

128 FERC ¶ 61,155  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

El Paso Electric Company

Docket No. ER09-1295-000

ORDER GRANTING WAIVER

(Issued August 12, 2009)

1. On June 12, 2009, El Paso Electric Company (EPE) filed a request for waiver of the requirement in Attachment M, Large Generator Interconnection Procedures (LGIP), of its Open Access Transmission Tariff (OATT) that EPE study the interconnection requests in its queue on a first-come, first-served basis, and permit EPE to study these interconnection requests in two study clusters.<sup>1</sup> The Commission grants EPE's waiver request, as discussed below.

**I. Filing**

2. In accordance with its LGIP, EPE places all new generator interconnection requests in a queue.<sup>2</sup> EPE then performs the prescribed interconnection studies on the queued requests on a first-come, first-served basis.<sup>3</sup>

3. In the instant filing, EPE requests that the Commission waive the requirement in its *pro-forma* OATT, specifically as contained in the LGIP, that EPE study the interconnection requests currently in its queue on a first-come, first-served basis. Instead, EPE proposes to study these interconnection requests in two study clusters. EPE asserts that this waiver will allow EPE to reduce the time required for the study of projects currently in the queue in a manner that will allow EPE to satisfy the State of New Mexico's diversified renewables portfolio requirements in a timely fashion. Under New Mexico law, 10 percent of utilities' retail energy sales must come from renewable energy sources by January 2011, with solar energy comprising at least 20 percent of the

---

<sup>1</sup> Under EPE's proposal, EPE would study certain interconnection requests in groups, known as study clusters.

<sup>2</sup> See LGIP section 4.1.

<sup>3</sup> *Id.*

renewable mix. EPE explains that if it were to study the existing interconnection requests in its queue on a first-come, first-served basis, EPE would not be able to study the renewable energy interconnection projects chosen to satisfy the State of New Mexico's mandate by the January 2011 deadline.

4. EPE explains that the cluster studies it proposes will apply to interconnection requests in the queue as of the date of the instant filing, and that future interconnection requests will be processed pursuant to the terms of the OATT. EPE asserts that this waiver request is only the first step in the process of improving its queue management, which will ultimately include revisions to EPE's OATT.

5. EPE proposes to study currently-queued projects in one of two clusters based on the nature of the EPE facilities to which parties seek interconnection. The first cluster will be for projects seeking to interconnect to EPE's local system of 115 kV, and the second cluster will be for projects seeking to interconnect to EPE's 345 kV system.<sup>4</sup> EPE will begin the studies for both clusters at the same time.

6. In performing the cluster studies, EPE will study all projects in each cluster solely for Network Resource Interconnection Service.<sup>5</sup> EPE requests that the Commission waive the provision in its LGIP that requires EPE to study these projects for Energy Resource Interconnection Service, concurrently, upon the request of the customer.<sup>6</sup> EPE asserts that an Energy Resource Interconnection Service study would be meaningless under the present circumstances, where the resources in the queue surpass the total load on the system.<sup>7</sup> EPE states that, instead, the projects in the clusters need to be studied for Network Resource Interconnection Service in order for the customer to

---

<sup>4</sup> EPE states that, because projects on EPE's 345 kV system target markets outside EPE's service territory, EPE will perform the interconnection studies for this cluster in an east-to-west direction.

<sup>5</sup> Network Resource Integration Service is when EPE integrates a generating unit (1) in a manner comparable to that in which EPE integrates its generating facilities to serve its native load customers; or (2) in an ISO or RTO with market based congestion management, in the same manner as network resources. *See* LGIP section 3.2.2.1.

<sup>6</sup> Energy Resource Interconnection Service allows the interconnection customer to connect a generating unit to EPE's system and be eligible to deliver the unit's output using the existing firm or non-firm capacity of the system on an "as available" basis. *See* LGIP section 3.2.1.1.

<sup>7</sup> EPE explains that at present, its interconnection queue consists of generators requesting the connection of almost 5,000 MW of resources, while EPE's total peak load is less than one third that amount (approximately 1,500 MW).

make a meaningful decision about whether to proceed with the project. EPE further states that all of the projects currently in its queue have requested that EPE perform a Network Resource Interconnection Service study.

7. EPE explains that projects subject to the cluster approach will be accorded a one-time election to opt out of the cluster. The election date will be ten business days following Commission approval of the instant waiver request. Any generator that opts out will retain its queue ranking relative to any other generators that opt out of the clusters, and will be studied upon completion of the cluster studies.

