

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

Southern California Edison Company

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Docket No. ER07-1034-002

**BRIEF OPPOSING EXCEPTIONS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

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III. REBUTTAL OF POLICY CONSIDERATIONS CLAIMED TO WARRANT FULL COMMISSION REVIEW

Contrary to the assertions of Green Borders, this proceeding does not present any new or unique issues relating to the Commission's interconnection policies. Instead, it involves a straightforward application of the Commission's existing criteria for determining how to classify facilities used to interconnect new generation projects to the existing transmission grid. The mere fact that Green Borders is proposing to interconnect a resource that will utilize a "renewable" fuel source does not, in and of itself, transform this proceeding into one of special consequence. The issues presented in this case do not directly relate to the challenges facing the interconnection of renewable resources. Instead, they are issues of general application: whether the Commission's "at or beyond" test, as embodied in the CAISO's LGIA, should apply to telecommunications facilities necessary to safely and reliably interconnect a facility to the CAISO Controlled Grid, or whether an interconnection customer's decision to interconnect to the CAISO Controlled Grid via an existing radial line should be subsidized by CAISO ratepayers.

IV. ARGUMENT

In the Initial Decision, the Presiding Judge concluded that the disputed telecommunications facilities should be classified as Interconnection Facilities because these facilities will be located behind the point of interconnection with the CAISO Controlled Grid and none of these facilities is part of the CAISO Controlled Grid.¹ The Presiding Judge also found that the telecommunications facilities did not provide a benefit to the CAISO Controlled Grid in any way that would justify passing their costs on

¹ Initial Decision at P 91.

to CAISO ratepayers.² These findings are supported by both applicable precedent and the factual record in this proceeding. Nevertheless, Green Borders argues that these findings are in error because it asserts that the telecommunications facilities provide a benefit to the network, and, Green Borders further asserts that the facilities, despite their location behind the point of interconnection, are an integral part of the Remedial Action Scheme (“RAS”) needed to trip the Green Borders facility when required by system conditions. For the reasons set forth below, Green Borders’ arguments are without merit, and the Commission should adopt the Presiding Judge’s finding that the telecommunications facilities at issue are properly classified as Interconnection Facilities rather than Network Upgrades.

A. The Presiding Judge Correctly Ruled that the Location of the Telecommunications Facilities is the Controlling Factor in Determining Their Classification

In the Initial Decision, the Presiding Judge found that the location of the telecommunications facilities controls the classification of these facilities under the definitions of Interconnection Facilities and Network Upgrades contained in the Large Generator Interconnection Agreement (“LGIA”) between Green Borders, Southern California Edison (“SCE”) and the CAISO (Service Agreement No. 49), which is based on the *pro forma* CAISO LGIA.³ The CAISO LGIA and Service Agreement No. 49 contain definitions for Interconnection Facilities and Network Upgrades that are substantially similar to those set forth in the Commission’s *pro forma* LGIA, which incorporates the Commission’s “at or beyond” test for determining whether or not particular facilities constitute interconnection facilities or

² *Id.* at P 97.

³ Initial Decision at P 70.

network upgrades.⁴ Under this test, if facilities are located “at or beyond” the point of interconnection with the grid, then they are integrated facilities that provide benefits to all users of the grid, and the costs cannot be directly assigned to the interconnecting generator.⁵ If not, then the Commission considers them to be sole-use facilities, the costs of which can be directly assigned to the generator.⁶ The Commission has strictly applied this test to numerous interconnections, with only a few very limited exceptions.⁷ In Order No. 2003, the Commission reaffirmed that this “simple test” would continue to be utilized to distinguish between Interconnection Facilities and Network Upgrades.⁸

No party to this proceeding has disputed the fact that the telecommunications facilities at issue will be located between the Green Borders project and the CAISO Controlled Grid.⁹ Therefore, applying the definitions set forth in the CAISO LGIA and Service Agreement No. 49, which incorporate the “at or beyond” test, and which no party challenged, the Presiding Judge correctly concluded that the telecommunications facilities should be classified as Interconnection Facilities.¹⁰ Green Borders takes exception to this conclusion, arguing that it is relevant to

⁴ *Id.* at PP 49-50 and 53.

⁵ See, e.g., *Nevada Power Co.*, 111 FERC ¶ 61,161 (2005); *Entergy Gulf States*, 98 FERC ¶ 61,014 at 61,023, *reh'g denied*, 99 FERC ¶ 61,095 (2002); *Tampa Electric Co.*, 99 FERC ¶ 61,192 (2002).

⁶ *Nevada Power Co.*, 111 FERC ¶ 61,161 at P 12.

