Additionally, in Section 3.4, the CAISO provided a period of 20 Business Days for tendering an interconnection agreement, because the CAISO and the PTO are required to collaborate on the final executable version of the SGIA to be tendered to the Interconnection Customer. Finally, in the study agreements appended to the SGIP, the CAISO added 10 Business Days for the CAISO to review and approve the interconnection studies.²⁹

All of the parties involved in discussions leading up to the CAISO’s SGIP filing agreed that more time than allotted in the pro forma SGIP is required to accommodate the coordination between the various entities in California.³⁰ The additional time further corresponds to the Commission’s rejection of the CAISO’s proposal included in the centralized study process that the PTOs perform all of the interconnection studies under the SGIP with CAISO review and oversight.³¹ Instead, the Commission followed the general allocation of responsibilities adopted in the LGIP that the “the applicable PTO should only perform certain studies, under the direction and oversight of the CAISO,

²⁸ *Id.*

²⁹ SGIP Filing Letter at 17. This change was made to all three study agreements, as follows: Feasibility (Section 10.0), System Impact (Section 9.0) and Facilities Study Agreement (Sections 7.0 and 8.0).

³⁰ *Id.*

³¹ SGI Order at P 33-40.

where the PTO has specific and non-transferable expertise or data and can conduct the studies more efficiently and cost effectively than the ISO.”³² Accordingly, to comply with the SGI Order, the CAISO and the PTOs intend to pursue a “Roles and Responsibilities Agreement” applicable to the SGIP. The timelines proposed by the CAISO will facilitate such an approach, while preservation of the pro forma timelines renders any reasonable coordination under the terms of the SGI Order impractical, if not impossible.

Despite the fact that the CAISO explained why additional time for coordination was necessary and no party objected to these modestly extended timelines, the Commission rejected them out of hand.³³ There is no record evidence to support the Commission’s conclusion that the CAISO’s proposal to incorporate additional time at various stages of the interconnection process in order to accommodate the need for coordination between the CAISO and the PTOs could “harm the Interconnection Customer, could discourage new small generators, and thus is not consistent with Order No. 2006’s goal of reducing interconnection time and costs.”³⁴ Moreover, in reaching this conclusion, the Commission ignored two major factors: (1) no generators involved in the stakeholder process objected to the minimal extensions of time that the CAISO proposed; and (2) the CAISO, who actually manages and oversees the interconnection process, has explained that additional time for coordination and review *is* necessary in

³² *Id.* at P 39.

³³ *Id.* at PP 43, 49, 74-75.

³⁴ *Id.* at P 49.

order for the process to run in an efficient manner. The Commission's failure to consider these facts constitutes legal error. *See Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43.

E. The Commission Should Reverse its Rejection of the Proposed SGIA Article 12.12 regarding Reservation of Rights.

The Commission rejected the Parties' revisions to Article 12.12, Reservation of Rights, that were intended to set forth the respective FPA Section 205 filing rights between the PTOs and the CAISO. The CAISO explained that these changes were being proposed for the same reasons that such changes were proposed in the Parties' LGIA filings. In its order accepting the LGIA, the Commission accepted the Parties' proposal to allocate FPA Section 205 between the CAISO and the PTOs. The Commission found that:

[V]oluntary agreements to allocate these [Section 205] rights may be acceptable where the interests of the region as a whole and market participants are properly safeguarded. The Filing Parties' proposal satisfies this standard. On balance, the Filing Parties' proposal provides for a reasonable allocation of section 205 filing rights. [footnote omitted] Under these circumstances, voluntary filing rights arrangements among these public utilities, whose rights would otherwise overlap, is consistent with Commission policy where the interests of the CAISO region and market participants are safeguarded.³⁵

The Commission's sole reason for rejecting the congruent provision in the SGIA was "that Order No. 2006 was intended to result in procedures and agreements that are shorter and less complex, where possible, for small generators."³⁶ This is not a reasoned

³⁵ LGIA Order at P 183.

³⁶ SGI Order at P 113.

decision. *See Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43 (finding that there must be a “rational connection between the facts found and the choice made.”). While the inclusion of the additional language in the Reservation of Rights section does make the SGIA *slightly* longer, it does not make it any more complex for the generator. In fact, the changes protect the Interconnection Customer from the CAISO or a PTO, as applicable, making a Section 205 filing to change a provision of the SGIA in which it does not have a direct interest. Moreover, the changes the Parties propose to that provision do not limit the Interconnection Customers’ rights under the SGIA in any manner. Finally, the Commission has not provided a sufficient rationale for concluding that the change to the Reservation of Rights article in the LGIA was appropriate, but the change to that same section in the SGIA is not. *See Entergy Svcs., Inc. v. FERC* 391 F.3d 1240 (D.C. Cir. 2004) (“The Commission may change its practices, but it must do so with reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored.”) (internal quotation marks and citations omitted). The mere fact that the SGIA is shorter and less complex is not a sufficient reason for denying the Parties this change to the SGIA that protects all of the parties to it.

IV. CONCLUSION

For the foregoing reasons, the Commission should grant this request for rehearing and clarification of those specific issues as requested herein.

Respectfully submitted,

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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 this proceeding.

Dated at Rosemead, California, this 17th day of December, 2007.

Rodger Torres
Case Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

Submission Contents

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