

157 FERC ¶ 61,085
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, and Colette D. Honorable.

HORUS Central Valley Solar 1, LLC
HORUS Central Valley Solar 2, LLC

Docket No. EL16-104-000

v.

California Independent System Operator
Corporation

ORDER DENYING COMPLAINT

(Issued November 4, 2016)

1. On July 29, 2016, HORUS Central Valley Solar 1, LLC and HORUS Central Valley Solar 2, LLC (jointly, HORUS), filed a complaint against the California Independent System Operator Corporation (CAISO) pursuant to sections 206 and 306 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's Rules of Practice and Procedure.² In the complaint, HORUS requests that the Commission: (1) direct CAISO to stop interfering with HORUS's compliance with the interconnection procedures of Western Area Power Administration (Western) for its direct interconnection with Western as an energy-only resource; and (2) direct CAISO not to violate its own tariff by requiring HORUS to go through a second set of interconnection procedures and studies under the CAISO tariff. In this order we deny the complaint, as discussed below.

I. Background

2. HORUS's project (the Project) consists of two small photovoltaic generation facilities totaling 26.5 MW. HORUS plans to directly interconnect the Project to Western's O'Neill substation, which is a 70 kV facility that allows Pacific Gas and

¹ 16 U.S.C. §§ 824e, 825e (2012).

² 18 C.F.R. § 385.206 (2016).

Electric Company (PG&E) to provide load and generator interconnection services to the O'Neill pumping-generating plant owned by the U.S. Bureau of Reclamation (Bureau). HORUS followed Western's generator interconnection procedures.³ HORUS submitted interconnection requests to Western on January 23, 2015.⁴ HORUS states it also plans to seek point-to-point transmission service from Western following completion of its interconnection requirements.

3. HORUS's consultant, ZGlobal, submitted a system impact study plan to Western for the Project on September 4, 2015.⁵ Section 4.9 of Western's Small Generator Interconnection Procedures (SGIP) required Western to send the study plan for review to all potential affected systems,⁶ which it did on October 14, 2015, including to CAISO and PG&E, among others.⁷ In February 2016, Western sent the completed system impact study to all the affected systems, and HORUS and Western executed a facilities study agreement pursuant to Western's tariff.

4. HORUS, ZGlobal, Western, and CAISO met in April 2016 to discuss the next steps for the Project to operate within the CAISO Balancing Authority.⁸ CAISO informed Western that the Project, as a CAISO interconnection, would have to participate in the CAISO large generator interconnection procedures, including the Cluster 9 study process.⁹ CAISO also suggested that HORUS could apply for independent processing to

³ Complaint at 2-3.

⁴ *Id.* at 3 (citing Exhibit 2).

⁵ *Id.* at 3 (citing Exhibit 1).

⁶ *Id.* at 3; Western Comments at 4. Under Western's SGIP, an Affected System is "[a]n electric system other than a Transmission Provider's Transmission System that may be affected by the proposed interconnection." Western SGIP at 11.

⁷ Other potential affected systems are the Sacramento Municipal Irrigation District, the Transmission Agency of Northern California, Turlock Irrigation District, the California Department of Water Resources, and the United States Bureau of Reclamation. Complaint at 3-4.

⁸ *Id.* at 4.

⁹ CAISO generally studies interconnection requests grouped into clusters based on when the interconnection requests are submitted. Studying interconnection requests as clusters allows CAISO to consider the interconnection requests together and fairly allocate costs of required network upgrades. Prior to its interconnection process reform

avoid the need to participate in the lengthy Cluster 9 study process. However, CAISO eventually determined that HORUS did not meet the electrical independence test, a necessary qualification for independent processing.¹⁰

5. In further discussions and email exchanges, HORUS argued that CAISO could participate in the Western study as an affected system, and that HORUS was not obliged to participate in CAISO's Cluster 9 study because it was connecting directly with Western.¹¹ However, in the event that CAISO's position prevailed, HORUS applied to participate in CAISO's Cluster 9 study because that window of opportunity was expiring.¹²

II. HORUS's Complaint

6. HORUS asks the Commission to direct CAISO to stop interfering with HORUS's compliance with Western's interconnection procedures for its direct interconnection with Western as an energy-only resource. HORUS also asks that the Commission stop CAISO from requiring HORUS to go through a second set of interconnection procedures and studies under the CAISO tariff.¹³

