

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

**California Independent System)
Operator Corporation) Docket No. ER11-____-000**

PETITION FOR LIMITED WAIVER OF ISO TARIFF

The California Independent System Operator Corporation ("ISO") petitions the Commission for a limited waiver of Section 9.3.1 of Appendix Y to the ISO tariff. Section 9.3.1 requires generator interconnection customers to make their second posting of financial security 180 days after publication of the final Phase II interconnection study report.¹ The purpose of this waiver is to extend the timing of the posting requirement for transition cluster interconnection customers that relied on erroneous information provided by the ISO to the effect that the 180 day period would be calculated from the date of subsequent revisions to their final Phase II study reports. Granting the requested waiver would allow the ISO to adjust the second financial security posting due date for seven interconnection requests based on these customers' expectations and avoid the potential harm that would be caused in the absence of a tariff waiver. No other interconnection requests in the transition cluster would be affected by granting this limited waiver. The ISO has consulted with Pacific Gas and Electric Company, the only participating transmission owner to which this financial security is due, and it has authorized the ISO to represent that it supports this petition.

¹ The ISO makes this petition pursuant to Rule 207 of the Commission's rules of Practice and Procedure (18 CFR §385.207 (2010)).

The ISO is aware of at least two interconnection customers who have expressed concern over reliance on this erroneous information. Without a tariff waiver, the second installment of financial security for two interconnection customers would be due on December 30, 2010, one of whom informally complained to the ISO.² The second installment of financial security for another five interconnection requests would be due on January 26, 2011, and one of these interconnection customers also informally complained to the ISO.³ Under the ISO tariff, the failure to timely post the second installment of financial security would result in withdrawal of these interconnection requests by the ISO. Good cause exists to grant this waiver to avert such a potential hardship with respect to these seven interconnection requests.

This waiver applies only to the seven interconnection customers that received erroneous information. All other transition cluster interconnection customers would be required to post financial security consistent with the ISO tariff. Because of the erroneous information provided by ISO staff, evidence of interconnection customer actual reliance on the information and potential reliance by other affected interconnection customers, the ISO respectfully requests a December 30, 2010, effective date, which is the earliest date the second installment of financial security should be posted by customers for whom the ISO seeks the tariff waiver. Pending the Commission's consideration of this petition, the ISO will continue to process these seven interconnection requests and will not withdraw any of them from the queue.

² The ISO includes the declaration of Stephen Rutty, Manager of Grid Assets, as attachment A in support of this petition. Declaration of Stephen Rutty, at p. 5-6.

³ *Id.* at p. 5-6.

II. Background for Waiver

The ISO continues to process the transition cluster consistent with the large generator interconnection procedures approved by the Commission and included in the ISO tariff.⁴ A total of fifty-two transition cluster interconnection requests completed the Phase II study process, and each project received a final Phase II study report during the period between May 2010 and August 2010.⁵ For various reasons discussed in more detail below, a total of twenty final Phase II study reports were revised.⁶ Eight of the twenty revised final Phase II study reports reflected an increase in the total costs of either the network upgrades or the participating transmission owner interconnection facilities, which resulted in a corresponding *increase* in the amount of financial security required to meet the second posting requirement.⁷ Nine of the twenty revised final Phase II study reports reflected a decrease in the total costs of either the network upgrades or the participating transmission owner interconnection facilities, which resulted in corresponding *decrease* in the amount of financial security required to meet the second posting requirement.⁸ Three of the twenty final Phase II study reports were revised with no impact on total cost of either the network upgrades or the participating transmission owner interconnection facilities.⁹ None of the twenty

⁴ See generally, 124 FERC ¶ 61,292 (2008) and Quarterly Report on Progress in Processing Interconnection Requests in Docket No. ER08-1317, April 30, 2010.

⁵ Declaration of Stephen Rutty, at p. 2.

⁶ *Id.* at p. 3.

⁷ *Id.* at p. 4.

⁸ *Id.* at p. 4.

