

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Investigation to facilitate
proactive development of transmission
infrastructure to access renewable energy
resources for California.

I. 05-09-005

**REPLY COMMENTS OF THE
CALIFORNIA WIND ENERGY ASSOCIATION
ON PRELIMINARY SCOPING MEMO**

Nancy Rader
Executive Director
California Wind Energy Association
1198 Keith Avenue
Berkeley, CA 94708
Telephone: 510-845-5077
nrader@calwea.org

October 25, 2005

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**REPLY COMMENTS OF THE
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Pursuant to the October 18, 2005, Administrative Law Judge's Ruling, the California Wind Energy Association ("CalWEA") submits these reply comments to the September 30 comments of Pacific Gas & Electric (PG&E) and Southern California Edison (SCE). CalWEA reserves the right to respond further as appropriate.

I. RESPONSES TO PG&E'S COMMENTS

A. Planning and building transmission to achieve RPS goals need not necessarily await changes to the CAISO's tariff

We support PG&E's call (at pp. 4-5) for the CPUC and the ISO to explore the extent to which the CAISO's transmission planning process can identify and approve projects that could help foster the development of renewable resources. PG&E states that the parties should "examine whether changes to the ISO's existing tariff should be proposed to provide for approval of projects found to be needed to achieve California's least cost, best fit RPS goals." The parties should also consider whether a tariff change is legally necessary.

One could argue that (a) the state's RPS requirement is a constraint on planning, just as zoning and environmental requirements are a constraint on planning; and (b) just as the CAISO accounts for zoning and environmental constraints when it determines economic solutions, so it must account for the state's RPS goals. Since any public utility is obligated

under the Federal Power Act to meet its service obligations, consistent with legal parameters, on a least-cost basis, the CAISO could have an obligation to do so here; meaning, it must plan for the state RPS obligation in a manner that minimizes transmission costs. (PG&E's discussion on pp. 4-5 is consistent with this reasoning.) If this reasoning is correct, then a tariff change is not legally necessary, although we agree that making the RPS obligation explicit might reduce controversy and speed execution.

B. The Court of Appeals did not preclude the Commission from directing the utility to request FERC authorization of utility upfront funding

PG&E states (p. 11) that "the courts have held that the Commission cannot force IOUs to exercise [the option of providing upfront funding for generator-driven network upgrades]." PG&E stops there, as if the Commission had no further options to direct utility behavior. The Commission should not make this mistake. As we stated in our opening comments (sections II.A.2 and II.B.2), the Court has ruled only that the Commission cannot direct the utility *to finance* transmission; the Court did not address whether the Commission can order the utility to *seek FERC authorization* to finance transmission. It is a distinction between PUC-required financing and PUC-required filing.

Public Utilities Code § 399.25(b) directs the Commission to order the utility to seek network treatment from FERC and to seek cost recovery in transmission rates. The phrase "seek the recovery through general transmission rates" can accommodate at least two possible scenarios, with the difference relating to who bears the initial financing. One approach to "seek the recovery through general transmission rates" is for the utility to try to obtain from FERC a designation of "network" status for the facility at issue, have the generator pay upfront, and then credit the generator later and include the cost of the credit in transmission rates. The other way for the utility to "seek the recovery through general transmission rates" is for the utility to propose network status to FERC and to propose to finance the upgrade and thus include the cost in transmission rates at the outset. Section 399.25 allows for both results; i.e., it allows the Commission to direct the utility to propose to FERC to do it one way or the other. CalWEA is asking the Commission to recognize in

this proceeding the authority it possesses to direct a utility to propose the latter -- utility financing rather than generator financing.

C. The Commission should develop guidelines for bids involving curtailments

PG&E asserts (p. 14) that the “TRC methodology in its current form works,” and suggests that TRC methodology refinements should be limited. In our opening comments, we stated, as an example, that CAISO analyses suggest that congestion costs estimated in PG&E’s TRCRs have resulted in excessive transmission adders to potential bids submitted to PG&E for Tehachapi wind resources. In addition, we believe that the Commission needs to establish guidelines for the policy recently adopted in D.04-06-013, and discussed further in D. 05-07-040, that allows bidders to propose curtailability or take other steps to reduce or avoid transmission costs. Currently, Commission policy allows utilities to use their “judgment” in evaluating such bids unless they have completed System Impact Studies and Facility Studies. PG&E’s judgment is that such bids are least desirable,¹ despite potentially substantial benefits including significantly increased utilization of existing transmission lines, reduced congestion costs, and reduced transmission-related project development lead-time. We believe that these benefits warrant guidelines for how such bids should be evaluated. Guidelines are needed in the areas of bid evaluation (including valuing the associated benefits, assessing the effect on capacity value, and allocating congestion risks), how potential energy remarketing should be handled, and how associated cost risks should be allocated among buyer and seller. If these issues are left to the discretion of the utilities, they could easily use that discretion to ensure that bids with curtailment lose.

¹ See PG&E’s “Renewable Portfolio Standard, 2005 Renewable Energy Procurement Plan – Part 1” (March 7, 2005), pp. 12 and 14. PG&E states that wind outside of NP 15 is its last preference due in part to congestion.

II. RESPONSES TO SCE'S COMMENTS

A. The proceeding should cover all issues fundamental to RPS transmission policy

SCE (at p. 2) urges the Commission to focus on certain “critical path” issues, and to avoid other RPS transmission issues. While we agree with SCE that certain issues – in particular, streamlining the licensing process for RPS-related transmission needs and establishing and implementing the P.U. Code § 399.25(b)(4) cost recovery mechanism – should be addressed on an expedited basis, it is also necessary for the Commission to articulate the authority it has to proactively ensure that large transmission upgrades will be proposed in a manner that ensures cost recovery in the transmission access charge and financing by the transmission owner. (See CalWEA Comments, section II.) Otherwise, the Commission (and the achievement of the state’s RPS goals) will be at the mercy of the transmission owner’s voluntary decisions to serve these ends. To wit, PG&E notes (at p. 4), where FERC provides cost recovery assurances, “the utilities *might be willing* to exercise their discretion to provide the up-front funding for renewables-driven network upgrades.”