7. HORUS asserts that it does not have to follow CAISO's interconnection procedures for several reasons. First, HORUS states that it properly followed Western's interconnection procedures that are set forth in Western's tariff and thus should not have to also follow CAISO's interconnection procedures as well. HORUS explains that it plans to directly interconnect its Project to Western-owned facilities at Western's O'Neil substation. HORUS states that Western applied its generator interconnection procedures under its tariff, and invited all affected systems to participate in the system impact study. HORUS notes that, after being notified as an affected system, CAISO advised Western

in 2008, CAISO studied requests serially, which led to the need for numerous re-studies. See *California Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at PP 4, 17-34 (2008).

¹⁰ A resource can demonstrate that it is electrically independent by passing a series of tests outlined in section 4.2 of Appendix DD of CAISO's Tariff. These include the: (1) Flow Impact Test; (2) the Short Circuit Test; (3) the Transient Stability Test; and (4) the Reactive Support Test.

¹¹ Complaint at 5.

¹² *Id.* at 5, 6.

¹³ *Id.* at 1.

that it would not need to participate in this system impact study. HORUS states that, subsequently, it executed the facilities study agreement with Western in February 2016.¹⁴

8. Second, HORUS asserts that nothing in CAISO's tariff requires HORUS to apply for interconnection studies under CAISO's generator interconnection procedures.¹⁵ HORUS states that it is unaware of any energy-only resource that has ever been required to be subject to two different interconnection procedures under two different tariffs for the same point of interconnection for the same capacity.¹⁶ HORUS further argues that the CAISO tariff does not require a project that is an energy-only resource to be subject to CAISO's interconnection procedures if that project is directly interconnected to a non-participating transmission owner (PTO). HORUS argues that only section 9.4 of Appendix DD to the CAISO tariff relates to an interconnection with a non-PTO.¹⁷ However, HORUS contends that section 9.4 does not apply to an energy-only resource like itself.¹⁸ HORUS asserts that, since it will not be directly interconnected with CAISO, section 9.4 does not apply, and CAISO can participate only as an affected system under Western's tariff.¹⁹ In support of this argument, HORUS points to CAISO's answer in a previous interconnection proceeding before the Commission in which CAISO stated that it only needs to participate as an affected system for entities interconnecting to a non-PTO that are not seeking full capacity deliverability status.²⁰

9. Third, Horus states that the generator interconnection agreement (GIA) among PG&E, Western, and the Bureau does not require HORUS to comply with CAISO

¹⁴ *Id.* at 7.

¹⁵ *Id.* at 10. CAISO's generator interconnection procedures are included in Appendix DD to its tariff.

¹⁶ *Id.* at 7.

¹⁷ *Id.* at 8.

¹⁸ *Id.* (quoting CAISO Tariff, Attachment DD, section 9.4: "This process applies to Generating Facilities that interconnect to the transmission facilities of a Non-PTO located within the CAISO Balancing Authority Area that wish to obtain Full Capacity Deliverability Status of Partial Capacity Deliverability Status under the CAISO Tariff.").

¹⁹ *Id.* at 9-10.

²⁰ *Id.* at 10 (citing Exhibit 14 at 4, referring to California Independent System Operator Corporation, Answer to Motions to Intervene and Comments, Docket No. ER12-502-000, at 4 (filed Jan. 5, 2012)).

interconnection procedures because the relevant provision in the GIA, section 7.9.1, does not provide a legal basis for such compliance.²¹ Section 7.9.1, which addresses CAISO tariff and transmission owner tariff provisions, states: “Applicant shall follow all applicable provisions of the [CA]ISO Tariff and/or the [Transmission Owner] Tariff regarding new interconnections to or increases in capacity of its existing interconnection.” HORUS states that the provision only applies to an “Applicant,” which, HORUS explains, is defined as either the Bureau or Western, not to a third party generator interconnecting to the Bureau or Western like itself.²²

