

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

California Independent System )  
Operator Corporation )

Docket No. ER08-1317-000

**LIMITED REPLY COMMENTS OF  
THE CALIFORNIA WIND ENERGY ASSOCIATION,  
THE LARGE-SCALE SOLAR ASSOCIATION AND  
THE AMERICAN WIND ENERGY ASSOCIATION**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2008), the California Wind Energy Association (“CalWEA”), the Large-scale Solar Association (“LSA”)<sup>1</sup> and the American Wind Energy Association (“AWEA” and, together with CalWEA and LSA, the “Wind and Solar Parties”) hereby submit the following limited reply comments in response to comments and protests filed in the captioned proceeding involving the California Independent System Operator Corporation’s (“CAISO”) Generation Interconnection Process Reform (“GIPR”) tariff amendments (“GIPR Petition”).

**I. BACKGROUND**

The Wind and Solar Parties have been strong advocates of meaningful and substantial reforms to the CAISO’s interconnection queuing practices to:

- provide interconnection cost certainty to generation developers as early as possible in the process;
- achieve interconnection study results and interconnection to the transmission grid as quickly as possible;
- integrate the interconnection study process with the transmission planning process as closely as possible; and

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<sup>1</sup> LSA clarifies that for purposes of this proceeding its members include Stirling Energy Systems.

- eliminate the participant funding approach to financing network transmission upgrades, as it no longer serves its intended function with the CAISO region, instead increasing the ultimate cost to ratepayers of network upgrades; increasing the likelihood of disjointed, rather than optimal, transmission solutions; increasing the time and resources needed for interconnection and transmission studies; and needlessly increasing the burden on generation developers who do not have the ratemaking tools that transmission owners have.

As the Wind and Solar Parties showed in their initial comments and limited protest in this proceeding, the GIPR Petition is a major step in the right direction but fails to address some of the underlying issues to provide a just, reasonable and comprehensive solution. Accordingly, we asked the Commission to require the CAISO to make a number of specific changes to its plan to achieve the Commission's interconnection reform objectives as outlined in its order providing guidance on queuing reform.<sup>2</sup>

The GIPR Petition drew comments from a broad cross-section of stakeholders, with some sharing the concerns raised by the Wind and Solar Parties that the interconnection study timelines remain too long, among other things. Others submitted comments that would represent major setbacks to interconnection queuing reform and should be rejected. We respond to certain of the initial comments filed in this proceeding below.<sup>3</sup>

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<sup>2</sup> *Interconnection Queuing Practices*, 122 FERC ¶ 61,252 (2008).

<sup>3</sup> To the extent necessary, the Wind and Solar Parties respectfully request leave to submit a response to other intervenors in this proceeding. The Commission accepts answers to protests where, as here, the information provided will assist the Commission in addressing the issues and will ensure a complete record upon which a reasoned decision may be reached. *See New England Power Pool*, 102 FERC ¶ 61,112 at P 6 (2003); *Cambridge Electric Light Co.*, 95 FERC ¶ 61,162 at p. 61,523 (2001).

## II. Reply Comments

### A. **The Commission Should Reject Several of Southern California Edison’s Requested Modifications to the GIPR.**

#### 1. **SCE’s proposal to reallocate Network Upgrade costs based on late-stage project withdrawals misapprehends the GIPR’s fundamental objectives and is inappropriate under any circumstances.**

Southern California Edison Company (“SCE”) urges the Commission to allow restudies by the CAISO and Participating Transmission Owners (“PTOs”) that would reallocate transmission interconnection cost responsibility among interconnecting customers in a cluster study group if a project withdraws following the completion of the Phase II study, but prior to the date when the project sponsor is required to post a letter of credit as financial security.<sup>4</sup> SCE also suggests that transmission projects could be redesigned to reflect the actual need of the remaining generators in the transmission interconnection study group, and that the Commission should therefore give the CAISO and the PTOs the discretion to make “reasonable adjustments” to the interconnection plan.