⁹ *Id.* at p. 4.

revised final Phase II study reports included any change to the expected commercial operation date of the project.¹⁰

On December 13-15, 2010, the ISO provided notice to all interconnection customers with interconnection requests in the transition cluster to inform them of the timing and amount of the second installment of financial security.¹¹ The ISO tariff clearly provides that the second installment of financial security is due within 180 days after the final Phase II study report has been published.¹² Revisions to a final Phase II study report are not uncommon given the dynamic nature of the cluster study process, including the fact that the first opportunity for the interconnection customer to ask questions about the Phase II study results occurs after the publication of the final report.¹³

Revisions to the final Phase II study reports for the transition cluster were made for a number of reasons. In some cases revisions were necessitated by requests made by the interconnection customer. For example, one customer requested to build the telecommunication upgrades required by the project, rather than have the participating transmission owner build these upgrades. The participating transmission owner agreed to this change and a change to the final report was provided reflecting the decrease in the costs of the upgrades to be built by the participating transmission owner. Revisions to the Phase II study results were also necessitated by errors or omissions made by the ISO or participating transmission owner during this the study process. For example, one

¹⁰ *Id.* at p. 4.

¹¹ *Id.* at p. 5.

¹² ISO Tariff, Appendix Y, Section 9.3.1

¹³ ISO Tariff, Appendix Y, Section 7.1

customer reduced the size of its project following the Phase I study; however, the change to the total capacity was not decreased for the Phase II cost allocation process. This error was discovered after the Phase II study results were published in the final reports. Consequently, the affected final Phase II study reports were reissued with the correct allocation factors resulting in increased costs to customers in the study group. These sorts of changes can also impact the schedule of a project.¹⁴

The transition cluster final Phase II study reports published with respect to transition cluster projects required revision for a variety of reasons, as discussed above. Unfortunately, ISO staff previously inadvertently and mistakenly advised customers associated with seven interconnection requests that the publication of the revised final Phase II study report would trigger a corresponding adjustment of the timing for the second installment of financial security.¹⁵ Accordingly, the ISO must now ask the Commission to intervene in the process and hereby requests a limited waiver of the 180 day timing requirement for these seven interconnection requests so that the second installment of interconnection financial security would be due 180 days from the revised Phase II study report.

III. Relevant Provisions of the ISO Tariff Subject to This Request for Waiver

There is just one area of tariff provisions relevant to this petition for waiver. ISO Tariff, Appendix Y, Section 9.3.1 provides that an interconnection customer must post the second installment of financial security for network upgrades and participating transmission owner interconnection facilities within 180 days after

¹⁴ Declaration of Stephen Rutt, at p. 3.

¹⁵ *Id.* at p.5

the final Phase II study report has been published.¹⁶ No provision other than this timing requirement described in these tariff provisions is subject to this petition for waiver.

IV. Request for Waiver

The Commission has historically granted waiver requests where an emergency situation or an unintentional error was involved.¹⁷ The Commission has further noted that it has not limited waivers to such circumstances. It has also granted waivers when good cause for a waiver of limited scope exists, the resultant benefits to customers are evident, and there are no undesirable consequences.¹⁸

Good cause exists in this case for granting waiver of the ISO application of the requirement that an interconnection customer post the second installment of financial security within 180 days after the final Phase II study report has been published. As explained, the ISO has confirmed that final Phase II study reports were issued with revised dates and the interconnection customers associated with these seven interconnection requests were inadvertently and mistakenly informed that the revision to the final Phase II study report would trigger a

¹⁶ ISO Tariff, Appendix Y, LGIP for Requests in a Queue Cluster Window, at section 9.3.1 and, see *id.*, at Appendix 2, LGIP Relating to the Transition Cluster, section 5.3.

¹⁷ *California Independent System Operator Corp.*, 118 FERC ¶ 61,226, at P 24 (2007), citing *ISO New England, Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (allowing a limited and temporary suspension of tariff provision to correct an error); *Great Lakes Gas Transmission Ltd. Partnership*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving force majeure event granted for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

¹⁸ *California Independent System Operator Corp.*, 118 FERC ¶ 61,226, at P 24, citing *California Independent System Operator Corp.*, 109 FERC ¶ 61,153, at P 28 (2003).

corresponding change to the second financial security posting timeline. The ISO believes that a tariff waiver is necessary to avoid harm that would otherwise be caused. The requested waiver will permit the interconnection customers associated with these seven requests in the transition cluster to post the second installment of financial security 180 days from the publication of the *revised* final Phase II study report because the ISO inadvertently and mistakenly advised them this would be the case. Otherwise, these seven interconnection requests would have been required to post the second installment of financial security as early as December 30, 2010, 180 days from the date of the *original* final Phase II study report.