10. In addition, HORUS asserts that section 7.9.1 applies only to an Applicant’s “new interconnections to or increases in capacity of its existing interconnection.”²³ HORUS argues that Western has not proposed any new interconnection with PG&E, nor has it proposed any increase in capacity of its existing interconnection with PG&E. Thus, HORUS believes that the provision gives no authority to CAISO to require anything of HORUS or Western. HORUS asserts that since CAISO did not negotiate the GIA and is not a party to the GIA, CAISO’s interpretation of that agreement should not receive any deference.²⁴

11. Finally, HORUS asserts that CAISO should not require it to participate in any CAISO interconnection study under the CAISO tariff, and should refund HORUS’s deposit for the Cluster 9 study, because only Western’s tariff should be applicable to the interconnection of HORUS’s Project for all the aforementioned reasons.²⁵ HORUS argues that there is no public interest served by requiring it to go through a second set of expensive and lengthy studies under CAISO’s generator interconnection procedures when it has already completed the system impact study and the facilities study agreement under Western’s generator interconnection procedures. HORUS argues that CAISO will have a full opportunity to participate as an affected system under Western’s facilities study, and HORUS will enter into the requisite agreements with CAISO in accordance with the CAISO tariff to deliver energy into the CAISO grid.²⁶

²¹ *Id.* at 11.

²² *Id.* at 12.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* at 13.

²⁶ *Id.* at 14.

III. Notice of Filing and Responsive Pleadings

12. Notice of HORUS's filing was published in the *Federal Register*, 81 Fed. Reg. 53,132 (2016), with interventions and protests due on or before August 18, 2016. Motions to intervene were filed by the California Department of Water Resources State Water Project, and Southern California Edison Company. PG&E and Western filed motions to intervene and comments. On August 18, 2016, CAISO filed an answer to the complaint, and on September 2, 2016, HORUS filed a motion for leave to answer and answer to CAISO's answer and PG&E's comments.

A. CAISO's Answer

13. In its answer, CAISO requests that the Commission deny the relief requested by HORUS, arguing that HORUS fundamentally misunderstands the nature of the facilities to which it seeks to interconnect, the relevant portions of the CAISO tariff, and Commission policy.²⁷ CAISO notes that the Commission defines interconnection facilities as "all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Transmission Provider's Transmission System."²⁸ CAISO also notes that the Commission has explained that interconnection facilities are "sole-use, limited and discrete, radial in nature, and not part of an integrated transmission network."²⁹ CAISO argues that these descriptions apply to the facilities to which HORUS seeks to interconnect because they are radial facilities constructed solely to interconnect Western's generating facilities to the CAISO-controlled grid. CAISO further notes that the only integrated transmission system to which the facilities are interconnected is CAISO's transmission system and not Western's transmission system.³⁰

14. CAISO argues that Article 7.9.1 of the GIA requires HORUS to adhere to CAISO interconnection procedures, as it requires Western to "follow all applicable provisions of the [CAI]SO [T]ariff regarding *new interconnections to or increases in capacity of its*

²⁷ CAISO Answer at 1.

²⁸ *Id.* at 5 (citing *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities*, Order No. 807, FERC Stats. & Regs. ¶ 31,367, at P 10, *denying reh'g*, Order No. 807-A, 153 FERC ¶ 61,047 (2015) (quoting Article 1 of the *pro forma* Large Generator Interconnection Agreement)).

²⁹ *Id.* (citing Order No. 807-A, 153 FERC ¶ 61,047 at P 24).

³⁰ *Id.* at 6.

existing interconnection.”³¹ According to CAISO, contrary to HORUS’s claim that this provision is inapplicable because it is interconnecting to the Western system, Western cannot add new interconnections to the existing facility without following CAISO’s tariff simply because a third party is doing the construction. CAISO argues that it is unreasonable to interpret the GIA such that any new interconnection built by Western is subject to the CAISO tariff while any interconnection built by a different corporate entity is exempt. CAISO maintains that HORUS’s interpretation would negate Article 7.9.1’s purpose, which is to enable CAISO to ensure the reliability of its controlled grid, and would give HORUS an undue advantage over Western and other generators seeking to interconnect to CAISO, in violation of the GIA and the FPA. CAISO argues that allowing HORUS to bypass CAISO’s interconnection process would be unduly discriminatory and preferential.³²

