

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

**California Independent System)
Operator Corporation) Docket No. ER08-960-000**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTIONS TO INTERVENE, COMMENTS, AND PROTESTS**

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 motions to intervene and comments that were filed in response to the CAISO’s May 15, 2008 Petition for Waiver of Tariff Provisions to Accommodate Transition to Reformed Large Generator Interconnection Procedures filed in this docket.

The CAISO also moves the Commission to allow it to answer issues that may have been stated as protests as part of some of the motions to intervene and comments. While answers to protests are not generally permitted by the Commission’s regulations, the issues here are intertwined with the comments which the CAISO has the right to answer. 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 various issues raised in protests.¹

I. INTRODUCTION

In this proceeding, the CAISO has petitioned the Commission to grant 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 under consideration and development by the CAISO and stakeholders. The waivers are a necessary first step to reforming the CAISO interconnection process in that they will 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 and creating new, more efficient processes to apply to other pending and future IRs.

In response to the Commission's public notice of the CAISO's Petition, eighteen responsive pleadings have been filed in the form of motions to intervene, comments, and/or protests. Seven of the responsive pleadings raised no substantive concerns, while the others raised various issues concerning the specifics of the process that the CAISO has proposed to transition to the GIPR.

As an initial matter, the CAISO appreciates the time and effort expended by the stakeholders throughout the stakeholder process, and in the submission of their

¹ 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").

comments in response to the Petition. The goal of the CAISO is to put into place fair and efficient procedures to relieve the backlog of IRs currently in the queue and to create an effective process for the future. As an independent transmission system operator, the CAISO manages its system as fairly as possible for the benefit of all stakeholders while facilitating important state and federal public policies.

It is noteworthy that no commenter indicated any disagreement with the need for some sort of reform to the existing interconnection procedures. Rather, the complaints generally focus on the impacts of the transition mechanism. The CAISO has crafted a transition process that is as fair and equitable as possible, and offers the following responses to some of the specific concerns expressed.

II. RESPONSES

A. Necessity/Rationale for Temporary Pause in Studies

Some of the commenters questioned the necessity and desirability of temporarily suspending studies for those IRs identified for inclusion in the Transition Cluster and the Initial GIPR Cluster. For example, Mirant questioned whether a suspension of work is “integral” to accomplishing the reform effort, suggesting that it will have significant and costly delays.

As explained in its Petition, the CAISO is seeking the temporary suspension of study responsibilities for early stage and new IRs for two principle reasons. First, it will allow the CAISO and PTOs to redirect and focus their resources on processing a specific group of IRs that are most advanced in the interconnection process, so as to move them out of the way to focus on the next group. This is by no means a “stand down” of resources; rather, it is a redirection of them in a manner that will quickly clear

the queue of the Serial Study Group IRs so that attention can then be shifted to other IRs. Second, by temporarily suspending the studies of IRs in the Transition and Initial GIPR Clusters, the CAISO and the interconnection customers (“ICs”) can more readily avoid study procedures and associated study costs that are likely to become unnecessary when reformed. The corollary to this justification, as recognized by the Commission in its March 20 Order,² is that it is more equitable and efficient to apply the new more streamlined procedures to IRs in the early stages of the interconnection process.

Thus, contrary to Mirant’s assertion, the temporary suspension that the CAISO is seeking will likely render the interconnection process overall less costly and more efficient than either the alternative of processing the transitional IRs under the current serial study/restudy approach (which is no reform at all), or continuing the serial study process for transitional IRs for the time being only to have the studies rendered obsolete by adoption of the reformed procedures. Mirant’s suggestion that the temporary suspension may add significant and costly delays to IRs in the Transition Cluster is unsubstantiated and speculative, particularly given the purpose of the transition is to clear the queue and utilize a more efficient process.³ Moreover, the suspension will be relatively short and the CAISO will commit to commence processing the Transition Cluster on a date certain as part of the GIPR filing.⁴

² “Order on Technical Conference,” Interconnection Queuing Practices, 122 FERC ¶61,252 (2008) (“March 20 Order”).

³ See *Dominion Resources Services, Inc. v. PJM Interconnection, L.L.C.*, 123 FERC ¶ 61,025 at P 54 (2008) (cost concerns from queue changes speculative at best); “Order on Technical Conference,” *Interconnection Queuing Practices*, 122 FERC ¶61,252 at P 19 (2008) (cost shifts from interconnection reform speculative in many cases).

⁴ The suspension resulting from the waivers will expire if the GIPR is not timely filed.