B. The Commission should pursue “roll in” treatment only for transmission facilities with network benefits

SCE (Section II.C at p. 5) urges the Commission to work with the CAISO to seek a tariff amendment allowing recovery of the costs of high-voltage, bulk transfer gen-tie transmission facilities for multiple generators (a.k.a. “trunk lines”) in transmission access charges (“roll in” treatment). SCE suggests that a partnership with the CAISO that involves placing the trunk line under the operational control of the CAISO might change the unfavorable outcome at FERC that SCE experienced with Segment 3 of its proposed Antelope Project.² SCE cites the concurring opinion of FERC Commissioner Brownell in that case, but admits that the odds of this approach are “long.”

This route should be pursued only if the CAISO explains that trunk line facilities eligible for such treatment will provide network benefits of the type typically required by FERC as a prerequisite for roll-in. Otherwise, we are likely to see a repeat of FERC’s

² *Southern California Edison Company*, 112 FERC ¶61,014 (2005).

rejection of Antelope Segment 3. (As indicated in CalWEA's opening comments at p. 4, transmission facilities can have both network and non-network characteristics, and FERC leaves room for discretion in determining whether an upgrade is network or non-network. The Commission could encourage the CAISO to take a more liberal view in defining the necessary characteristics that would earn network status.)

The FERC majority rejected SCE's submittal not because SCE is a non-independent transmission provider, but because the submittal disclaimed any network benefits. The majority's brief explanation of its rejection said nothing about independent vs. non-independent status.

Commissioner Brownell's concurrence does not address the network benefits problem. The concurrence states that these facilities were not envisioned by Order 2003, in that they are sized in advance to accommodate multiple generators. It describes this type of a facility as a "multiple-use on-ramp to the CAISO Grid, rather than as sole-use interconnection facilities." This description does not rescue the facility from the majority opinion, which rejects roll-in because the benefits of the line are not network benefits. That more than one generator uses the line, and that the advance construction and financing of the line is "beyond the means of any one developer," does not respond to the majority's view (which itself is supported by decades of FERC and court opinions rooted in the Federal Power Act's "just and reasonable" requirement) that roll-in requires benefits to the transmission network, not solely to the interconnecting generators.

Recognizing the necessity of network benefits, the concurrence makes this attempt to save Segment 3:

"Segment 3 facilities would provide benefits to all users of the CAISO Grid by creating the potential to interconnect significant new and diverse supplies of energy. Therefore, I believe that this proposal would have satisfied the independent entity variation standard in Order No. 2003, had it been made by the CAISO...."

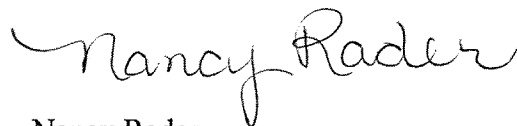
This passage has two problems. First, it does not distinguish this facility from any non-integrated gen-tie. Any gen-tie interconnects new generation; but an interconnection role alone does not create network benefits. For network benefits to exist, the transmission ratepayer must benefit in his role as a transmission customer, not in his role as a power

customer.

Second, the second sentence does not follow from the first. The second sentence implies that the interconnection of new generation somehow interacts with independent entity status to support roll-in. But as discussed above, the ability to roll in depends on network benefits; roll-in has nothing to do with independent status. FERC created the independent entity variation option because independent entities have no incentive to discriminate. See Order 2003 at para. 822 ("RTO or ISO should be treated differently because an independent RTO or ISO does not raise the same level of concern regarding undue discrimination."). The discrimination of concern to FERC was discrimination by a generation-owning transmission provider against independent generators. Here, SCE is seeking to have its own ratepayers bear costs that generators might otherwise provide. SCE's proposal does not involve discrimination against generators. The independent entity standard has nothing to do with this matter (as evidenced by the absence of any mention of the issue in the majority's decision).

Since the independent/non-independent distinction had no effect on the majority's decision, it is necessary for the CAISO, if it does propose a tariff amendment, to include a network benefits requirement.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Nancy Rader". To the right of the signature is a circular stamp containing the initials "RAW".

Nancy Rader
Executive Director
California Wind Energy Association

October 25, 2005

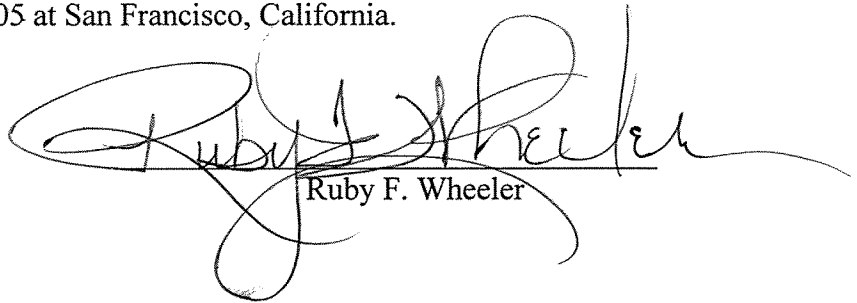
Certificate of Service

I hereby certify that I have this day served a copy of the

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On all known parties to I.05-09-005 (I.00-11-001 and R.04-04-026) by email and mailing a properly addressed copy by first-class mail with postage prepaid to each party that did not give an email address named in the official service list.

Executed on October 25, 2005 at San Francisco, California.



Ruby F. Wheeler