UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

California Independent System Operator Docket No. ER07-447-000

ORDER ON REQUEST FOR TARIFF WAIVER

(Issued March 20, 2007)

1. On January 19, 2007, the California Independent System Operator (CAISO) filed a request for a one-time waiver of the CAISO Open Access Transmission Tariff (OATT) in order to change the established 180-day Queue Cluster Window to conduct a clustered Interconnection System Impact Study (ISIS) of the Tehachapi Wind Resource Area.[1] The CAISO also requests waiver of the OATT requirement to post a 180-day advance notice on its website of a change to the established opening and closing dates of the Queue Cluster Window. The CAISO proposes to create a Queue Cluster Window for the period September 4, 2003 through May 24, 2006. The CAISO states that using this 33-month Queue Cluster Window would allow it to efficiently and cost effectively identify the transmission network upgrades necessary to interconnect the 4,350 megawatts of primarily wind generating facilities in the TWRA. In this order, we grant the requested waivers.

Background

Large Generator Interconnection Procedures Section 4.2 - Clustering for System Study

2. The Large Generator Interconnection Procedures (LGIP) in Appendix U of the CAISO OATT, were accepted by the Commission in July 2005.[2] Under LGIP section

[1] The Tehachapi Wind Resource Area (TWRA) is located within Southern California Edison Company's (SoCal Edison) service territory, in the San Joaquin Valley, between Bakersfield and Mohave, California.

[2] *See California Independent System Operator Corp.*, 112 FERC ¶ 61,009 (2005).

4.2, interconnection requests may be studied serially or in clusters for the Interconnection System Impact Study (ISIS).

3. If the CAISO, in coordination with the applicable Participating Transmission Owners (PTOs), elects to study interconnection requests using clustering, all interconnection requests received within a period not to exceed the Queue Cluster Window of 180 Calendar Days, will be studied together without regard to the nature of the underlying interconnection service. Further, section 4.2 provides that the CAISO may agree to separately study an interconnection request falling within the Queue Cluster Window, to the extent warranted by Good Utility Practice, and based upon the electrical remoteness of the proposed Large Generating Facility.

4. Section 4.2 also provides that ISISs are to be conducted to ensure the efficient implementation of the applicable regional transmission expansion plan in light of the transmission system's capabilities at the time of each study. Finally, section 4.2 provides that the Queue Cluster Window will have a fixed time interval based on annual opening and closing dates, and that any changes to these dates must be announced with a posting on the CAISO's Home Page at least 180 Calendar Days prior to the change going into effect.

The CAISO's Request for Waivers

5. The CAISO explains that it arrived at the September 4, 2003 through May 24, 2006 timeframe because the first active application in the TWRA is dated September 4, 2003 and May 24, 2006 is the effective date of the CAISO LGIP centralized system study procedures. The CAISO states that absent the requested waivers, both ratepayers and customers would forego the efficiencies and benefits resulting from a clustered ISIS, and it would risk noncompliance with its existing LGIP authority under the OATT.

6. The CAISO states that it does not intend for the proposed waivers to set any precedent with respect to future Queue Cluster Windows. Additionally, to limit the geographic impact of the proposed waivers, the CAISO states that, pursuant to LGIP section 4.2, it will include only those projects that plan to interconnect in the TWRA as part of this particular clustered ISIS. The CAISO explains that the one-time waivers satisfy the Commission's limited scope requirement and will not have any undesirable consequences to third parties.

7. Citing to a November 2003 California Energy Commission report,[3] the CAISO identifies the TWRA as California's largest wind resource area, with undeveloped potential of approximately 4,500 megawatts of peak capacity. The CAISO adds that development of this potential wind generation resource will contribute significantly to meeting California's renewable energy goals.[4] The CAISO states, however, that significant transmission infrastructure upgrades must be constructed to render energy from such resources deliverable to California consumers because the TWRA is remote from the CAISO Controlled Grid and currently there is insufficient transfer capability.

The Tehachapi Transmission Project

8. In June of 2004 the California Public Utilities Commission (California PUC) issued an order addressing transmission expansion in the TWRA.[5] The California PUC found that planning transmission upgrades based solely on the transmission needs of generation projects that had submitted interconnection requests up to that time, was unlikely to achieve the most cost-effective size, configuration, or timing of necessary transmission upgrades. Also in 2004, the California PUC formed the Tehachapi Collaborative Study Group to develop a comprehensive transmission development plan – the Tehachapi Transmission Project (TTP) – for the phased expansion of transmission capabilities in the TWRA.