B. Objections to Serial Study Group Criteria Proposed by the CAISO

Several commenters challenged the CAISO's choice of criteria to differentiate which IRs would be placed in the Serial Study Group, and thus given priority for immediate processing, and those placed in the other study clusters for which a temporary suspension of study activities is sought. The CAISO has endeavored to select non-discriminatory criteria to include 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 to satisfy state-imposed renewable power policy requirements.

Several commenters, including Radback Energy and Cogentrix Energy, characterize the use of the stated Interconnection System Impact Study Agreement completion date and the existence of a power purchase agreement to define the Serial Study Group as arbitrary and/or discriminatory. For the reasons fully explained in its Petition, the CAISO believes that each of these criteria is 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. This distinction is rational for accomplishing the purpose of expeditiously processing requests that are further along in the process and thus neither arbitrary nor discriminatory.

C. Commenters' Proposed Alternatives/Exceptions to Waiver Categories

The commenters have proposed a number of alternatives and exceptions to the CAISO's proposed Serial Study Group criteria based primarily on unique circumstances to advance the interests of a specific IR. Although the alternatives and exceptions

proposed may each have some merit, individually assessing whether a particular project should receive special treatment is not consistent with the objective of quickly completing the transition to reformed procedures. That type of case-by-case analysis will defeat the purpose of selecting non-discriminatory criteria to create groups for the efficient clearing of the queue. Moreover, although the Serial Study Group will receive priority treatment in the short term, the CAISO will outline a schedule that will allow it to expeditiously process those IRs in the Transition and Initial GIPR Clusters. The CAISO believes that, regardless of which group the IR falls into, IRs will be processed more efficiently and sooner than they would had the status quo been maintained. A brief response will be offered below to each of the alternatives and exceptions advocated.

Mirant: Mirant asks that each IR in the Transition Cluster should be offered an Interconnection System Impact Study (“SIS”) agreement (with no study obligations) within 15 days of FERC’s waiver order, so that the California Energy Commission (“CEC”) permitting processes for those projects will not be delayed. The CAISO does not desire to impede the progress of any project before the CEC. Mirant’s proposal, however, would seem to require the CAISO to tender an essentially meaningless agreement—one that would require no studies. This proposal has no merit. The CEC rules require that agency to consider the “best available information” when processing projects, and the CEC should be the one to determine what is the “best available information” in light of the CAISO’s proposed GIPR reforms.

NRG Companies: NRG Companies ask that the Serial Study Group encompass projects in unique locations or with a specific reliability need, similar to the Accelerated Process criteria proposed in the draft GIPR at Section 5.10. NRG Companies’ request

would inject significant complexity into the process that could jeopardize the basic objective of promptly completing Serial Study Group analyses. The Accelerated Process, as currently formulated in the GIPR, which is not yet filed with the Commission, would apply to expedite the completion of tasks associated with Interconnection Facilities Studies. The need to assess a particular IR's system impacts and whether the IR should be included in a group study would continue to apply prior to triggering the Accelerated Process. Accordingly, NRG Companies' suggestion to incorporate the Accelerated Process into the Serial Study Group defeats the purpose of setting up that Group; the selection for the Serial Study Group is based on objective criteria that can be used to identify IRs ripe for immediate study. Including consideration of special reliability needs would require significant analysis, and would defeat the purpose of rapidly identifying the Serial Study Group and clearing the queue. Assuming the draft Accelerated Process criteria are proposed in the CAISO's future tariff amendment filing, NRG's project, to the extent it qualifies, will be able to take advantage of that process to move quickly through the Transition Cluster.

Wellhead Electric Company; Cogeneration Association et al.: Wellhead urges that smaller projects that can be developed on a "fast track" basis should be allowed to proceed, and the Cogeneration Association requests a similar exception for new or increased cogeneration projects of less than 100 MW at existing industrial facilities. The premise of these exception requests is that these smaller projects or expansion of existing projects can be quickly interconnected with little impact on the grid. However, this premise is flawed. The CAISO has no way of determining whether these projects can be quickly interconnected just because they are relatively small in size. Nor is it

correct to assume that smaller projects have little impact on the grid. The impact of each project is unique and dependent on a number of variables. In addition, small projects can also be subject to extended permitting and contractual delays similar to larger projects. Thus, there is no good reason to create an exception for these types of projects.

Wellhead suggests that there may be threats to reliability by suspending studies on “fast-track” projects. However, Wellhead provides no evidence to support this assertion, and no PTO or other load serving entity has raised this concern or otherwise advocated that a “fast track” condition be considered in defining the Serial Study Group.