⁷ See *Tampa Electric Co.*, 99 FERC at 61,796-97 (allowing certain metering equipment used to measure generation located at the point of interconnection to be treated as an interconnection facility); *Nevada Power Co.*, 113 FERC ¶ 61,007 at P 26 (2005), (explaining that direct assignment of certain transmission facilities would be allowed when they fell into an “exceptional category” of facilities “that are so isolated from the grid that they are and will remain non-integrated”).

⁸ See Order No. 2003 at P 21, *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003) (“Order No. 2003”), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

⁹ Initial Decision at P 73.

¹⁰ *Id.* at P 91.

further inquire into the function of the facilities at issue, to determine what benefits might be provided by the facilities. However, Green Borders provides no support for departing from the “at or beyond” test in this case. Green Borders cites to Order No. 2003 for the proposition that “issues related to interconnections would still arise.”¹¹ However, nowhere in Order No. 2003 did the Commission cast any doubt on the continued viability of the “at or beyond” test, and in fact, as noted above, Order No. 2003 specifically affirmed that this test would remain as the mechanism for distinguishing between Interconnection Facilities and Network Upgrades.

The only other precedent cited by Green Borders is the Commission’s decision in *Southern California Edison Co.*, 97 FERC ¶ 61,148 (2001) (“*Wildflower*”), in which the Commission concluded that RAS-related upgrades should be classified as Network Upgrades, finding that they had a grid-wide benefit, despite SCE’s argument that they solely benefited the interconnection customer. However, the *Wildflower* decision does not implicate the application of the “at or beyond” test to this proceeding, or require the consideration of other factors, because the facilities at issue in *Wildflower* were located “at or beyond” the point of interconnection, whereas the facilities at issue in the instant proceeding are located behind the point of interconnection. The question in *Wildflower* was whether or not certain RAS facilities, despite the fact that they were located beyond the point of interconnection, should have been directly assigned to the interconnection customer because, as SCE argued, they solely benefited that customer. The Commission answered in the negative, finding that the RAS upgrades at issue benefited all users of the grid. To the extent that the *Wildflower* decision has any applicability to the

¹¹ Green Borders at 10.

instant proceeding to interconnect the Green Borders facility, its rule has been followed. The RAS upgrades required in order to safely interconnect the Green Borders facility, which are located beyond the point of interconnection, have been reflected in Appendix A of Service Agreement No. 49 as Network Upgrades.¹² The dispute in this proceeding pertains to facilities located behind the point of interconnection.

B. The Telecommunications Facilities do Not Provide a Distinct Benefit to the CAISO Controlled Grid Because They are Not Necessary to Implement the RAS

Although the Initial Decision correctly found that the issue of the location of the telecommunications facilities was determinative as to their classification, the Presiding Judge also addressed the issue of whether or not the telecommunications facilities will provide a benefit to the CAISO Controlled Grid.¹³ The Presiding Judge concluded that these facilities will “not benefit the CAISO Controlled Grid in a way that would justify passing the costs on to CAISO’s ratepayers under any reasonable criteria.”¹⁴ Green Borders seeks exception from this finding, arguing that the record in this case demonstrates that the telecommunications facilities do provide a benefit to the CAISO Controlled Grid and therefore should be classified as network upgrades.¹⁵

As explained in Section IV.A above, the Presiding Judge correctly found that there is no need to even consider the issue of whether the facilities will provide a grid-wide benefit. However, even if the Commission were to take exception to the Initial Decision in this respect and conclude that this is a valid line of inquiry, the Commission should nevertheless adopt the Presiding Judge’s finding that the telecommunications

¹² See Exhibit JST-8; Exhibit ISO-2 at 6.

¹³ This subject is addressed as Sub-Issue 2(a) of the Initial Decision, at PP 93-101.

¹⁴ Initial Decision at P 95.

facilities at issue do not provide a benefit that would justify their classification as Network Upgrades.

Green Borders cites to the Presiding Judge's statement that, in the case of emergencies requiring the isolation of Green Borders' output from the CAISO Controlled Grid, the telecommunications facilities are necessary to transmit the RAS signal to the Green Borders project in order to isolate Green Borders without also excluding the Oxbow QF's generation from the grid.¹⁶ Green Borders suggests that it follows from this statement that the telecommunications facilities are part and parcel of the RAS, provide a benefit to the CAISO Controlled Grid, and must be classified as Network Upgrades. This argument fails, however, because it overlooks the critical proviso that led the Presiding Judge to conclude that the telecommunications facilities do not provide a benefit to the CAISO Controlled Grid that would justify passing on the costs to CAISO ratepayers. That is, the telecommunications facilities are only necessary to transmit the RAS signal to Green Borders because of Green Borders sole decision to interconnect to the CAISO Controlled Grid through the existing Dixie Valley-Oxbow radial line rather than through a separate radial line.¹⁷

If Green Borders had chosen to interconnect via a separate radial line to the CAISO Controlled Grid, the CAISO would be able to trip Green Borders directly at the point of interconnection without the need for telecommunications facilities.¹⁸ Under such circumstances, there would be no debate that the radial line and attached equipment on Green Borders' side of the interconnection would constitute Interconnection Facilities. However, Green Borders chose instead to interconnect to the

¹⁵ Green Borders at 7-8, 11.

