

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

**California Independent System)
Operator Corporation) Docket No. ER08-960-001**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO REQUEST FOR CLARIFICATION OR REHEARING OF
PACIFIC GAS AND ELECTRIC COMPANY**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or the “Commission”), 18 C.F.R. § 385.213 (2007), the California Independent System Operator Corporation (“CAISO”) hereby submits this answer to the August 13, 2008¹ request by Pacific Gas and Electric Company (“PG&E”) for clarification, or in the alternative rehearing, of the Commission’s July 14, 2008 Order in this proceeding (“PG&E Request”).² In the July 14 Order, the Commission granted the CAISO’s Petition for Waiver of Tariff Provisions to Accommodate Transition to Reformed Large Generator Interconnection Procedures (“Waiver Petition”) filed in this docket.³

The issues raised by PG&E in its request for clarification and stay, which the CAISO has the right to answer under Rule 213, are intertwined with its request for rehearing as part of the same pleading. While answers to requests for rehearing are not generally permitted by the Commission’s regulations, that rule should not apply here

¹ The PG&E Request is shown as filed on August 13, 2008 in privileged format, but the CAISO’s counsel did not receive service of it. The CAISO’s counsel received service of an unredacted public version of the request on August 14, 2008, which the FERC docket shows to be officially filed on August 15, 2008.

² *California Independent System Operator*, 124 FERC ¶ 61,031 (2008)(“July 14 Order”).

³ The CAISO filed an answer to an earlier request for clarification, etc. of the same order by OptiSolar, Inc. on August 15, 2008.

where the CAISO is permitted to respond to the pleading as a whole. In addition, because of the CAISO's unique position as the Petitioner in this proceeding, and because the CAISO can provide useful information to the Commission to assist it in understanding the issues raised, the CAISO requests waiver of the Commission's regulations to the extent necessary to permit it to address all issues in the PG&E Request.⁴

I. Background

In this proceeding, the Commission granted limited waivers of specific provisions of the CAISO's current Large Generator Interconnection Procedures ("LGIP") and Interconnection Study agreements to facilitate the transition to the Generator Interconnection Process Reform ("GIPR") that has been developed by the CAISO and stakeholders and filed with the Commission on July 28, 2008.⁵ The waivers were a first step to reforming the CAISO interconnection process to provide a temporary pause in Interconnection Study activity for some early-stage Interconnection Requests ("IRs") to allow the CAISO and the Participating Transmission Owners ("PTOs") to concentrate their efforts on processing later-stage IRs.⁶ This concentration on later-stage IRs would enable the CAISO and PTOs to complete the Interconnection Study process in a shorter period of time and facilitate the transition to the new reformed process as expeditiously

⁴ See, e.g., *Central Hudson Gas & Electric Corp.*, 3 FERC ¶ 61,352 at 62,407 (1998) (good cause to permit answer which will "help in clarifying certain issues"); *California Independent System Operator Corp.*, 94 FERC ¶ 61,266 (2001) (good cause where answer "provides additional information that assists us in the decision-making process"); *California Independent System Operator Corp.*, 90 FERC ¶ 61,066 (2001) (good cause to permit answer because it "aided us in understanding the issues").

⁵ *California Independent System Operator*, Docket No. ER08-1317-000 (filed July 28, 2008).

⁶ Unless otherwise defined herein, terms used with initial capitalization have the meanings set forth in the Master Definitions Supplement, Appendix A to the CAISO Tariff, or in the Waiver Petition.

as possible. The later-stage IRs were placed in a Serial Study Group, while earlier-stage IRs were placed in the Transition Cluster or the Initial GIPR Cluster.