The requested waiver is further supported by its limited scope as well as the fact that the resultant benefits to these interconnection customers are evident—a commercially reasonable time to meet the financial posting requirement consistent with expectations created by erroneous information received from the ISO, and there are no undesirable consequences. Interconnection financial security is posted by interconnection customers for the benefit of the participating transmission owners with respect to each individual project.¹⁹ The affected participating transmission owner—Pacific Gas & Electric Company—supports this waiver request. Accordingly, granting the requested waiver simply will place the affected parties in the position they would otherwise be in, to the greatest extent possible, but for the mistake by the ISO.

¹⁹ Declaration of Stephen Rutt, at p. 6.

V. Request for Waiver of the 60 Day Notice Period

Pursuant to 18 C.F.R. § 35.11, the ISO respectfully requests waiver of the Commission's 60-day prior notice period so that the waiver can be made effective as of December 30, 2010. For reasons discussed above, good cause exists for waiver of the requirement.

V. Service

The ISO has served copies of this filing upon the California Public Utilities Commission and all parties with effective Scheduling Coordinator Service Agreements under the ISO tariff. In addition, the ISO has posted this filing on its website and provided a courtesy notice to all interconnection customers with an active interconnection request in the transition cluster.

VI. Correspondence

The ISO requests that all correspondence, pleadings, and other communications concerning this filing be served upon the following:

Nancy Saracino
General Counsel
Sidney M. Davies
Assistant General Counsel
John C. Anders*
Senior Counsel
The California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 351-4436
E-mail: janders@caiso.com

*Individuals designated for service pursuant to 18 C.F.R. § 203(b)(3).

VII. Conclusion

For the reasons discussed above, the ISO respectfully requests that the Commission grant the tariff waiver requested herein.

Respectfully submitted,

//s// John C. Anders

Nancy Saracino
General Counsel
Sidney M. Davies
Assistant General Counsel
John C. Anders
Senior Counsel

Attorneys for the California
System Operator Corporation

Dated: December 23, 2010

Attachment A
Declaration of Stephen Rutt
on Behalf of the California Independent System Operator Corporation

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

California Independent System)
Operator Corporation) Docket No. ER11-____-000

**DECLARATION OF STEPHEN RUTTY ON BEHALF OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

I. Introduction

Q. Please state your name and business address.

A. My name is Stephen Ritty. My business address is California Independent System Operator Corporation (ISO or CAISO), 151 Blue Ravine Road, Folsom, California 95630.

Q. By whom and in what capacity are you employed?

A. I am employed as Manager, Grid Assets for the California Independent System Operator Corporation (“ISO”). In that position, I am responsible for the administration of the large generator interconnection process, among other responsibilities.

Q. Please describe your professional and educational background.

A. I received a Bachelor of Science in Electrical Engineering (BSEE) from California Polytechnic State University, San Luis Obispo, and a Management for Technical Personnel Certificate from the University of California, Los Angeles. I am registered in the State of California as a Professional Engineer in Electrical Engineering. I

worked for the Los Angeles Department of Water and Power for 16 years (1984-2000) in various engineering positions of increasing responsibilities, most recently in the Transmission Engineering section. I joined the ISO in 2000 as a Transmission Engineer in Grid Assets, responsible for implementing the ISO Maintenance Standards. Over the last 10 years, my responsibilities have been increased, as I was promoted to Senior Engineer and then to Lead Transmission Engineer. In early 2007, I was promoted to Manager of Grid Assets. As Manager of Grid Assets, I oversee the Transmission Maintenance group, the Loads and Resources group, and the Resources Interconnections group.

Q. What is the purpose of your declaration for this petition?

A. I will discuss the large generator interconnection process, specifically the publication and revision of final Phase II study reports for the transition cluster.