Radback Energy Inc.: Radback states that the interconnection queue problems are mostly associated with the geographic area north and east of Los Angeles, and that solutions should be targeted there without disrupting IRs in other areas. While there currently may be the greatest concentration of IRs in the geographic area identified, the CAISO cannot resolve the queue backlog without addressing the whole queue. Moreover, trying to determine which particular IRs are most responsible for the queue backlog is not an analysis that can be done quickly, if at all.

Macquarie Energy North American Trading: Macquarie asks that projects determined to be “data adequate” in the CEC process should be considered to be in an advanced stage of development. The CAISO considered including a Serial Study Group criterion that took into account a project’s status in the CEC process. After further consideration, however, the CAISO decided that it could not create such a criterion that was equitable for all types of resources. The CEC’s jurisdiction does not extend, for example, to wind, some other renewable technologies, and even thermal

units smaller than 50 MW. As such, in order to be non-discriminatory, the criterion would have to be based on considerations that would apply uniformly to all projects, not just to CEC projects. Further, the CAISO concluded it was impractical to determine the universe of non-CEC projects that would have a status similar to a CEC project's "data adequate" determination. Accordingly, it was decided not to include such a criterion.

enXco Development Corporation: enXco (and others) contend that IRs whose studies were delayed by the CAISO or the PTO should not be penalized by not being able to satisfy the May 1, 2008 SIS target date, and instead proposes a criterion based on an IR filing date of June 29, 2007 coupled with a \$250,000 "readiness" deposit. This proposal is simply an alternative to the criterion selected by the CAISO, and it also would have winners and losers. The CAISO's selection of the SIS completion date bears a closer relationship to the degree of advancement in the interconnection process and therefore is consistent with the Commission's guidance issued in the March 20 Order.

The CAISO does not deny that some IRs may have been delayed by events or processes outside the control of the ICs. Moreover, these events may in some instances be due in part to factors that are more in the control of the CAISO and PTOs. Assessing purported culpability or fault with regard to each IR would, however, be a time consuming and largely subjective exercise that may or may not lead to a more equitable outcome and there is no reason to think that such an approach would allow the CAISO to clear the queue efficiently.

California Wind Energy and Large Scale Solar Associations: The Wind and Solar Associations urge that any waivers be conditioned on the CAISO completing the

Transition Cluster so that it could be incorporated into the 2009 Transmission Planning Process (“TPP”) and the Initial GIPR Cluster into the 2010 TPP. This suggestion is beyond the scope of the instant limited waiver request. The CAISO will propose timeframes for processing those clusters in the GIPR filing, and the Commission will make a determination at that point whether the proposed timeframes are reasonable given the interconnection procedures approved. Accordingly, the Associations’ requested condition is premature. Nevertheless, the CAISO commits to processing all IRs in the Transition and Initial GIPR Clusters as quickly and efficiently as possible.

Imperial Irrigation District: The IID states that the proposed criterion that would advance the IRs associated with the Sunrise Powerlink transmission line is not prudent because there is uncertainty about whether the Sunrise line will be approved and at what location. However, no IR has been placed in to the Serial Study Group solely as a result of a proposed interconnection to the Sunrise transmission line. As Mr. Rutty’s Declaration attached to the CAISO’s waiver request states, only one project was placed into the Serial Study Group solely as a result of the third criterion (attachment to new transmission lines), and that project attached to Tehachapi.⁵

D. Objections to Stakeholder Process

Radback makes several assertions about the process by which the draft GIPR is being developed, including that queue members were not notified of the process, stakeholder comments were not being considered, and the CAISO Board did not approve the waiver request filing. Radback’s criticisms are without merit.

It should have been no surprise to any stakeholder in California that the CAISO was considering reform of the interconnection process, at least since the well-reported

⁵ See Rutty Declaration at ¶ 5.

FERC public conference in December 2007 at which the CAISO submitted oral and written comments. The CAISO issued a Market Notice about the initiation of the GIPR process on January 3, 2008. Since then, the CAISO has posted a number of drafts of the GIPR and stakeholder comments on its web site, and held a number of stakeholder conferences, each of which was preceded by a publicly posted agenda.⁶ All ICs were directly contacted about the ongoing GIPR activities by email on March 13. The following schedule outlines the stakeholder outreach that the CAISO has been pursuing to obtain input to the development of more efficient interconnection procedures:

