

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

California Independent System            )  
Operator Corporation                    )           Docket No. ER08-654-002

**MOTION FOR LEAVE TO ANSWER AND ANSWER OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION  
TO THE PROTEST OF THE NEVADA HYDRO COMPANY**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213, the California Independent System Operator Corporation (“CAISO”) respectfully moves for leave to answer and answers the protest of The Nevada Hydro Company (“Nevada Hydro”) filed in this docket on June 30, 2008. This docket concerns an unexecuted Large Generator Interconnection Agreement (“LGIA”) among the CAISO, Nevada Hydro, and San Diego Gas & Electric Company (“SDG&E”). Nevada Hydro has protested the CAISO’s filing in compliance with the Commission’s order approving the LGIA with modifications.<sup>1</sup> The CAISO recognizes that, unless authorized by the Commission, the Commission’s Rules of Practice and Procedure preclude an answer to protests. However, the Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute<sup>2</sup> or to assist the Commission.<sup>3</sup>

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<sup>1</sup> “Order Conditionally Accepting Interconnection Agreement,” 123 FERC ¶ 61,140 (2008) (“May 9 Order”).

<sup>2</sup> *Southwest Power Pool, Inc.*, 89 FERC ¶61,284, at 61,888 (2000); *Eagan Hub Partners, L.P.*, 73 FERC ¶ 61,334, at 61,929 (1995).

<sup>3</sup> *El Paso Electric Co.*, 72 FERC ¶ 61,292, at 62,256 (1995).

The CAISO submits that this answer will clarify the issues raised in the protest, and therefore respectfully requests that the Commission accept this answer. The CAISO further requests that the Commission find that the compliance filing is consistent with the May 9 Order and reject Nevada Hydro's protest.

## **I. BACKGROUND**

The background of the LGIA filing has been detailed in previous filings, but to avoid the need for the Commission to refer back to those filings, the CAISO will repeat relevant portions here. On April 26, 2005, Nevada Hydro applied to the CAISO pursuant to Section 25.1 of the CAISO Tariff to interconnect the Lake Elsinore Advanced Pumped Storage ("LEAPS") facility to the CAISO Controlled Grid. The LEAPS project is located in Lake Elsinore, California. It will interconnect to SDG&E's portion of the CAISO Controlled Grid at a new Case Springs 230 kV substation. The scope of the complete interconnection includes looping the Serrano-Valley 500 kV line into the 500 kV bus at Lee Lake substation and looping the Talega-Escondido line into the 230 kV bus at the Camp Pendleton Case Springs substation (the "TE/VS Interconnect").<sup>4</sup> The SDG&E portion of Interconnection Facilities and Network Upgrades are covered by the LGIA filed in this docket.

Following completion of relevant studies and the submittal of the Interconnection Facilities Study to Nevada Hydro, the CAISO and SDG&E

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<sup>4</sup> The LEAPS project thus will also interconnect to the CAISO Controlled Grid at Southern California Edison Company's ("SCE's") Serrano and Valley substations, which will in all likelihood involve similarly extensive Interconnection Facilities and Network Upgrades with respect to SCE. To complete the interconnection, however, it is also necessary for Nevada Hydro to construct a 500 kV transmission line pursuant to Section 24 of the CAISO Tariff.

tendered a draft LGIA, with appendices, to Nevada Hydro. The parties entered into negotiations regarding the LGIA which resolved most, but not all, issues. Pursuant to a request by Nevada Hydro, the CAISO and SDG&E filed an unexecuted LGIA with the Commission on March 11, 2008.

In the filing, SDG&E and the CAISO identified a number of issues that had not been resolved with Nevada Hydro. In a protest dated April 1, 2008, Nevada Hydro raised four issues, two of which are relevant to the protest: (1) Nevada Hydro contended that SDG&E has unreasonably and unjustly refused to accept a June 2010 in-service date for the TE/VS Interconnect and to allow Nevada Hydro to self-build the upgrades; and (2) Nevada Hydro argued that SDG&E had unreasonably denied Nevada Hydro's request that Appendix A to the LGIA also include Nevada Hydro's cost estimates in addition to those of SDG&E.

