

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

California Independent System Operator Corporation	Docket Nos. ER04-445-011 ER04-445-012 ER04-445-013 ER04-445-014
Pacific Gas and Electric Company	Docket Nos. ER04-443-009 ER04-443-010 ER04-443-011
San Diego Gas & Electric Company	Docket Nos. ER04-441-009 ER04-441-010
Southern California Edison Company	Docket Nos. ER04-435-015 ER04-435-016 ER04-435-018

(Not Consolidated)

**REQUEST FOR REHEARING
OF THE CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION**

Pursuant to Section 313(a) of the Federal Power Act, 16 U.S.C. § 825/(a), and Rule 713 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.713, the California Independent System Operator Corporation ("CAISO"), hereby requests rehearing of the Commission's May 24, 2006 "Order Accepting in Part and Rejecting in Part with Modifications Large Generator Interconnection Compliance Filings, Rejecting Offer of Settlement, and Clarifying Prior Order," 115 FERC ¶ 61,237 ("May 24 Order") issued in the above-captioned dockets. The CAISO's request for rehearing narrowly focuses on two aspects of the May 24 Order. First, the CAISO requests that the Commission grant rehearing and modify the effective date for the accepted "centralized Interconnection Study procedures" from March 1, 2006 to June 23, 2006. Second, the

CAISO requests that the Commission grant rehearing and reverse its decision to strike Section 3.2 of the Agreement for the Allocation of Responsibilities with Regard to Large Generator Interconnection Procedures and Interconnection Study Agreements (“R&R Agreement”) relating to conflicts with the ISO Tariff.¹ In order to facilitate implementation and administration of the CAISO’s centralized Interconnection Study process, the CAISO respectfully requests that the Commission, if necessary, bifurcate its ruling on this request for rehearing to provide early guidance on the issue of the appropriate effective date.

I. SPECIFICATION OF ERRORS

The CAISO provides the following separate specification of errors:

1. The Commission erred by establishing an effective date for the CAISO’s centralized Interconnection Study process of March 1, 2006. (May 24 Order at Ordering Paragraph (A).)
2. The Commission erred in striking from the R&R Agreement the provision requiring that the R&R Agreement govern over the ISO Tariff in the event of a conflict. (*Id.* at P 58.)

II. STATEMENT OF ISSUES

The CAISO provides the following separate statement of issues:

1. The practical effect of the retroactive effective date for the CAISO’s centralized Interconnection Study process articulated in the May 24 Order is to render noncompliant all Interconnection Study agreements entered into between March 1, 2006 and the present. Thus, should the

¹ Capitalized terms that are not otherwise defined herein are defined in the Master Definitions Supplement, Appendix A to the ISO Tariff.

Commission revise the effective date set forth in the May 24 Order given that the CAISO utilized the interim Large Generator Interconnection Procedures (“LGIP”) study process pending a Commission decision on its centralized Interconnection Study process?

2. Should the Commission reinstate Section 3.2 of the R&R Agreement because its elimination from the R&R Agreement potentially alters the balance achieved by the parties during negotiations over the centralized Interconnection Study process?

III. BACKGROUND

On July 1, 2005, the Commission addressed the CAISO’s January 5, 2005 and February 18, 2005 LGIP compliance filings, as well as the joint compliance filings of the CAISO and the Participating Transmission Owners (“PTOs”) regarding the Commission’s pro forma Large Generator Interconnection Agreement (“LGIA”), pursuant to Order Nos. 2003, 2003-A, and 2003-B². Applying the “independent entity variation” standard, the July 1 Order approved most of the CAISO and PTOs’ proposed modifications to the Commission’s *pro forma* LGIP and LGIA. However, the Commission directed the CAISO and the PTOs to adopt a centralized Interconnection Study process, under which the CAISO conducts the Interconnection Studies in a manner that examines the effect of the interconnection and additional generation on the ISO Controlled Grid as a whole. The July 1 Order directed that compliance filings be submitted on or before August 30, 2005.

² *California Independent System Operator Corp.*, 112 FERC ¶ 61,112 (2005) (“July 1 Order”).