¹⁶ Initial Decision at P 96.

¹⁷ Initial Decision at PP 96-97.

CAISO Controlled Grid through an existing radial line, the Dixie Valley-Oxbow line. This decision makes it necessary to install the telecommunications facilities at issue in order to isolate Green Borders without adversely impacting the existing Oxbow QF customer. It cannot be said that the telecommunications equipment is integrated with the grid, or provides a grid-wide benefit. To the contrary, these facilities serve only to facilitate Green Borders' decision to interconnect via the Dixie Valley-Oxbow radial line, rather than connecting directly to the CAISO Controlled Grid; they hold harmless the existing Oxbow QF from Green Border's decision to tie into Oxbow's line. Treating these telecommunications facilities as Network Upgrades would require other network customers to subsidize Green Borders' decision, without deriving any system benefit.¹⁹ It is appropriate that Green Borders bear the costs of this election, in the same manner that a generator would be solely responsible for the costs of the radial line necessary to transmit its output from the plant to the grid, regardless of the length or configuration of the radial line. For these reasons, the Commission should adopt the Presiding Judge's finding that the telecommunications facilities will "not benefit the CAISO Controlled Grid in a way that would justify passing the costs on to CAISO's ratepayers under any reasonable criteria."²⁰

C. The Initial Decision Appropriately Compared the Costs and Benefits Associated with a Separate Radial Transmission Line to the Costs and Benefits of the Telecommunications Facilities.

In examining the issue of whether or not the telecommunications facilities provided benefits to the CAISO Controlled Grid, the Presiding Judge concluded that a separate radial line directly connecting Green Borders with the CAISO Controlled Grid

¹⁸ Exh. ISO-1 at 9-10.

¹⁹ Exh. ISO-2 at 5.

²⁰ Initial Decision at P 95.

would have provided the same benefits that the telecommunications facilities will provide, and, that, accordingly the CAISO ratepayers should not be required to subsidize the costs of the disputed telecommunications facilities. In the Presiding Judge's words, "Green Borders could have provided the same benefit to the grid by pursuing an alternative course of action that would have cost the grid users nothing."²¹ In taking exception to this conclusion, Green Borders points out that, at no point during the interconnection study process was there a proposal to install a radial line directly from the Green Borders project to the CAISO Controlled Grid, and argues that classifying the telecommunications facilities as Interconnection Facilities will encourage Green Borders and future interconnection customers to elect costly Network Upgrades in lieu of more cost-effective alternatives.

Green Borders' first point, that a direct tie-line between its facility and the CAISO Controlled Grid was not considered during the interconnection study process adds nothing to the Initial Decision's comparison of the costs and benefits of such a tie-line and the telecommunications facilities. A separate radial line was never considered during the study process because Green Borders never proposed such an option in its interconnection request. This interconnection customer elected where and by what means it wishes to interconnect to the CAISO Controlled Grid. Green Borders cannot avoid the consequences of its election by arguing that no one dissuaded it from making another choice. Moreover, Green Borders' suggestion that the classification of the telecommunications facilities as Interconnection Facilities will encourage interconnection customers to elect costly Network Upgrades is contra-indicated. Contrary to Green Border's assertion, labeling these facilities as Interconnection

²¹ Initial Decision at P 97.

Facilities, consistent with the “at or beyond” test, as well as their function, will encourage customers to select the most cost-effective means of interconnecting to the CAISO Controlled Grid, by properly placing back on the interconnection customer (rather than on the grid) the cost consequences of its individual decisions as to its location and means of interconnection.

V. CONCLUSION

For the reasons set forth above, the CAISO respectfully requests that the Commission adopt the findings in the Initial Decision and deny Green Borders’ requested exceptions thereto.

Respectfully submitted,

/s/ Michael Kunselman

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September 14, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing documents upon all of the parties listed on the official service list for the above-referenced 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 Washington, D.C. this 14th day of September, 2009.

/s/ Michael Kunselman
Michael Kunselman