8. EPE states that projects for which EPE already has completed a Feasibility Study<sup>8</sup> will continue to be processed according to the OATT, and not clustered under this waiver request. EPE asserts that such projects are far enough along in the study process that to cluster them at this stage would not serve the goal of improving the timeliness and efficiency of the queue process. EPE explains that in implementing this approach, it is taking into account the Commission pronouncements that transmission providers appropriately address differences between existing interconnection requests that are still in the early stages of the interconnection process and those that are in the later stages of the process.<sup>9</sup>

9. EPE asserts that good cause exists to grant its waiver request. EPE states that there are no undesirable consequences of granting this waiver and that the resultant benefits to customers are evident. EPE contends that granting the waiver would also serve the important goal of permitting a timely satisfaction of state-imposed diversified renewable portfolio requirements. EPE asserts its proposed clusters are fair and equitable, and are developed based on non-discriminatory factors.

## **II. Notice of Filing, Interventions and Protests**

10. Notice of EPE's filing was published in the *Federal Register*, 74 Fed. Reg. 30,060 (2009), with interventions and protests due on or before July 6, 2009. First Wind Energy, LLC (First Wind) filed a motion to intervene and comments. On July 9, 2009, EPE filed an answer to First Wind's comments.

---

<sup>8</sup> A Feasibility Study preliminarily evaluates the feasibility of the proposed interconnection to the EPE transmission system. *See* LGIP section 6.2.

<sup>9</sup> *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 11 (2008); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031, at P 20 (2008) (finding that the California Independent System Operator Corporation appropriately identified a category of interconnection requests that can be processed efficiently under its existing LGIP process, while waiving the tariff's queue management process for other earlier-stage interconnection requests).

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>10</sup> notices of intervention and the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure prohibits an answer to a protest unless otherwise ordered by the decisional authority.<sup>11</sup> We will accept EPE's answer because it has provided information that assisted us in our decision-making process.

12. First Wind asserts that EPE has not provided sufficient information regarding its proposed cluster studies. First Wind states that EPE fails to specify whether the cluster studies will take the place of the Feasibility Study required by the LGIP. First Wind also contends that EPE does not indicate whether the interconnection requests within each cluster will be studied in the aggregate or sequentially. In addition, First Wind asserts that EPE has failed to explain how the costs for upgrades will be allocated among the members of each cluster.

13. In its answer, EPE states that the cluster studies are not intended to take the place of the Feasibility Study required by the LGIP, but rather, the cluster study approach intends to capture all three necessary interconnection studies which are the Feasibility Study, the Interconnection System Impact Study, and the Interconnection Facility Study. EPE further clarifies that the projects within each cluster will be studied in the aggregate. EPE adds that in moving to the cluster study approach it proposes, there will be cost savings as a result of the economies-of-scale in doing the studies together as opposed to the current one-by-one, first-come, first-served sequence study approach. EPE explains that it will allocate the costs of any network upgrades resulting from the cluster studies to the members of the cluster *pro rata* based on relative project size (in MWs).

### **III. Discussion**

14. The Commission grants EPE's waiver request as proposed. The proposed waiver will allow EPE to study the interconnection requests currently in its queue in two clusters. One cluster will consist of facilities seeking interconnection on EPE's local system of 115 kV, and the other cluster will consist of interconnection requests seeking interconnection on EPE's 345 kV system. EPE also requests waiver of the requirement in its LGIP that, upon request of the customer, EPE study the requests in its queue concurrently for Energy Resource Interconnection Service and Network Resource Interconnection Service.

---

<sup>10</sup> 18 C.F.R. § 385.214 (2009).

<sup>11</sup> 18 C.F.R. § 385.213(a)(2) (2009).

15. In approving past queue waiver requests, the Commission has stated that “where good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to the customer are evident, ... a one-time waiver is appropriate.”<sup>12</sup> The Commission finds good cause exists here to grant EPE’s waiver request. First, we agree that the proposed cluster studies will facilitate a concurrent response to both the high and low voltage interconnection requests currently in EPE’s queue and, therefore, allow EPE to move forward in its efforts to satisfy New Mexico’s renewable energy requirements in a timely manner. Further, as EPE asserts, customers will benefit from EPE’s more focused high-voltage, low-voltage approach to addressing their needs by reducing both sequential processing timelines and costs for the existing queue. The Commission also finds that, in this particular circumstance, where none of the parties in EPE’s queue have requested Energy Resource Interconnection Service and no party protests the issue, good cause exists for the Commission to waive the requirement in the LGIP that EPE study all interconnection requests in its queue for both types of service upon the request of the customer.

The Commission orders:

EPE’s request for waiver is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

---

<sup>12</sup> *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 24 (2007), *clarified*, 120 FERC ¶ 61,180 (2007) (*Tehachapi*); *Southwest Power Pool, Inc.*, 126 FERC ¶ 61,012, at P 36 (2009), *Order on request for reh’g*, 126 FERC ¶ 61,215 (2009). *See also Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008), *reh’g denied*, 124 FERC ¶ 61,293, at P 18-21 (2008).