9. The CAISO explains that the Tehachapi Collaborative Study Group identified various approaches for the further development of the transmission infrastructure and recommended that the CAISO further study these alternative schemes. The CAISO

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[3] CAISO Request at 3 n.3 (*citing* California Energy Commission, "Renewable Resources Development Report," CEC Publication Number 500-03-080F, November 2003).

[4] *See* CAISO Request at 3 (explaining that California's Renewables Portfolio Standard (RPS) requires retail sellers of electricity to purchase a specified minimum percentage of electricity generated by renewable energy resources such as wind generators. *See also* Request for Waiver at 3 (*citing* CPUC Decision 0406-010 (2004), at 5-6; Finding of Fact No. 3 at 30 (2004)).

[5] *Interim Opinion on Transmission Needs in the Tehachapi Wind Resource Area,* CPUC Decision 04-06-010 (2004).

studied the TTP as part of the CAISO South Regional Transmission Plan for 2006 within the context of its LGIP to determine the least-cost solution for integrating Tehachapi generation resources.

10. The CAISO states that the full cost and ownership of the transmission network facilities associated with the TTP would be assigned to SoCal Edison and recovered through the CAISO Transmission Access Charge. Further, the CAISO states that SoCal Edison has committed to provide up-front financing for network upgrades identified through the clustered ISIS, subject to the California PUC's authorization of backstop cost recovery of the transmission upgrade costs.[6]

11. The CAISO proposes to deviate in several respects from a typical clustered Interconnection Study. Unlike the product of a typical Interconnection Study, the CAISO seeks to apply a bifurcated approach in that the clustered ISIS would focus exclusively on identifying Network Upgrades necessary to interconnect the TTP to the CAISO Controlled Grid in an integrated manner. The CAISO states that the $1.8 billion in total cost of the TTP does not include the cost of any Interconnection Facilities, *i.e.*, radial wind collector systems that interconnect the individual generation projects to the grid and are the responsibility of generation developers. A separate, more traditional serial ISIS will still be performed for each interconnection request to identify necessary directly assignable Interconnection Facilities and their cost responsibilities.

12. Finally, the CAISO states that Interconnection Facilities would constitute sole use facilities. The CAISO explains that since both serial and clustered studies will be implemented on the basis of queue position, conducting the clustered ISIS will not have an effect on a generating facility's queue position.

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[6] *See* CAISO Answer at 5. The CAISO explains that wind provides one of the most economical sources of renewable power, and the Tehachapi area offers the largest wind resource in California, with its undeveloped potential of 4500 MW of installed capacity. The California PUC, in granting the SoCal Edison a certificate to construct the first segment of the TTP, found that Segment 1 is needed to access a concentrated renewable area, and that those resources would not be accessed absent construction of those facilities. Consequently, the project is eligible for cost recovery through retail rates, to the extent such cost recovery is necessary. *See also* CAISO Answer at 4 n.5 citing to CPUC Decision 06-06-034 (2006).

Notice of Filings, Interventions, Protests and Answer

13. Notice of the CAISO's filing was published in the *Federal Register*, 72 Fed. Reg. 4499 (2007), with interventions, protests and comments due on February 9, 2007. Modesto Irrigation District, Northern California Power Agency, Pacific Gas and Electric Company (PG&E), The Metropolitan Water District of Southern California, M-S-R Public Power Agency and the City of Santa Clara, California, and the California Department of Water Resources State Water Project filed motions to intervene. Both the California PUC and SoCal Edison filed motions to intervene and comments. Calpine Corporation (Calpine) filed a late motion to intervene and protest. CAISO filed a Motion for leave to file an answer and an answer to Calpine's protest. Calpine filed a Motion for leave to submit answer and answer to the CASIO's answer to protest.

14. The California PUC, SoCal Edison and PG&E support the CAISO's request for waivers. The California PUC states that California legislation has recently accelerated from 2017 to 2010 the Renewable Energy Portfolio Standard requirement that 20 percent of the energy to serve California customers must come from renewable resources. The California PUC also states that since 2001, it has been exploring development of the transmission infrastructure necessary to efficiently access wind resources in the Tehachapi area. The California PUC states that in late 2006, the TTP was agreed upon by all key stakeholders, including the CAISO staff as the most cost-effective and reliable set of transmission system upgrades to enable unconstrained access from the CAISO Controlled Grid to the TWRA. The California PUC states that approval of TTP by the CAISO Board of Directors is contingent upon whether this Commission will grant the one-time waiver of the 180-day Queue Cluster Window.