The Commission should reject SCE’s suggested modification. First, the transmission that will actually be built will not solely be in response to the generation interconnection request, but will reflect multiple system needs as determined through the CAISO’s transmission planning process (“TPP”). Indeed, this fundamental shift was one of the basic accomplishments of the CAISO’s GIPR Petition, which will now link interconnection studies directly with the TPP “to meet multiple objectives with the same transmission projects and thereby reduce overall transmission costs.”<sup>5</sup> As a result of this basic change in the CAISO’s approach, “[u]nder the GIPR, the Phase II Interconnection Studies will basically be part of the

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<sup>4</sup> SCE Comments at p. 6.

<sup>5</sup> CAISO Exhibit No. ISO-2 (Sparks) at p. 21.

CAISO's TPP."<sup>6</sup> SCE's comments not only fail to recognize this fundamental change in the way the interconnection study process will work, its proposed alteration would effectively undermine it.

Second, reallocating cost responsibility among interconnection customers based on late-stage project withdrawals would defeat another basic objective of the GIPR Petition: to provide generation developers with up-front cost certainty. Permitting cost reallocations just as the clock is about to strike twelve in the interconnection process would play havoc with the interconnection plans of other developers. SCE's theory that this reallocation is necessary to protect transmission customers from picking up the tab for transmission needed to interconnect generation is invalid because Network Upgrades *by definition* benefit all transmission users, there is no unfairness in allocating the cost of all Network Upgrades among all transmission customers. Moreover, as noted above, the actual transmission that will be built will be designed based on the total needs of the system, and not simply the needs of the interconnecting generators. The Wind and Solar Parties addressed this issue more fully in their initial comments, which showed why the straightforward solution to the problem SCE seeks to address indirectly is to eliminate participant funding, which is no longer appropriate in light of the GIPR Petition reforms.

Finally, SCE's proposal is conceptually flawed because under the GIPR, letter of credit posting occurs after the Phase I studies, not after Phase II as SCE supposes. The purpose of Phase I is to give generation developers an early and fixed determination of Network Upgrade cost responsibility and require them to anti-up with a financial security posting as the price for moving into the Phase II study round. The increased cost to generators of withdrawing from the

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<sup>6</sup> *Id.* at p. 23.

interconnection study process following Phase II provides more than ample (if not excessive) financial security to the PTOs.<sup>7</sup> Significantly, SCE has not claimed that the financial security posting requirements of the GIPR are inadequate.

**2. Limiting PTO responsibility to finance only those Network Upgrades that need to be advanced defeats the GIPR’s cost certainty goal.**

SCE complains that Section 12.2.2 of the GIPR requires PTOs to finance any Network Upgrades that are not covered by the cost estimates for the upgrades produced in the Phase I studies. SCE asks the Commission to recast this section of the GIPR so that it applies only to those Network Upgrades that need to be advanced.<sup>8</sup> Once again, SCE’s proposed “clarification” defeats a fundamental purpose of GIPR reform.

Under SCE’s proposed “clarification,” generation developer cost certainty as a result of the Phase I studies would only be as good as the CAISO’s and PTO’s estimates for the cost of Network Upgrades. SCE wants to shift the risk of PTO cost overruns or delays to generation developers, again undermining the intent of the interconnection reform, and again, in the end, increasing the cost to ratepayers. Granting SCE’s request would cause greater cost uncertainty, adding to financing costs that would be transferred to ratepayers under the best of circumstances, and contributing to more late-stage project withdrawals as a result of unexpected cost increases under the worst of circumstances. These late-stage project withdrawals would contribute to further cost reallocations or fundamental transmission project redesigns (with resulting delays to accommodate the redesigns). Thus, SCE’s suggested “clarification” would simply provoke the same deeply flawed cycle of studies, cost-reallocations, and restudies that

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<sup>7</sup> As Mr. Sparks explains, “the potential loss of an Interconnection Customer’s Interconnection Financial Security provide[s] sufficient incentive for the interconnecting generator to proceed to Commercial Operation . . . .” CAISO Exhibit No. ISO-2 (Sparks) at p. 17.

<sup>8</sup> SCE Comments at p. 8.

has contributed to the current queue quagmire, and undoubtedly would produce the same, or worse, result. The Commission should, therefore, reject SCE's requested clarification.

**3. The Commission should reject SCE's request to keep per unit cost estimates secret.**

SCE asks the Commission to allow PTOs to keep per unit cost estimates to interconnect generation to the grid a secret.<sup>9</sup> SCE worries that generation developers may not understand how these cost estimates are applied or modified based on the characteristics of constructing generation in diverse areas.