In the May 9 Order, the Commission conditionally approved the LGIA. The Commission agreed with Nevada Hydro that its Interconnection Request presented unique circumstances such that it was appropriate for the Commission to approve a non-conforming in-service date that reflects the start date of the TE/VS Interconnect rather than the LEAPS project. The Commission further concluded that the LGIA provides Nevada Hydro the right to propose relevant milestones for completion of the project and, if these milestones are not acceptable to SDG&E, the option to build. In addition, the Commission found no harm in allowing Nevada Hydro's cost estimates to be included in Appendix A.

The Commission directed the CAISO to file a revised and non-conforming LGIA to reflect the in-service date of the TE/VS Interconnect. It also directed inclusion of a restatement of the milestone dates for advancement of costs, as well as Nevada Hydro's cost estimates.

In compliance with the May 9 Order, the CAISO filed a revised LGIA on June 9, 2008. The only change to the body of the LGIA was a revised, non-conforming definition of In-Service Date.

The remaining changes directed by the Commission were included in Appendices A and B. Table A.1 of Appendix A was revised to include the cost estimates provided by Nevada Hydro. The CAISO noted that the presence of conflicting costs estimates, however, could cause confusion regarding the required security payments. Accordingly, consistent with the LGIA, Table A.1 included a footnote indicating that Nevada Hydro's costs estimates will not be used for the provision of security.<sup>5</sup>

The compliance filing also revised Table B.1 to incorporate Nevada Hydro's proposed in-service date as directed by the Commission. It modified subsequent milestones accordingly. Table B.3 and B.4 were revised to reflect a modified time schedule according to the revised in-service date. The transmittal letter noted that the timelines that SDG&E considered necessary for construction

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<sup>5</sup> The compliance filing also corrected certain typographical and technical errors in the LGIA. The heading of Section A.2(b)(ii) was revised to correctly identify the facilities listed as Participating TO's Delivery Network Upgrades rather than Interconnecting Customer's Delivery Network Upgrades. Revised Table A.1 corrected a typographical error regarding the estimated time to construct the addition of the second Talega-Camp Pendleton Case Springs circuit (912 MVA) and second Escondido-Camp Pendleton Case Springs circuit (456 MVA). Section A.4 was revised to correct the SDG&E personnel to whom all insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance are to be issued and submitted.

of the required Network Upgrades consistent with meeting Nevada Hydro's In-Service Date resulted in establishing some milestones, including several milestones associated with required payments of financial security and other matters, at dates that had already passed. It explained that the CAISO, SDG&E, and Nevada Hydro (with whom SDG&E and the CAISO had spoken regarding this particular issue) acknowledged that Nevada Hydro and SDG&E cannot comply and could not have complied with such past milestones, and they further agreed that neither SDG&E nor Nevada Hydro would be prejudiced regarding the passage of such milestones. Further, the transmittal letter noted that Nevada Hydro would not be prejudiced relative to its position in the CAISO interconnection queue because of non-compliance with any milestone in the revised LGIA that is stated at a date prior to the date of the compliance filing.

## **II. PROTEST**

On June 30, 2008, Nevada Hydro filed a protest to the compliance filing.

Nevada Hydro contends that –

- (1) The CAISO has specified unjust and unreasonable milestones;
- (2) The CAISO has incorporated a construction schedule that would defeat the Commission-accepted in-service date; and
- (3) The CAISO has unjustly, unreasonably, and discriminatorily required the posting of security in amounts based on the cost estimates SDG&E provided.

### III. DISCUSSION

#### A. Milestones and Construction Schedule.

The compliance filing revised the In-Service Date and relevant completion milestones for the TE/VS Interconnect as the Commission directed. In the May 9 Order, however, the Commission did not address the intermediate milestones or construction schedule leading up to that date. SDG&E provided the CAISO with the appropriate dates for the compliance filing, and the CAISO had no basis on which to question the reasonability of SDG&E's estimates. As the CAISO noted in its initial filing, Section 11.3 of the Large Generator Interconnection Procedures specifies that an unexecuted LGIA should contain terms and conditions deemed appropriate by the applicable Participating Transmission Owner ("TO") and the CAISO for the Interconnection Request. Indeed, issues regarding construction schedules and milestones are particularly entrusted to the expertise of the Participating TO. For example, Section 30.11 of the LGIA gives the Participating TO *exclusive* Section 205 rights to unilaterally modify, *inter alia*, Sections 5.1, 5.2, and 11.3 of the LGIA, the sections most relevant to this issue.