15. SoCal Edison states that the use of a cluster study is the most efficient and cost-effective way to identify transmission Network Upgrades necessary to accommodate the TWRA area interconnection requests. SoCal Edison concurs that it has agreed to finance the Network Upgrades in the Tehachapi area, subject to the California PUC's authorization. Lastly, SoCal Edison agrees with the CAISO's proposal to conduct both cluster studies to identify required Network Upgrades and serial studies to identify sole-use facilities.

16. In its protest and answer, Calpine requests that the Commission deny the CAISO's request for waivers. Calpine objects to what it describes as an implicit waiver of the CAISO LGIP obligation to allow Interconnection Customers, such as itself, the option to proceed in the interconnection process under pre-LGIP (*i.e.*, the CAISO Amendment 39 process). Calpine contends that CAISO's authority to cluster interconnection requests for purposes of system impact studies only became effective on May 24, 2006, the ending

date of the requested Queue Cluster Window. Accordingly, Calpine argues that the CAISO has no legal basis to backdate its authority to cluster interconnection studies as proposed here.

17. Specifically, Calpine states that the CAISO's waiver request raises issues concerning its Pastoria Energy Facility Expansion (Pastoria project). The Pastoria project, which is currently under development, is designed as a 160 MW simple-cycle combustion turbine generator to provide peaking power to the Southern California electricity grid in addition to the original 750 MW combined cycle Pastoria Energy Facility. The combined project will be interconnected at SoCal Edison's Pastoria Substation. Calpine claims that SoCal Edison conducted a system impact study and a technical assessment study to analyze potential Pastoria project impacts on the SoCal Edison Grid. Calpine also claims that based on the SoCal Edison studies, the CAISO determined that only a minimal amount of transmission upgrades would be required.

18. Calpine argues that the CAISO's waiver requests, if accepted by the Commission, would cause significant financial harm to Calpine's Pastoria project where the system impact study, which was initiated under (and currently governed by) pre-LGIP Amendment 39 procedures, has already obtained satisfactory results based on a favorable queue position. Calpine argues that forcing Pastoria to repeat its system impact study as part of a thirty-three month cluster would cause it to lose the financial benefits of its current queue position.

19. Calpine concludes that permitting the CAISO to backdate its LGIP authority into the pre-LGIP era would: (1) allow the de facto abrogation of a pre-LGIP interconnection customer to elect to proceed under the Amendment 39 process;[7] (2) create regulatory uncertainty and havoc; and (3) negatively impact private investment in critical infrastructure development in California. Calpine therefore requests that the Commission deny the CAISO's request for LGIP waivers.

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[7] Pursuant to the LGIP, where an Interconnection Customer has a study agreement that was executed prior to the effective date of the LGIP, that Interconnection Study will proceed in accordance with the terms of that agreement. *See* LGIP sections 5.1.1.2 and 5.1.1.3. Also, according to the LGIP, with respect to any remaining studies for which an Interconnection Customer has not signed an Interconnection Study agreement prior to the effective date of the LGIP, the Transmission Provider must offer the Interconnection Customer the option of either continuing under the existing interconnection study process or going forward with the completion of the necessary Interconnection Studies (for which it does not have an executed Interconnection Study Agreement) in accordance with the LGIP.

20. In its answer, the CAISO states that Calpine's Pastoria project is one of nineteen projects that would be treated as part of the Tehachapi cluster if the Commission were to grant the requested waivers. The CAISO confirms that SoCal Edison conducted an ISIS and Technical Assessment Study for the Pastoria project under the CAISO pre-LGIP Amendment 39 interconnection procedures. The CAISO states that its review of the Technical Assessment Study concluded that the Pastoria project could be accommodated assuming the presence of all transmission upgrades triggered by generation projects higher in the queue. The CAISO further states that these assumed transmission upgrades involve significant infrastructure additions, including, for instance, construction of a new 230 kV switching station, new double-circuit 230 kV facilities, and 500 kV facilities, that have been incorporated into the CAISO's comprehensive TTP.

21. The CAISO states that the transmission upgrade plan involving TWRA-related interconnection resources is configured so that all of the major upgrades necessary to interconnect and accommodate energy and capacity will be network upgrades, rather than interconnection facilities. The CAISO maintains that a clustering period for facilities interconnecting in the TWRA is a way to provide lower costs to generation developers and transmission owners by eliminating duplicative and redundant incremental studies. The CAISO also contends that an underlying benefit of the proposed waivers is the protection that would be provided to Calpine and to similarly situated generation developers, from exposure to costs associated with network upgrades necessary to interconnect other generators to the CAISO Controlled Grid.