The CAISO endeavored to select objective criteria for the inclusion of IRs in the highest priority Serial Study Group based on indicators of a more advanced place in the interconnection process and the greatest ability to move forward more quickly to satisfy state-imposed renewable power policy requirements, which criteria are that: (1) the customer has executed an Interconnection System Impact Study (“ISIS”) Agreement that specifies an original ISIS results due date prior May 1, 2008; (2) the project underlying the IR has a power purchase agreement (“PPA”), approved or pending approval by the CPUC or other Local Regulatory Authority as of May 1, 2008; or (3) the IR, in queue order and up to the capacity studied by the CAISO, seeks interconnection to a new transmission project that has received applicable land use permits. The July 14 Order approved these criteria for prioritizing study efforts.

II. PG&E’s Contentions

PG&E states that it seeks clarification that the PPA criterion for inclusion in the Serial Study Group, approved in the July 14 Order, is not limited to those IRs that had PPAs approved or pending approval as of May 1, 2008, and that the Serial Study Group should include IRs that have approved or pending PPAs as of the date that the Commission acts on the pending GIPR proposal in Docket No. ER08-1317-000. (PG&E Request at 1-2). PG&E asserts that it does not read the rationale of the July 14 Order approving the CAISO’s criteria for PPAs to be centered on the May 1, 2008 date, but rather being based on a policy of favoring the processing of projects that will help meet California’s renewable portfolio standard (“RPS”). (PG&E Request at 4).

PG&E states that it recently (after May 1, 2008) signed PPAs with developers of 696 MW of solar power, and it fears that if the IRs for these projects are placed in the Transition Cluster, they may be delayed which would impede the ability of PG&E (and other LSEs) to meet the 20% renewable goal. PG&E alleges that it does not believe that there will be any significant additional burden on the CAISO by adding these IRs to the Serial Study Group. (*Id.* at 4-5).

III. The CAISO's Response

The CAISO opposes PG&E's request. Although PG&E describes its request in terms of asking for clarification, there was nothing unclear about the CAISO's proposed PPA criterion for the Serial Study Group or the Commission's acceptance of it. On page 12 of its Waiver Petition, the CAISO described the second criterion for a project to be included in the Serial Study Group was that it have a PPA "approved or pending approval by the CPUC or other Local Regulatory Authority as of May 1, 2008." The Commission explicitly described the May 1, 2008 cut-off proposal for PPAs and approved it. (July 14 Order at P 12, 46, 50). Accordingly, although framed in terms of requesting clarification, PG&E is actually asking that the PPA criterion, which was proposed by the CAISO and approved by the Commission, now be changed to allow post-May 1, 2008 PPA projects into the Serial Study Group.

The CAISO continues to believe that each of the three criteria it proposed in its Waiver Petition was a reasonable and rational indicator of projects that have achieved a level of advancement in the interconnection process sufficient to satisfy the Commission's permitted distinction between early stage and later stage IRs, and to permit the CAISO to expedite the Interconnection Study process for later stage projects

to the greatest extent possible. The CAISO does not believe it should retroactively change the carefully-considered demarcation points used to separate the IRs into different groups based on the circumstance that PG&E has recently completed negotiating PPAs for additional renewable resources. The purpose behind the proposed groupings was to impose some order and certainty so that processing IRs can proceed more expeditiously, and changing the groupings now based on subsequent developments to accommodate specific transactions would defeat this purpose.

PG&E did not raise any concerns with the May 1, 2008 PPA criterion before or after the CAISO filed its Waiver Petition, despite sufficient opportunity to do so. Although PG&E cites to the confidential nature of the negotiations that prevented it from referencing these specific projects in its earlier comments on the Waiver Petition (PG&E Request at 5), nothing prevented PG&E from raising generic concerns about the May 1 date if it had any. In fact, contrary to PG&E's contentions now, in comments made during the stakeholder process earlier this year, PG&E recognized that there must be a date-certain cut-off date for the first study group in order to clear the queue.⁷ In addition, PG&E recognized that "executed" PPAs, not future PPAs, must get the priority treatment.⁸