On August 1, 2005, the PTOs timely filed a joint request for rehearing and clarification of the July 1 Order (“PTO Rehearing”) on the centralized Interconnection Study process mandate, arguing, among other things, that the Commission had an inadequate legal and evidentiary basis under Section 206 of the Federal Power Act (“FPA”) to mandate a compulsory transfer of the Interconnection Study function from the PTOs to the CAISO. The PTO Rehearing also included a motion to partially postpone the CAISO’s compliance filing on the centralized Interconnection Study process. On August 10, 2005, the CAISO filed an answer to the PTO Rehearing solely on the motion to extend the filing date, in which the CAISO stated that it agreed with the PTOs that an extension of approximately six weeks, up to October 14, 2005, was needed to develop the centralized Interconnection Study process.

On August 26, 2005, the Commission issued an order granting an extension of time to October 14, 2005, for the CAISO and PTOs to file an LGIP incorporating the centralized Interconnection Study process³. In the August 26 Order, the Commission also clarified several aspects of the July 1 Order’s directive regarding the centralized Interconnection Study process. In this regard, the Commission found that if the CAISO does physically conduct Interconnection Studies, the PTOs should have adequate review and recommendation rights under the centralized Interconnection Study process.

In accordance with the July 1 Order and the extension of time solely to file the centralized Interconnection Study process granted in the August 26 Order, the CAISO submitted a compliance filing on August 30, 2005 that incorporated changes to the LGIP ordered by the July 1 Order that did not address the centralized Interconnection Study

³ *California Independent System Operator Corporation*, 112 FERC ¶ 61,231 (2005) (“August 26 Order”).

process. Accordingly, the LGIP submitted by the CAISO in the August 30 filing reflected an interim study process based on the CAISO's February 18, 2005 filing, which was to be used only until adoption of the long-term centralized Interconnection Study process.

On October 12, 2005, the CAISO, with the support of the PTOs, filed a request to extend until November 1, 2005, the deadline for making the compliance filing reflecting the incorporation into the LGIP and LGIA of the centralized Interconnection Study process. The Commission granted this motion in an order issued on October 14, 2005.

On November 1, 2005, the CAISO and PTOs made compliance filings reflecting the incorporation of the centralized Interconnection Study process into the LGIP and LGIA in accordance with the July 1 and August 26 Orders.

The May 24 Order found that the November 1, 2005 and August 30, 2005 compliance filings "have, for the most part, complied with Order No. 2003 and with the Commission's findings in the July 1, 2005 and August 26, 2005 Orders." Consequently, the Commission "accept[ed] the tariff sheets that include the proposed LGIP, LGIA, Interconnection Studies, and the R&R Agreement, with certain modifications." One such modification was required by the Commission's rejection of the CAISO's proposal to have the R&R Agreement govern over the ISO Tariff in the event of a conflict. The May 24 Order further specified that "[r]evisions to documents that were filed on November 1, 2005 will be effective as of March 1, 2006."

IV. REQUEST FOR REHEARING

A. The CAISO Requests that the Commission Extend the Effective Date for the Centralized Interconnection Study Process to June 23, 2006

The CAISO seeks rehearing of the declaration in the May 24 Order that the revisions to the CAISO's LGIP and LGIA filed on November 1, 2005 to implement centralized Interconnection Study procedures "are effective as of March 1, 2006."⁴ The Commission's selection of this date is understandable given the CAISO's November 1, 2005 LGIP compliance filing. In the transmittal letter accompanying the compliance filing, the CAISO stated that it anticipated being able to implement the centralized Interconnection Study process by March 1, 2006 and, therefore, requested that the compliance filing "be effective on the date assigned by the Commission, but in any event, no sooner than March 1, 2006." Notwithstanding this statement, the CAISO and PTOs did not anticipate, and cannot reasonably accommodate or comply with, an effective date retroactive from the issuance of the May 24 Order. Rather, the CAISO's transmittal letter was intended to indicate, albeit not entirely clearly, that if a decision on the November 1, 2005 compliance filings was to be forthcoming prior to March 1, 2006, the Commission should set an effective date no sooner than March 1st to allow for completion of implementation details.

A practical problem has arisen from the discrepancy between the CAISO's intent and the Commission's selection of a retroactive effective date. Simply put, without knowing when, or if, the proposed centralized Interconnection Study provisions would be accepted by the Commission, the CAISO and PTOs reasonably continued to utilize

⁴ May 24 Order at Ordering Paragraph (B), fn. 75.

and proceed according to the interim LGIP, LGIA, and study agreements as represented in the August 30, 2005 compliance filings between March 1, 2006 and the present. Indeed, the May 24 Order acknowledged that the CAISO and PTOs intended to use the LGIP, LGIA, and *pro forma* study agreements filed on August 30, 2005 in compliance with the Commission's July 1 Order, which did not include centralized study provisions, "on an interim basis until procedures for centralized studies are *accepted* by the Commission and implemented in the California market." (Emphasis added.) Accordingly, the May 24 Order's retroactive effective date would require the CAISO and PTOs to go back and redo all study agreements entered into between March 1, 2006 and the present. This would result in delay and inefficiency from the perspective of the Interconnection Customer as well as the CAISO and PTOs.