Discussion

Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make those parties who filed them parties to this proceeding. We will grant Calpine's late motion to intervene given its interest in this proceeding, the early stage of this proceeding and the absence of any undue prejudice or delay.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2006), prohibits an answer to a protest or answer unless otherwise ordered by the decisional authority. We will accept the answers because they have provided information that assisted us in our decision-making process.

Commission Determination

24. Historically, the Commission has granted certain waiver requests where an emergency situation or an unintentional error was involved.[8] Waiver, however, is not limited to those circumstances alone. Where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, we have found that a one-time waiver is appropriate.[9]

25. CAISO has stated that the thirty-three month window for the TTP cluster study is necessary as a cost-control and efficiency measure to: (1) obviate the need to conduct duplicative and redundant incremental studies and (2) allow for greater efficiency in the design of necessary network upgrades. Specifically, the CAISO, with support from the California PUC, SoCal Edison and PG&E, asserts that the proposed Queue Cluster Window will facilitate efficient and cost-effective treatment of the 4,350 MW of TTP-related interconnection requests. CAISO plans to include only TWRA interconnection projects in its clustered ISIS and does not intend for its proposed thirty-three month Queue Cluster Window, to be any thing more than a one-time request for waiver of its tariff. Under these circumstances, we find that good cause exists to grant the requested waivers.

26. As for Calpine's protest, notwithstanding the fact that SoCal Edison already conducted an ISIS and Technical Assessment for the Pastoria project under pre-LGIP, for the reasons described below, we find that inclusion of the Pastoria project in the 33-month Queue Cluster Window will not have undesirable consequences and, as explained below, it is not inconsistent with the pre-LGIP followed when Pastoria was first analyzed. In its answer, CAISO argues that the circumstances surrounding the TTP and the Pastoria project provide adequate protection to Calpine. We agree. The proposed Queue Cluster Window eliminates duplicative and redundant incremental studies and therefore lowers the costs to generation developers and transmission owners.

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[8] *See, e.g.*, *ISO New England*, 117 FERC ¶ 61,171 at P 21(2006) (using reasoning typically applied to waivers to allow limited and temporary change to tariff to correct an error); *Great Lakes Gas Transmission Ltd. Partnership*, 102 FERC ¶ 61,331 at P 16 (2003) (granting emergency waiver involving force majeure event granted for good cause shown); and *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330 P 5 (2003) (granting waiver for good cause shown to address calculation in variance adjustment).

[9] *See California Independent System Operator Corp.*, 109 FERC ¶ 61,153 at P 28 (2003) (granting waiver from tariff provision for a high value project with overriding regional significance that provides substantial benefits to customers and citing *California Independent System Operator Corp.*, 103 FERC ¶ 61,260 at P 13 (2003)).

27. Furthermore, to the extent that the CAISO or SoCal Edison files for rate recovery of needed upgrades related to this waiver, parties will have the opportunity to raise any concerns regarding the appropriate cost allocation in that proceeding. This filing requirement provides adequate protection to Calpine and any other affected party from an undesirable consequence of any proposed cost recovery.

28. CAISO notes that as part of the serial study process, Calpine was advised, as were all project developers, that if higher queued projects did not materialize as expected, or otherwise withdrew from the queue, Pastoria may be allocated cost responsibility for upgrades previously assumed as a baseline in its ISIS and Technical Assessment Study. The CAISO notes that a significant TWRA project that was higher queued than Pastoria withdrew its application for interconnection.[10] Therefore, even under the original serial study approach, Pastoria may be restudied and may be allocated cost responsibility for significant transmission upgrades not previously assigned to Calpine when higher-queued projects leave the queue.

29. We also disagree with the concerns raised by Calpine as to the CAISO's use of September 4, 2003 as the beginning date for its proposed Queue Cluster Window. Under the pre-centralized study procedures, interconnection studies were conducted primarily by the PTOs with oversight and direction from the CAISO.[11] We note that the filing and filed comments indicate that the CAISO worked closely with SoCal Edison and other stakeholders to develop the TTP. Comments filed by SoCal Edison and the California PUC indicate that they concur with the CAISO's requested waivers. Furthermore, CAISO has proposed to establish the queue cluster window in the instant filing. Accordingly, the Commission waives prior notice to allow the CAISO to establish the Queue Cluster Window proposed in its request.

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[10] We note that the result of this withdrawal is that Calpine may have to engage in a restudy of the Pastoria project. Therefore, a determination as to the precise financial impact is premature.

[11] Here, since the TWRA is in its service territory, the affected PTO would be SoCal Edison.

The Commission orders:

The CAISO's request for waiver is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Philis J. Posey,
Acting Secretary.