⁷ In comments submitted to the CAISO on February 26, 2008 as part of the stakeholder process for the development of the Waiver Petition, PG&E stated: "PG&E notes that the cut off date should be selected so that the number of projects remaining in the LGIP is sufficiently small enough to allow for completion of the studies for those projects without creating scheduling issues for the study of the Clearing Group. Regardless of what day is chosen, there will be winners and losers. There is no science to picking the cut-off day, but one thing is certain: a day must be chosen in order to begin the very important process of clearing the existing queue." These PG&E comments are posted on the CAISO Website at the following internet address: <http://www.caiso.com/1f42/1f42c00d28c30.html>. These comments may be accessed directly at the following internet address: <http://www.caiso.com/1f7a/1f7a1044925140.pdf>.

⁸ Comments of PG&E submitted to the CAISO on February 4, 2008 as part of the stakeholder process for the development of the Waiver Petition, which comments are posted on the CAISO Website at the following internet address: <http://www.caiso.com/1f42/1f42c00d28c30.html>. These comments may be accessed directly at the following internet address: <http://www.caiso.com/1f64/1f64e42244810.pdf>.

The Serial Study Group process has been moving along on an expedited basis to be substantially complete by the end of October, and any reshuffling of the Serial Study Group would delay the CAISO's efforts to clear the queue. Although PG&E asserts that its requested expansion of the Serial Study Group would not cause significant delay, this assertion is contrary to the CAISO's analysis of the effect of adding more IRs to the Serial Study Group. Adding any projects to the Serial Study Group at this late stage could jeopardize the timely start of the Transition Cluster studies, which would not be fair to the IRs in that group. Therefore, the CAISO opposes PG&E's request that the Serial Study Group be expanded to encompass post-May 1, 2008 PPAs.

The CAISO notes that the projects with which PG&E recently signed PPAs may be able to take advantage of the new GIPR procedures, filed by the CAISO on July 28, 2008 in Docket No. ER08-1317. The GIPR tariff amendment provides for an accelerated process that can be used under specified conditions to expedite an Interconnection Request in the Transition Cluster.⁹ The projects with new PPAs, to the extent they satisfy the conditions for the accelerated process, may be able to take advantage of that process to move quickly through the Transition Cluster. PG&E itself acknowledged that it will address the need to expedite IRs in the Transition Cluster during the Commission's consideration of the GIPR filing in Docket No. ER08-1317-000, and that is appropriate. (PG&E Request at n. 12). Further, although PG&E contends that the failure to include the projects for which it has new PPAs in the Serial Study Group could impede California's ability to meet its 20% renewable goal, the CAISO

⁹ See Docket No. ER08-1317-000, Transmittal Letter at pp. 29-30; proposed LGIP Section 7.6.

believes that there are already sufficient projects in the Serial Study Group to meet that goal.

IV. CONCLUSION

Accordingly, the Commission should deny PG&E's request for clarification and rehearing so that the processing approved by the Commission's July 14 Order can proceed without disruption.

Respectfully submitted,

Nancy Saracino
General Counsel
Sidney M. Davies
Assistant General Counsel
Michael D. Dozier
Senior Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Telephone: (916) 351-4400
Facsimile: (916) 608-7246

/s/ Brian R. Gish
Brian R. Gish
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006-3402
Telephone: (202) 973-4200
Facsimile: (202) 973-4499
Email: briangish@dwt.com

Jeffrey P. Gray
Davis Wright Tremaine LLP
505 Montgomery Street, Suite 800
San Francisco, CA 94111-6533
Telephone: (415) 276-6500
Facsimile: (415) 276-6599
Email: jeffreygray@dwt.com

Dated: August 28, 2008

Attorneys for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served upon each person designated on the official service list compiled by the Secretary in this proceeding via electronic mail or first-class mail.

Dated at Washington, D.C., this 28th day of August, 2008.

/s/ Brian R. Gish

Brian R. Gish
Davis Wright Tremaine LLP
1919 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006-3402
(202) 973-4200