The CAISO requests a revision of the effective date to June 23, 2006. This date was selected as a bright line on which the CAISO and PTOs are prepared to implement the detailed procedures of the centralized Interconnection Study process previously developed prior to March 1, 2006.

B. The CAISO Requests that Section 3.2 of the R&R Agreement Be Accepted by the Commission

The May 24 Order found that the "centralized study proposal complies with the Commission's prior orders and meets the independent variation standard." The Commission further observed that the centralized Interconnection Study process "strikes the appropriate balance between CAISO, as an independent Transmission Provider with grid-wide responsibilities, and the PTOs, as Transmission Owners with specialized knowledge of their respective systems." The CAISO and PTOs negotiated the R&R Agreement to memorialize that balance.

Section 3.2 and Section 4.12 of the R&R Agreement were intended to operate together to protect the balance struck between the CAISO's role as the system operator, and the PTOs' roles as the owners of their respective transmission assets. Section 4.12 of the R&R Agreement restricts the ability of parties to modify the terms of the agreement and reflects the desire of the parties to require a *Mobile-Sierra* "public interest" standard of review in any FPA Section 206 proceeding to change the R&R Agreement. Section 3.2 of the R&R Agreement provided that in the event of a conflict between provisions of the R&R Agreement and an individual Interconnection Study agreement or the ISO Tariff, the provisions of the R&R Agreement would control. The Commission rejected Section 3.2 of the R&R Agreement and, in doing so, the Commission has potentially altered the balance struck by the CAISO and PTOs during negotiations to develop the centralized study process.

While the CAISO acknowledges that the inclusion of a *Mobile-Sierra* provision operates to protect an executing PTO in the event the CAISO were to file, pursuant to FPA Section 205, a unilateral change to the CAISO Tariff that is inconsistent with the R&R Agreement,⁵ Section 3.2 also acted to provide additional protection against the "unintended" conflict between the ISO Tariff and R&R Agreement. It did so by essentially nullifying -- as to that executing PTO -- a provision of the ISO Tariff that conflicts with the provisions negotiated under the R&R Agreement. The CAISO concurs with the Commission that the R&R Agreement should be interpreted under a single tariff -- the CAISO Tariff -- but believes that this consistency can be achieved through the processes agreed to by the CAISO and its PTOs as it pertains to the

⁵ See, e.g., *Richmond Power and Light v. Federal Power Commission*, 481 F.2d 480 (D.C. Cir. 1973).

centralized Interconnection Study process. It is not unprecedented for a *pro forma* CAISO contract to prevail over conflicting provisions of the ISO Tariff. For example, Section 14.10 of the *pro forma* Reliability Must Run (“RMR”) Contract provides that the terms of the RMR Contract prevail over the ISO Tariff in the event of a conflict. Both the RMR Contract and the R&R Agreement reflect the outcome of intensive negotiations. The CAISO requests that the Commission similarly respect the outcome of the negotiations regarding the R&R Agreement.

V. CONCLUSION

For the foregoing reasons, the CAISO respectfully urges the Commission to grant rehearing and (1) modify the effective date for the accepted “centralized Interconnection Study procedures” from March 1, 2006 to June 23, 2006 and (2) reverse its decision to strike Section 3.2 of the R&R Agreement relating to conflicts with the ISO Tariff.

Respectfully submitted,

/s/ Grant Rosenblum

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California Independent
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June 23, 2006

Via Electronic Filing

The Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: California Independent System Operator Corporation
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Dear Secretary Salas:

Transmitted herewith for electronic filing in the above-referenced proceeding is Request for Rehearing of the California Independent System Operator Corporation.

Thank you for your attention to this matter.

Yours truly,

/s/ Grant Rosenblum
Grant Rosenblum

Counsel for the California Independent
System Operator Corporation

CERTIFICATE OF SERVICE

I hereby certify that I have, this 23rd day of June 2006, served a copy of the forgoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Grant Rosenblum

Grant Rosenblum