II. Transition Cluster Final Phase II Study Reports

Q. Did the ISO publish final Phase II study reports for all interconnection requests in the transition cluster?

A. Yes. A total of fifty two transition cluster interconnection requests completed the Phase II study process, and each project received publication of a final Phase II study report commencing as early as May of 2010 and concluding in August 2010.

Q. Did the ISO publish revised final Phase II study reports for any interconnection requests in the transition cluster?

A. Yes. Twenty final Phase II study reports were revised and a new date was included in the revised final Phase II study report, either by way of addendum or by issuing a revised report.

Q. Please describe the circumstances under which the ISO published revised final Phase II study reports for the transition cluster.

A. Revisions to the final Phase II study reports for the transition cluster were made for a number of reasons. In some cases revisions were necessitated by requests made by the interconnection customer. For example, one customer requested to build the telecommunication upgrades required by the project, rather than have the participating transmission owner build these upgrades. The participating transmission owner agreed to this change and a change to the final report was provided reflecting the decrease in the costs of the upgrades to be built by the participating transmission owner. Revisions to the Phase II study results were also necessitated by errors or omissions made by the ISO or participating transmission owner during this the study process. For example, one customer reduced the size of its project following the Phase I study; however, the change to the total capacity was not decreased for the Phase II cost allocation process. This error was discovered after the Phase II study results were published in the final reports. Consequently, the affected final Phase II study reports were reissued with the correct allocation factors resulting in increased costs to

customers in the study group. These sorts of changes to the final Phase II study reports could impact the cost of the project as noted above, but under certain circumstances they could also impact the schedule of the project.

Q. Where there any impacts to the costs or schedule of the interconnection requests associated with the revised final Phase II study reports?

A. Yes. Eight of the twenty revised final Phase II study reports reflected an increase in the total costs of either the network upgrades or the participating transmission owner interconnection facilities, which resulted in a corresponding *increase* in the amount of financial security required to meet the second posting requirement. Nine of the twenty revised final Phase II study reports reflected a decrease in the total costs of either the network upgrades or the participating transmission owner interconnection facilities, which resulted in corresponding *decrease* in the amount of financial security required to meet the second posting requirement. Three of the twenty final Phase II study reports were revised with no impact on total cost of either the network upgrades or the participating transmission owner interconnection facilities. None of the twenty revised final Phase II study requests included any change to the expected commercial operation date of the project.

Q. Did the ISO notify the transition cluster interconnection customers of the changes included in the revised final Phase II study report?

A. Yes. The interconnection customers were provided the original and revised final Phase II study report associated with each project. In addition, all transition cluster interconnection customers were provided notice on December 13-15, 2010 to inform them of the timing and amount of the second installment of financial security. Unfortunately, the ISO in earlier communications inadvertently and mistakenly advised customers associated with seven interconnection requests—all in Pacific Gas & Electric Company's service territory – that they had a longer period of time to post the second installment of financial security by virtue of revisions made to their final Phase II study reports, namely 180 days from publication of the revised final Phase II study report (rather than 180 days from the initial Phase II study report publication date).

Q. When was the second installment of financial security due for the seven interconnection requests that were inadvertently and mistakenly advised they had a longer period of time?

A. Based on the date of the initial Phase II study reports, the second installment of financial security for two of the seven interconnection requests would be due on December 30, 2010, and the second installment of financial security for the other five interconnection requests would due on January 26, 2011.

Q. Have any of these interconnection customers complained with respect to the contradiction between the earlier erroneous information and the subsequent ISO notice?

A. Yes. As of the date of this filing, the ISO has been contacted by two interconnection customers that were provided erroneous information with respect to the timing of the second installment of financial security and have complained that they reasonably relied on this information. One of the two customers would be required to post financial security on December 30, 2010.

Q. Does the risk or benefit associated with the second posting of interconnection financial security impact other interconnection requests?

A. No. Interconnection financial security is posted for the benefit of the participating transmission owners, not the other interconnection customers in the queue. As a result, the timing or amount of the interconnection financial security does not have an impact on other interconnection customers in the queue.

Q. Does this conclude your declaration?

A. Yes, it does.

I affirm under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.



Stephen Ruty

Executed this 22nd day of December, 2010