15. CAISO further argues that Western’s transmission documentation shows that an interconnection at the O’Neill substation is a CAISO interconnection. CAISO notes that Western’s interconnection queue indicates that there are no transmission service rights associated with the HORUS Project,³³ which demonstrates that the facilities are radial interconnection facilities to connect the CAISO-controlled grid, and not transmission facilities on Western facilities. CAISO also notes that Article 6.1.4 of the GIA states that PG&E is subject to the CAISO tariff, and thus PG&E cannot arrange to provide new transmission service for Western. Accordingly, CAISO argues, transmission service must be arranged through an existing transmission agreement or under a new transmission arrangement with CAISO.³⁴

16. CAISO further states that Commission policy clearly requires that HORUS be subject to two interconnection procedures. CAISO notes that Order No. 807 states “that third-party requesters are obligated to obtain service on the transmission facilities at or beyond the Point of Change of Ownership as well as those facilities beyond the Point of Interconnection with [Interconnection Customer Interconnection Facilities (ICIF)] pursuant to the relevant existing [Open Access Transmission Tariff (OATT)] and interconnection procedures.”³⁵ CAISO states that HORUS can therefore not avoid complying with CAISO’s interconnection procedures because it has elected to

³¹ *Id.* at 7 (emphasis added by CAISO).

³² *Id.* at 8.

³³ *Id.* at 9 (citing Complaint, Exhibit 2).

³⁴ *Id.*

³⁵ *Id.* at 10 (citing Order No. 807, FERC Stats. & Regs. ¶ 31,367 at P 125).

interconnect using Western's processes. CAISO states that this situation is unusual, as interconnection customers usually attempt to come to arrangements, such as joint-ownership or shared-use agreements, to avoid applying for OATT service from the ICIF owners.

17. CAISO states that allowing HORUS to avoid the CAISO interconnection process would subvert Commission policy and allow other interconnection customers to bypass CAISO's interconnection procedures. CAISO states that future interconnections could avoid CAISO's process by interconnecting to existing facilities.³⁶ CAISO maintains that allowing it to study interconnections only under the truncated affected system process would hamper its ability to maintain deliverability capacity of its existing generators because an affected system can require only reliability upgrades. CAISO states that it would then only be able to study these resources serially and not in a cluster process, effectively creating an exception that swallows the rule. In addition, CAISO argues that allowing HORUS to seek energy-only status to avoid having CAISO study the Project would provide HORUS an undue advantage. CAISO states that its interconnection procedures apply to 21 active interconnection requests, and previously applied to 15 completed, online interconnection requests, where generators have sought energy-only deliverability status.³⁷

18. According to CAISO, HORUS's position that the CAISO tariff does not permit application of the CAISO interconnection procedures to the Project is based on the false premise that CAISO is merely an affected system. CAISO argues that HORUS is not connecting with Western's transmission system, but is interconnecting with the CAISO-controlled grid as an existing facility. CAISO notes that section 25.1.1 of its tariff specifies that its interconnection procedures apply to a new generating unit seeking to interconnect to CAISO's grid, an existing generator that will be modified to increase its total capability, and an existing generator that will be modified to change certain electrical characteristics. CAISO maintains that HORUS must submit an interconnection request to CAISO for the Project as it involves new generation or, in the alternative, Western must do so as the Project involves a modification to an existing generator. CAISO states that, absent such action by HORUS or Western, CAISO may be forced to direct PG&E to open the relevant breaker to prevent the unauthorized capacity expansion.³⁸

³⁶ *Id.* at 11.

³⁷ *Id.* at 12.

³⁸ *Id.* at 12-13.

B. Comments

19. PG&E states that the Commission should reject HORUS's complaint on the basis that the O'Neil substation is a customer owned Interconnection Facility subject to the terms and conditions set forth in the GIA between PG&E, Western, and the Bureau, which requires parties to adhere to the CAISO tariff for new interconnections or increases in capacity.³⁹

20. PG&E further comments that, contrary to claims by HORUS,⁴⁰ it did not support bypassing CAISO's generator interconnection procedures.⁴¹ According to PG&E, it had confirmed internally that Western should follow CAISO's generator interconnection process and that CAISO should address the applicability of the CAISO tariff for such generator interconnections.⁴²

21. Additionally, PG&E explains that it has determined through public records that the O'Neil substation is not part of Western's Sierra Nevada electric transmission system, but rather it is distinctly considered to be an Interconnection Facility for the purpose of generator interconnection service under the GIA.⁴³ Specifically, according to PG&E, the O'Neil substation consists of step-up transformers to interconnect with the PG&E electric system and deliver power to the CAISO-controlled grid.