SCE's request to keep its construction costs secret coupled with its request to be relieved of financial responsibility for cost overruns are part of a consistent theme in SCE's comments to shift financing risks for grid upgrades to generation developers, and which we fear may have the effect of relieving SCE from any obligation to build Network Upgrades on time and on budget. SCE appears to be seeking to preserve the existing deeply flawed interconnection and cost allocation process that has given rise to the current interconnection queue gridlock. The Commission should reject these arguments as fundamentally out-of-step with the goals of interconnection queue reform.

Generation developers and stakeholders have a right to understand how the PTOs are estimating construction costs for Network Upgrades and to understand the basis for the cost responsibility estimates the CAISO produces in response to the Phase I studies. Keeping per unit cost data a secret does not further this goal. Generation developers are sufficiently sophisticated to understand all relevant transmission issues, let alone the fact that per unit construction costs may vary based on a variety of factors. The solution to the problem that concerns SCE is more disclosure, not less. PTOs can deviate from public per unit cost estimates with an explanation of

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<sup>9</sup> *Id.* at p. 4.

the basis for the deviation, and can provide a range of per unit costs based on geography, population density, line voltage or other common variables. The Commission should, therefore, reject SCE's request to keep its per unit cost data out of the public eye.

**4. The Commission should reject SCE's request to delay the tender of interconnection agreements until 30 days after the Phase II study is complete.**

SCE asks the Commission to allow PTOs to tender a Large Generator Interconnection Agreement ("LGIA") to the interconnection customer within 30 days after the Phase II study is complete, instead of 15 days as filed by the CAISO.<sup>10</sup> SCE has made this request as an administrative accommodation to PTOs that would not change the requirement to complete the LGIA within 90 days, as filed in the GIPR.

The interconnection study process is already far too long, as the Wind and Solar Parties showed in their initial comments and limited protest. Adding another 15 days to the process to ease a purported administrative burden on PTOs that SCE has neither explained nor supported is not justified. Instead, as the Wind and Solar Parties demonstrated in their initial comments, a better approach would be to give interconnection customers the option to sign a conditional LGIA at the conclusion of the Phase I study process. That approach would help to significantly shorten the lengthy study timeline and help to speed the introduction of interconnection projects into the TPP as soon as possible.

**B. The Wind and Solar Parties Agree With PG&E That the CAISO Needs to Process Studies for the Transition Cluster More Quickly.**

Pacific Gas and Electric Company ("PG&E") points out that under the CAISO's plan, a generation project entering the study queue in July 2008 may have to wait until

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<sup>10</sup> *Id.* at p. 9.

November 2011 to have its interconnection study completed.<sup>11</sup> PG&E suggests that projects with power purchase agreements (“PPAs”) in place should be eligible for accelerated studies, but that in any event the Commission should hold the CAISO’s feet to the fire by requiring yearly reports of the actual results under the GIPR. Macquarie Energy North America Trading Inc. (“Macquarie Energy”) similarly argues that, at a minimum, the Transition Cluster should be processed expeditiously.<sup>12</sup>

The Wind and Solar Parties raised precisely these concerns in their initial comments in this proceeding, as they did repeatedly throughout the GIPR stakeholder process, and offered a practical process for accelerating the timeline. The Wind and Solar Parties agree with PG&E and Macquarie that the Commission should require the CAISO to speed the interconnection study process for the Transition Cluster and projects that have PPAs. The CAISO’s timing is likely to be too long to allow projects interconnecting now to meet existing RPS targets, and may impede the further-heightened RPS targets that are expected soon to come into play.<sup>13</sup> The Commission should, therefore, require the CAISO to accelerate the studies by implementing the steps the Wind and Solar Parties suggested in their initial comments, and should put the Transition Cluster on a fast track as suggested by PG&E and Macquarie.

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<sup>11</sup> PG&E Comments at p. 4.

<sup>12</sup> Macquarie Energy Protest at p. 9.

<sup>13</sup> In its draft Scoping Plan, the California Air Resources Board has included a 33%-by-2020 RPS requirement as a core measure to meet greenhouse gas reduction goals in the California legislature’s Assembly Bill 32. Available at: <http://www.arb.ca.gov/cc/scopingplan/htm>. Interim targets leading up to the 33% requirement are likely to be influenced by the availability of transmission.