- January 18, 2008 - CAISO posted Issues Identification Paper on its website
- January 25, 2008 - Stakeholder Meeting held at CAISO offices in Folsom
- January 31, 2008 - Stakeholder comments received
- February 12, 2008 - CAISO posted Draft Proposal on its website
- February 19, 2008 - Stakeholder Meeting held at CAISO offices in Folsom
- February 26, 2008 - Additional Stakeholder comments received
- February 28, 2008 - Stakeholder Conference Call
- March 12, 2008 - CAISO Posted Revised Draft Proposal on its website
- March 13, 2008 - Stakeholder Conference Call
- March 20, 2008 - Stakeholder Conference Call
- March 26, 2008 - CAISO Board of Governors Presentation (informational)
- March 27, 2008 - Stakeholder Conference Call
- April 9, 2008 - Stakeholder Conference Call

⁶ <http://www.aiso.com/1f42/1f42c00d28c30.html>.

- May 8, 2008 - Stakeholder Conference Call
- May 21, 2008 - CAISO Posted Revised Draft Proposal on its website
- May 28, 2008 - Stakeholder Conference Call

The stakeholder process will continue with the objective to convert the details of the GIPR proposal to tariff language to be submitted as part of the GIPR filing to the Commission. The fact that the CAISO has not accepted all the comments received from stakeholders does not mean that stakeholders did not have the opportunity to comment or that their comments were not considered in revising the GIPR drafts. Indeed, as is the CAISO's practice, the package of materials that will be submitted to the CAISO Governing Board on July 9, 2008 to approve the fundamental elements of the GIPR will include CAISO management responses to stakeholder comments.

Although the Section 15 of the CAISO tariff requires CAISO Board authorization for filing a tariff amendment, no such approval is required for a waiver request. The Board will review and approve of any tariff amendments that may be made when the GIPR is filed.

E. Comments Regarding Substance of GIPR

Several of the comments go to the substance of the GIPR proposal, which is not at issue in this waiver request. The Petition filed in this case seeks only a limited and temporary suspension of certain study process deadlines; the Petition does not place the merits of the CAISO's proposed GIPR tariff amendment filing before the Commission. Thus, for example, Mirant's comment that it is unclear what studies will be required for the Transition Cluster, and Radback's comment about the deposit requirement in the draft GIPR for generators under 20 MW, are not relevant to this waiver request.

F. Other Comments

Several commenters (e.g., enXco and California Wind and Solar Associations) have argued that the CAISO should increase staffing or hire contractors to address the queue backlog and minimize delays. The CAISO has fully considered the extent to which additional personnel could expedite the process, and will continue to monitor where additional personnel can make a difference. The CAISO believes that it is currently sufficiently staffed to handle what it needs to do, and has contractors available that it can call upon. Moreover, some aspects of the interconnection process are the responsibility of the PTOs.

Importantly, the causes for the delays in processing the queue go beyond personnel issues. The delays are often the result of the complexity of assessing interdependent data that constantly change with each addition to or deletion from the generator queue. Data interdependency constrains the number of studies that can be simultaneously performed within a particular area, and in such situations, additional personnel will not necessarily be beneficial.

Radback commented that the delays caused by the temporary suspension of studies for some of the IRs could conflict with the “Long-term Request for Offers” process by the IOUs. The CAISO has received no concerns about this from the IOUs, and the CAISO has no evidence that this is a problem with respect to the temporary suspensions in the waiver requests.

Cogentrix argued that significantly increased non-refundable deposits should be applied to IRs in the Serial Study Group as well as to IRs governed by GIPR procedures. There are two reasons why the CAISO is not proposing increase deposits for the Serial Study Group. First, the CAISO would not be able to impose additional

costs on the Serial Study Group without a tariff amendment. This requirement would itself delay the progress toward queue reform. Second, the main purpose of increased deposit requirements is to help eliminate projects that are unlikely to be viable in the longer term. The criteria for selecting the Serial Study Group are intended to bring within the Group projects that are viable based on their more advanced status. Accordingly, there is no need to impose additional requirements.⁷

III. CONCLUSION

For the reasons stated herein and in the CAISO's Petition for Waiver, the CAISO requests that the Commission grant the waivers as requested in the Petition so that the CAISO may proceed as quickly as possible to process its interconnection queue backlog.

Respectfully submitted,

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⁷ Cogentrix asked for a clarification that IRs submitted prior to June 2 will be in the Transition Cluster even if they are validated on or after June 2. The CAISO confirms that IRs submitted prior to June 2 may be validated on or after June 2 for inclusion in the Transition Cluster.

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Dated: June 6, 2008

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 6th day of June, 2008.

/s/ Brian R. Gish

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