22. Furthermore, PG&E states that while HORUS argues that CAISO's interpretation of the terms of the GIA "should not be entitled to any deference," PG&E is a party to that agreement, and agrees with CAISO's interpretation.⁴⁴ PG&E also states that while HORUS argues that its project has no impact on the CAISO-controlled grid since it is an "energy-only" resource, CAISO had advised that HORUS be included in the Cluster 9 study process because it failed the electrical independence test that would have made it eligible for independent processing.⁴⁵

³⁹ PG&E Comments at 1-2.

⁴⁰ Complaint at 4, 7.

⁴¹ PG&E Comments at 3.

⁴² *Id.* at 3-4.

⁴³ *Id.* at 4.

⁴⁴ *Id.* at 5.

⁴⁵ Complaint at Exhibit 9.

23. Lastly, PG&E contends that, while CAISO and HORUS have disagreed over the exact point of interconnection of the Project, according to Order No. 807,⁴⁶ HORUS is required to follow the CAISO generator interconnection rules.⁴⁷

24. In its comments on the complaint, Western explains that the O'Neill substation has pump and generation facilities, and that Western does not currently operate or maintain a high voltage transmission line in that area, but instead relies on PG&E for transmission service.⁴⁸ Western also states that it is in the process of building a new high-voltage transmission line that will interconnect the O'Neill pumping-generating facilities to the rest of the federal Central Valley Project. Western adds that it informed HORUS of the need to coordinate with PG&E and CAISO under both Western's SGIP and PG&E's GIA.⁴⁹ Western states that section 7.9 of the PG&E GIA states new or modified interconnections must follow applicable provisions of CAISO's tariff.⁵⁰

C. HORUS's Answer

25. HORUS reasserts that Western is not a PTO in CAISO, and that HORUS is thus not required to follow CAISO interconnection procedures when connecting to the O'Neill substation. HORUS further states that Western's O'Neill facilities are transmission facilities.⁵¹ HORUS notes that Western is in the process of building a new high voltage transmission line to interconnect the O'Neill facilities with the rest of the Central Valley Project. HORUS states that Order No. 807 only provides generators with interconnection facilities with a blanket waiver from filing an OATT, and that, since HORUS is already following Western's tariff, this order is inapplicable.⁵² HORUS states that Order No. 807 actually supports its view that the O'Neill facilities are transmission facilities because it states that interconnection facilities are facilities used for the transmission of electric energy in interstate commerce. HORUS states that CAISO provides no support for the contention that Western's transmission facilities are not a bi-directional or integrated

⁴⁶ Order No. 807, FERC Stats. & Regs. ¶ 31,367 at P 125.

⁴⁷ PG&E Comments at 6.

⁴⁸ Western Comments at 4.

⁴⁹ *Id.*

⁵⁰ *Id.* at 5.

⁵¹ HORUS Answer at 4.

⁵² *Id.* at 5.

transmission system. HORUS states that the O'Neil facilities import power when pumping and export energy when generating energy and are therefore bi-directional. HORUS also states that it is irrelevant that there are no transmission rights associated with the Project, as interconnection and transmission are separate services.⁵³

26. HORUS argues that Western's GIA with PG&E is inapplicable because HORUS is not proposing an increase in capacity or a new interconnection with respect to Western's interconnection. HORUS states that it is an energy-only resource and is not proposing any increase in capacity in Western's interconnection as a result of its interconnection with Western. HORUS adds that as an energy-only interconnection it could be curtailed whenever there is insufficient capacity available on CAISO's system. HORUS further argues that the "applicable provisions of the Tariff" referenced by the GIA would not require HORUS to follow CAISO's interconnection procedures. HORUS argues that CAISO's interconnection procedures are not applicable to HORUS since it is interconnecting with Western. HORUS states that its desire to participate in CAISO's market is independent of its interconnection with Western.⁵⁴

27. HORUS states that granting its complaint will not create new precedent. HORUS claims that it is an innocent party that spent over a year complying with Western's interconnection procedures with the acquiescence of CAISO and PG&E. HORUS claims that the potential negative consequences identified by CAISO ignore the unique circumstances of this case, including CAISO's acquiescence to HORUS's compliance with Western's procedures, as well as the Project's energy-only status.⁵⁵

IV. Discussion

A. Procedural Matters

28. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2016), the timely, unopposed motions to intervene serve to make the California Department of Water Resources State Water Project, Southern California Edison Company, PG&E, and Western parties to this proceeding.