**C. The Wind and Solar Parties Agree With LS Power That the CAISO and the PTOs Must Have Meaningful Incentives to Complete Studies and Facilities Construction On Time and On Budget.**

LS Power Associates, L.P. (“LS Power”) argues that while the GIPR imposes substantial new burdens and financial commitments on generation developers, the reform plan fails to impose any meaningful obligations on the PTOs or the CAISO.<sup>14</sup> LS Power proposes that the CAISO and PTOs be required to return security posted if they fail to complete studies and/or construction on time and/or pay a penalty if they are late.<sup>15</sup> For example, LS Power suggests that CAISO and the PTOs should be compensated for only half their study costs if they are 15 days late, and receive no compensation if they are 30 days or more late, and should be required to return deposits posted to cover such late studies. Alternatively, LS Power suggests the Commission follow its approach in Order 890 where non-RTO/ISO transmission providers are assessed a penalty for late studies,<sup>16</sup> or allow interconnecting generators to withdraw from the queue without penalty. LS Power’s arguments for greater PTO accountability stand in sharp contrast to SCE’s request, discussed above, for *less* accountability by relieving PTOs of the obligation to make construction cost information publicly available and to bear the financing responsibility for cost overruns.

The Wind and Solar Parties agree with LS Power that the GIPR must provide a better balance between the obligations of interconnecting generators, on the one hand, and the CAISO and the PTOs on the other.<sup>17</sup> As the Wind and Solar Parties also pointed out in their

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<sup>14</sup> LS Power Protest at p. 20.

<sup>15</sup> *Id.* at pp. 29, 34, 41-42.

<sup>16</sup> *Id.* at p. 42 (citing Order No. 890 *pro forma* OATT at §§ 19.9, 32.5).

<sup>17</sup> We, however, do not agree with LS Power’s other arguments against the GIPR, or its claims that the GIPR undermines the Commission’s requirements in Order No. 2003. Order No. 2003 did not and could not anticipate the fundamental changes in energy markets that have occurred since

initial comments, a significant deficiency in the GIPR is its lack of incentives for the CAISO and PTOs to complete their required tasks as soon as possible and its one-sided lack of consequences for missed deadlines by those entities.

The GIPR needs to strengthen the commitments and obligations of the CAISO and PTOs to provide timely and efficient service for interconnection customers who are now being asked to post steep fees for interconnection studies, provide sharply increased financial security earlier in the process, and risk forfeiture of these fees and financial security if they withdraw from that process. These premium rates should be tied to premium service by the CAISO and the PTOs. That means the CAISO and PTOs must face corresponding, meaningful financial consequences for poor service, missed deadlines and over-budget transmission upgrades.

The need to balance commitments, accountability and financial responsibility is another reason why the Commission should revisit the participant funding paradigm, as the Wind and Solar Parties urged in their initial comments in this proceeding. Under that approach — in which interconnecting generators bear all of the financial risk and consequences for delays in constructing Network Upgrades to benefit all transmission users — the PTOs have little incentive to complete interconnection studies or place transmission facilities in service in a timely manner.

Major expansions such as the Tehachapi project show that PTOs can complete studies, obtain siting authorization and construct projects as quickly as possible. The PTOs, however, should be similarly motivated to complete studies, obtain permits and construct Network Upgrades that may not warrant special rate incentives, but are nonetheless essential to

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the order was issued, and the GIPR is in many respects far superior to the Order 2003 in addressing those new challenges.

maintaining reliability, alleviating transmission congestion, or helping to reduce greenhouse gas emissions. In contrast to participant funding, PTO financing of all Network Upgrades that emerge from the TPP would readily accomplish this result. The Commission also should consider using sliding scale disincentives for late projects that reduce authorized returns on equity in proportion to the length of the delay, unless the PTO can demonstrate that the delay was for reasons beyond its reasonable control.

