

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

Calpine Corporation)

Docket No. ER11-2085-000

**MOTION FOR LEAVE TO INTERVENE AND COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION ON
REQUEST FOR LIMITED WAIVER**

The California Independent System Operator Corporation submits these comments on the filing by Calpine Corporation on November 10, 2010 of a request for a limited waiver of the ISO tariff.¹ While the ISO does not believe that the interconnection financial security posting requirements set forth in the tariff should be waived in all cases where affected system costs are not identified by the time of posting, the ISO does not object to Calpine's request based upon the facts and unique circumstances of this request, subject to the clarification described below.

I. COMMENTS

Calpine's filing requests that the Commission grant a waiver of provisions of the Large Generator Interconnection Procedures (LGIP) in Appendix Y of the ISO tariff to permit two limited circumstances under which it could withdraw its interconnection request for its Sutter Energy Center project from the ISO's interconnection queue and receive full recovery under LGIP section 9.4.1 of its

¹ These comments are submitted pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.213 (2010) and the notices of filing issued in this proceeding on November 16 and 19, 2010. The ISO is sometimes also referred to as the CAISO.

initial posting of interconnection financial security.² As Calpine points out in its filing, its interconnection request for Sutter is a particularly unusual circumstance in that (1) Sutter is already in commercial operation, (2) Sutter was at one time within the ISO balancing authority area, and (3) the interconnection request seeks to reconnect Sutter within the ISO balancing authority area.³ Calpine still would be required to post interconnection financial security in accordance with the requirements of LGIP section 9.2 (*i.e.*, on or before 90 calendar days after publication of the final phase I interconnection study report, and in an amount determined by the ISO pursuant to section 9.2), but would be afforded limited additional time to await the completion of the necessary rated-path review by the Western Electricity Coordinating Council (WECC) and associated studies by affected systems and to be apprised by each affected system of Calpine's total affected system cost responsibility, without risk of forfeiting all or a portion of its interconnection financial security.⁴

Calpine provides the following additional clarification in its filing:

The limited circumstances under which Sutter would have the option to withdraw its Interconnection Request and receive full recovery of its Interconnection Financial Security cover the situation where Sutter either lacks information on its total Affected System Cost Responsibility or such amount would exceed its reasonable expectations, which for purposes of this waiver request have been determined after consultation with the CAISO to be \$1 million.¹⁰ [footnote 10: The \$1 million figure applies to the aggregate amount of upgrade costs for all Affected Systems and WECC path mitigation, combined.] A waiver of Section 9.4.1 of the LGIP would apply either if Sutter has not received a final determination of its total Affected System Cost Responsibility from all Affected Systems within one year of the date on which Sutter has made its initial posting of

² Terms used with initial capitalization and not otherwise defined herein have the meanings set forth in Appendix A of the ISO tariff.

³ See Calpine filing at 5-7.

⁴ Calpine filing at 3-4.

Interconnection Financial Security pursuant to Section 9.2 (the “Sunset Date”), or if Sutter has received by the Sunset Date a final determination of its total Affected System Cost Responsibility from all Affected Systems and such total Affected System Cost Responsibility equals or exceeds \$1 million. In such circumstances Sutter would have the option to withdraw from the queue and receive full recovery of its Interconnection Financial Security. In either case, within 10 calendar days of the Sunset Date, Sutter shall provide notice to the CAISO of whether it intends to proceed with the interconnection or withdraw from the queue. If Sutter proceeds with interconnection without having been apprised of its total Affected System Cost Responsibility, Sutter would accept the risk that the Affected System Cost Responsibility might exceed \$1 million. Sutter could also proceed with the interconnection, subject to existing LGIP rules on security going forward, if it chooses to accept Affected System Cost Responsibility in excess of \$1 million.⁵

Calpine summarizes its waiver request in its filing as follows: “Sutter requests a limited and time-constrained waiver of Section 9.4.1 to allow full recovery of the Interconnection Financial Security if Sutter’s Affected System Cost Responsibility exceeds \$1 million or if Sutter has not received a final determination of total Affected System Cost Responsibility within one year of the date on which Sutter has made its initial posting of Interconnection Financial Security. The waiver would not be available after the Sunset Date, unless the CAISO provides consent for an extension, with such consent to be entirely within the CAISO’s discretion.”⁶

The ISO is sympathetic to Calpine’s circumstances. Sutter’s circumstances are very unusual as currently-operating facility that Calpine is seeking to reconnect within the ISO balancing authority area. Moreover, it is uncommon for the results of the ISO’s interconnection studies to require further studies through the WECC path rating process. In addition, it is uncommon for

⁵ Calpine filing at 4.