⁵³ *Id.* at 6.

⁵⁴ *Id.* at 8.

⁵⁵ *Id.* at 10.

29. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2016), prohibits an answer to an answer or protest unless otherwise ordered by the decisional authority. We will accept HORUS's answer because it has provided us with information that has assisted us in our decision-making process.

B. Substantive Matters

30. We deny HORUS's complaint. As discussed below, we find that HORUS is attempting to interconnect the Project to interconnection facilities owned by Western. These interconnection facilities are used to interconnect pumping-generating facilities with CAISO under terms defined by a GIA among the Bureau, Western, and PG&E, a PTO in CAISO. Based on our evaluation of the evidence in the record, we find that, currently, the sole purpose of these interconnection facilities is to interconnect the pumping-generating facilities to the CAISO-controlled grid.⁵⁶ Western itself acknowledges the interconnection facilities in question are not connected to the integrated grid other than CAISO's integrated grid and that Western cannot offer transmission services beyond the point of interconnection.⁵⁷

31. We find that HORUS is attempting to achieve an interconnection with the CAISO-controlled grid, and section 7.9 of the GIA therefore applies. HORUS's interconnection with the Western interconnection facilities constitutes a new interconnection under that provision, and we therefore agree with CAISO that either Western or HORUS must follow the relevant CAISO tariff provisions. Under the relevant CAISO tariff provisions, an entity seeking an energy-only interconnection with CAISO that does not pass the electrical independence test, which would qualify it for independent processing, must enter CAISO's cluster study process.⁵⁸

⁵⁶ See, e.g., CAISO Answer at 6 (citing Complaint at Exhibit 15, Appendix D (single-line diagram of Western's O'Neill pumping-generating plant and associated substation/switchyard to which HORIS seeks to interconnect)); PG&E Comments at 4 (citing Complaint, Exhibit 15, Appendix E.2, which states that the purposes of generator interconnection at O'Neill Substation is to interconnect with the PG&E system and deliver power to CAISO).

⁵⁷ Western Comments at 4-5. Western states that it does not own, operate, or maintain high voltage transmission lines in the area. Western states that it is currently building new transmission connecting to this site. *Id.* Neither HORUS nor Western gives any indication that this new transmission line is relevant to HORUS's interconnection request.

⁵⁸ CAISO Tariff at Appendix U.

32. HORUS argues that section 7.9 of the GIA is inapplicable in this case because it is seeking an interconnection with Western and not CAISO. We disagree. HORUS is seeking to interconnect its Project with Western's interconnection facilities, which are radial facilities connecting the O'Neil pumping station to PG&E's interconnected system, not Western's integrated transmission system. HORUS represents that it wants to deliver energy into CAISO,⁵⁹ and CAISO is the only transmission system capable of offering transmission service from Western's point of interconnection. Western currently cannot offer transmission services from HORUS's proposed point of interconnection, and can only offer HORUS the use of its interconnection facilities to connect the Project to the CAISO-controlled grid.

33. HORUS argues that interconnection service and transmission service are distinct services, and that the fact that Western cannot offer transmission service from its point of interconnection is irrelevant.⁶⁰ However, Commission-jurisdictional generator interconnection service, such as Energy Resource Interconnection Service,⁶¹ the "basic or minimal" interconnection service defined by Order No. 2003,⁶² allows an interconnection customer to connect its generating facility with the transmission system to be eligible to deliver the generating facility's electric output using the existing firm or non-firm capacity of a Transmission System on an as available basis, though it does not in and of itself convey transmission service.⁶³ HORUS's connection with Western does not provide it with the ability to either deliver its energy using firm or non-firm capacity or

⁵⁹ Complaint at 4 ("Representatives from HORUS, ZGlobal and Western met with CAISO representatives on April 6, 2016 to discuss what next steps were required for the Project to operate within the CAISO Balancing Authority...").