**D. The Commission Should Require the CAISO to Modify the Site Exclusivity Requirement for Projects Located on Public Land.**

As the Wind and Solar Parties argued in their initial comments, the Commission must require the CAISO to modify its new “site exclusivity” requirement for projects on public land, which is far more onerous than the requirement for projects located on private land. As LS Power and Horizon Wind Energy point out in their comments, acquiring site control is a complicated and lengthy process.<sup>18</sup> The process is perhaps even more complicated for projects on public lands. Accordingly, the Wind and Solar Parties strongly objected to the CAISO’s proposal — raised for the first time in the GIPR Petition — to add a new “site exclusivity” requirement to initiate interconnection requests for projects located on Federal lands that would require a final, non-appealable permit.<sup>19</sup> Given the difficulty of making this showing at the early stage in the project development process in which interconnection requests must be made, the CAISO’s plan effectively will force project developers to pay the CAISO’s \$250,000 site exclusivity deposit instead.

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<sup>18</sup> LS Power Protest at p. 31; Horizon Wind Energy Protest at p. 5.

<sup>19</sup> See LGIP, “Master Definitions Supplement.”

The Wind and Solar Parties object, however, to the alternative site exclusivity language proposed by Horizon Wind Energy for the Commission to consider.<sup>20</sup> By recommending that all but wind projects obtain “a final, non-appealable permit, license, or other right to use the property for the purpose of developing a Generating Facility,” and that wind projects obtain a right-of-way permit for site testing and monitoring, Horizon’s proposed language would both perpetuate the unequal standard between public- and private-lands projects (for which no permits are required) and create an unequal standard between wind and non-wind projects. In contrast, the standard proposed by the Wind and Solar Parties creates an equivalent standard for all public lands projects that is also functionally equivalent to the private lands requirement (an accepted application for a right-of-way). In revisiting our own proposed language, however, the Wind and Solar Parties recognize the need to modify it so that the site exclusivity condition is applicable to all public lands rather than relying on a term that is specific to Bureau of Land Management lands. We therefore propose revised language as follows:

For public land, including that controlled or managed by any federal, state or local agency, the Interconnection Customer must have an accepted application for a right-of-way for the proposed Generating Facility site, or for site testing and monitoring (e.g., an application for a BLM Type II right-of-way or its equivalent).

**E. The CAISO Must Not Be Permitted to Delay a Project’s Commercial Operation Date Until Delivery Network Upgrades Are In Place.**

The Wind and Solar Parties urged the Commission to require the CAISO to clarify Section 6.7.1 of the GIPR to specify that if a project’s interconnection date is deferred solely due to the unavailability of Delivery Network Upgrades, the project should be permitted to interconnect as an Energy-Only resource until the Delivery Network Upgrades are in place. Macquarie Energy made a similar request in its comments, urging the Commission to clarify that

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<sup>20</sup> Horizon Wind Energy Protest at p. 4.

a project can “downgrade” its requested deliverability from Full Capacity to Energy-Only prior to the commencement of Phase II studies.<sup>21</sup>

The Wind and Solar Parties agree with Macquarie Energy’s request, and submitted comments to that effect several times in the GIPR stakeholder process. The Commission should allow projects to select Energy-Only status for part of their capacity to avoid expensive upgrades for a small part of the cluster capacity.

The Commission should also clarify that the CAISO has no authority to defer the commercial operation date of an interconnecting generator as a result of the unavailability of Delivery Network Upgrades. So long as Reliability Network Upgrades and interconnection facilities are in place, an interconnecting generator that requested Full Capacity status should be permitted to interconnect as a partial Full-Capacity resource (for the capacity that is deliverable without the Delivery Network Upgrades, and to obtain Resource Adequacy credits for such capacity) until the Delivery Network Upgrades are in place, and as an Energy-Only Resource for the remaining capacity. Imposing appropriate penalties on PTOs for failing to complete promised Delivery Network Upgrades on time, as discussed above, will minimize delays in placing necessary facilities into service.

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<sup>21</sup> Macquarie Energy Protest at p. 12.

### **III. Conclusion**

Wherefore, for the foregoing reasons, the Wind and Solar Parties identified above respectfully (1) submit their reply comments in the captioned proceeding, and (2) request the Commission to direct the CAISO to modify the GIPR as discussed above.

Respectfully submitted,

*/s/ Raymond B. Wuslich*

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Dated: September 2, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2008).

Dated at Washington, D.C., this 2nd day of September, 2008.

*/s/ Margaret H. Claybour*

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