In the absence of Commission guidance on this issue, and with no contradictory information, the CAISO included the milestone dates and construction schedule provided by SDG&E. While Section 5.1 of the LGIA allows the Interconnection Customer to specify the various milestone completion dates – the In-Service Date, Initial Synchronization Date, and Commercial Operation Date – it does not provide for the Interconnection Customer to specify the intermediate construction milestones or schedule. Rather, if the Interconnection

Customer is dissatisfied with the dates proposed by the Participating TO, it can exercise the option to self-build. In that case, the dates provided in Appendix B for the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades are no longer relevant. Section 5.2 of the LGIA provides:

If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades . . . prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the ISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO.

The LGIA does not authorize the Interconnection Customer to dictate the construction schedule or intermediate construction milestones for the Non-Stand Alone facilities, which the Participating TO must construct. For those facilities, the CAISO must rely on the Participating TO to establish reasonable schedules.

The CAISO takes no position on whether SDG&E's milestones and construction schedule are reasonable, other than to note that SDG&E has previously and consistently proposed a schedule and intermediate milestones of approximately three years in duration and that the CAISO has had no reason to question their reasonableness under the circumstances. That some of the milestones have passed does not reflect on the reasonableness of the schedule assuming the Participating TO's proposed dates are not unreasonable.<sup>6</sup> The CAISO understands SDG&E would consider appropriate changes to the milestones in the event Nevada Hydro exercises its option to self-build. It

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<sup>6</sup> See, e.g., Section 5.6.1 of the LGIA (requiring approval as a condition precedent to the Participating TO's obligation to construct any facilities requiring regulatory approval).

remains the CAISO's position that, under the LGIA it is appropriate for the CAISO to include the Participating TO's proposed schedule and intermediate milestones in the LGIA for that portion of the Interconnection to be constructed by the Participating TO.

**B. Security Requirements.**

The LGIA as filed included the cost estimates of SDG&E, upon which security deposits were based. In its original protest, Nevada Hydro requested inclusion of its own cost estimates. It argued that failure to include its estimates would harm it by leading to inflated actual costs and prejudicing it in its proceedings before the California Public Utilities Commission. It "simply" asked the Commission to direct inclusion of its estimates as well as those of SDG&E.<sup>7</sup> In neither its original protest nor its subsequent answer did Nevada Hydro suggest that the inclusion of its cost estimates would modify the security requirements.

In the May 9 Order, the Commission granted Nevada Hydro's requests because it "[saw] no harm in allowing Nevada Hydro's cost estimates to be included in Appendix A."<sup>8</sup> At no point did the Commission suggest that inclusion of these estimates should have a substantive effect.

In its June 30 protest, Nevada Hydro acknowledges that, to the extent that it exercises its right to self-build, the issue of security deposits is moot. Nonetheless, it asks the Commission to rule on the issue in case SDG&E performs part of the construction. The Commission should deny this request.

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<sup>7</sup> Nevada Hydro April 1, 2008, Protest at 20-21.

<sup>8</sup> May 9 Order at P 20.

If a Participating TO is required to construct Interconnection Facilities, it is the one initially best equipped to estimate the costs of the construction and the necessary security deposits. Section 11.3 of the Large Generator Interconnection Procedure recognizes this reality in directing that Unexecuted LGIAs include terms deemed appropriate by the CAISO and the Participating TO.

If an Interconnecting Customer, such as Nevada Hydro, deems the Participating TO's cost estimates unreasonable as the basis for security deposits, it can challenge them and request that they be set for hearing. Nevada Hydro specifically declined to do so.<sup>9</sup> Having persuaded the Commission to direct inclusion of its cost estimates because doing so would have no substantive effect, Nevada Hydro should not now be heard to insist that those estimates affect the security requirements. Granting Nevada Hydro's request would open the gates for every Interconnection Customer to reduce the reasonable security required by a Participating TO by merely offering alternative cost estimates.

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<sup>9</sup> Nevada Hydro April 1, 2008, Protest at 21.

#### IV. CONCLUSION

The CAISO requests that the Commission accept this Answer and take into consideration the comments included herein.

Respectfully submitted,

/s/ Michael E. Ward

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Dated: July 15, 2008

## CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the 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 at Washington, D.C. this 15<sup>th</sup> day of July, 2008.

/s/ Bradley R. Miliauskas  
Bradley R. Miliauskas