⁶⁰ HORUS Answer at 6.

⁶¹ "Energy Resource Interconnection Service," section 1, Definitions, *pro forma* Standard Large Generator Interconnection Procedures.

⁶² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at Appendix C, Appendix 6, Article 1 (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), *cert. denied*, 552 U.S. 1230 (2008).

⁶³ *See, e.g., Tennessee Power Co.*, 90 FERC ¶ 61,238, at 61,761-62 (2000) (interconnection service is separate from and does not convey a right to transmission delivery service); *Entergy Services, Inc.*, 91 FERC ¶ 61,149, at 61,559 (2000).

sell into a bid-based market. It requires CAISO or the relevant CAISO PTO, PG&E, to accomplish either.

34. Moreover, under Order No. 2003's framework, the relevant parties to an interconnection request are the "Transmission Provider" and the "Interconnection Customer."⁶⁴ An Interconnection Customer therefore cannot have a complete interconnection without the participation of the relevant Transmission Provider. Western is not providing transmission service at the point of interconnection; rather, CAISO will be providing the relevant transmission service. Because HORUS's connection with Western alone would not meet the Commission's definition of Energy Resource Interconnection Service, HORUS has been appropriately treated by CAISO as an interconnection customer seeking an interconnection with CAISO rather than a generating facility interconnected with a non-PTO.

35. HORUS points to CAISO's answer in a previous generator interconnection proceeding that states that CAISO only needs to participate as an affected system for entities interconnecting to a non-PTO that are not seeking full capacity deliverability status.⁶⁵ However, CAISO appears to be contemplating a different scenario in its answer in that unrelated proceeding to the one presented here. In the same pleading HORUS references, CAISO states that an entity seeking full capacity deliverability status must ensure that it has transmission service from the point of interconnection with the non-PTO to the point of injection onto the CAISO-controlled grid.⁶⁶ Thus, we find that CAISO was contemplating a situation where an interconnection customer interconnects with a non-PTO's transmission system at a point where the non-PTO is able to offer transmission delivery service. In that situation, the non-PTO could provide a minimal "as-available" interconnection service on its own system, and CAISO would not be a necessary partner in providing the interconnection service. In the situation before us, as described by HORUS's complaint, CAISO must necessarily provide interconnection service.

36. HORUS argues that it is unreasonable that it should have to comply with the two interconnection processes. This may be an unusual situation, but it has been contemplated by Commission policy. As CAISO notes, Order No. 807 reaffirmed the existing Commission policy "that third-party requesters are obligated to obtain service on the transmission facilities at or beyond the Point of Change of Ownership as well as those facilities beyond the Point of Interconnection with ICIF pursuant to the relevant existing

⁶⁴ See, e.g., Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 3.

⁶⁵ Complaint at 10 (citing Exhibit 14 at 4).

⁶⁶ See Complaint at Exhibit 14 at 5.

OATT and interconnection procedures.”⁶⁷ As CAISO also notes, interconnection customers could avoid having to apply under two interconnection processes by coming to alternative arrangements with the owner of the interconnection facilities. In the situation before us, HORUS is not relieved of its obligation to participate in CAISO’s interconnection process simply because it elected to proceed with Western’s interconnection process. As discussed above, HORUS is attempting to connect its Project to Western’s interconnection facilities.

37. Next, because HORUS is required to participate in CAISO’s interconnection procedures, we find there is no need for any refund of the Cluster 9 study payment. Finally, considering that HORUS has joined the CAISO Cluster 9 study in time, we note that CAISO and HORUS can work towards HORUS’s timely connection with Western’s interconnection facilities.

The Commission orders:

The complaint is hereby denied as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁶⁷ Order No. 807, FERC Stats. & Regs. ¶ 31,367 at P 125. Moreover, although we are here finding that HORUS is seeking to connect its Project to Western’s interconnection facilities, we note that Order No. 2003 acknowledged that the relevant Transmission Provider counterparty to the interconnection customer may constitute multiple entities. Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 3 n.3.