⁶ Calpine filing at 5.

an interconnection customer to be subject to the extent of cost uncertainty to which Calpine is exposed for the potential network upgrades that may be required by affected systems as a result of the path rating process, which the ISO's interconnection studies cannot quantify with a great deal of accuracy in advance of the determination of those costs by the affected systems.

Consequently, while the ISO does not believe that the interconnection financial security posting requirements set forth in the tariff should be waived in all cases where affected system costs are not identified by the time of posting, the ISO has no objection to the concept of the limited waiver requested by Calpine based upon the facts and unique circumstances of this request, including the timelines proposed by Calpine for the application of the waiver.

However, the ISO wishes to clarify its position regarding the proposal by Calpine that the conditions of its requested waiver be triggered by circumstances "where Sutter either lacks information on its total Affected System Cost Responsibility or such amount would exceed its reasonable expectations, which for purposes of this waiver request have been determined after consultation with the CAISO to be \$1 million." In the ISO's consideration of this matter and its discussions with Calpine, the ISO based its determination that \$1 million is an amount that would exceed reasonable expectations on the assumption that this would be an amount at least \$1 million above the cost estimates for the aggregate amount of upgrade costs for all affected systems and WECC path mitigation, combined, that are set forth in the ISO's phase I interconnection study

report – and not an absolute value of \$1 million for these costs. The ISO wishes to clarify this point to the extent Calpine’s filing suggests otherwise.

When Calpine submitted its filing, it did not yet have the ISO’s phase I interconnection study report and likely presumed that the ISO’s study reports would not include any estimate of upgrade costs for affected systems and WECC path mitigation. However, to the extent an ISO interconnection study report includes estimates of those costs, those cost estimates are within Calpine’s reasonable expectations, and the fact that they may exceed \$1 million in aggregate should not be enough to trigger the requested waiver. The waiver should only be triggered if the aggregate costs exceed the cost estimates set forth in the ISO’s phase I interconnection study report by at least \$1 million.

Based on the foregoing, the ISO requests that the Commission make clear in any order granting Calpine’s request for a limited waiver of the ISO tariff that the waiver is only available if the aggregate amount of upgrade costs for all affected systems and WECC path mitigation, combined, exceed the cost estimates set forth in the ISO’s phase I interconnection study report by at least \$1 million.

II. MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California, with a principal place of business at 151 Blue Ravine Road, Folsom, CA 95630. The ISO is a balancing authority responsible for the operation of transmission facilities placed under the ISO’s operational control pursuant to a Transmission Control Agreement between the ISO and

participating transmission owners. The ISO conducts a generator interconnection process pursuant to Commission-approved generator interconnection provisions of the ISO tariff.⁷

Calpine's filing requests a waiver of ISO tariff provisions applicable to a proposed generation project that is currently being evaluated under the ISO's generator interconnection process.⁸ The waiver would impact the ISO's administration of its generator interconnection process as it applies to Calpine's project. No other party can adequately represent the ISO's interests. Accordingly, the ISO requests the Commission's permission to intervene with full rights of a party.

III. COMMUNICATIONS

Please address all communications concerning this proceeding to the following person:

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18 C.F.R. § 385.203(b)(3).

⁷ ISO tariff Section 25.1 and Appendices S, T, U, V, W, Y, Z, BB, and CC.

⁸ See, e.g., Calpine's filing at 4.

IV. CONCLUSION

The ISO respectfully requests that the Commission grant its motion to intervene in the captioned proceeding, allow the ISO to participate in the proceeding with full rights as a party thereto, and act on Calpine's filing in a manner consistent with the comments filed herein.

Respectfully submitted,

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Dated: December 1, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this document upon all parties listed on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated this 1st day of December, 2010, at Folsom, California.

Anna Pascuzzo

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