

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Leadore Wind Farm

v.

Docket No. EL07-20-000

PacifiCorp

ORDER DENYING COMPLAINT

(Issued May 17, 2007)

1. On November 30, 2006, Capital Enterprises, Inc./Leadore Wind Farm (Leadore) submitted a request for Commission action regarding its interconnection request to PacifiCorp, the relevant transmission provider. Leadore plans to construct and operate a wind farm and requests that the Commission order PacifiCorp to allow it additional time to submit certain technical information required under the interconnection procedures in PacifiCorp's open access transmission tariff (OATT). We treat Leadore's request for Commission action as a complaint, and deny it, as discussed below.

Background

2. This proceeding involves Leadore's request to interconnect its proposed large wind generating facility to PacifiCorp's transmission system under the large generator interconnection procedures (LGIP) set forth in PacifiCorp's OATT.¹

3. On May 23, 2006, Leadore submitted a letter requesting interconnection of a planned large wind generating facility to PacifiCorp's transmission system near Howe

¹ See *PacifiCorp*, 107 FERC ¶ 61,318 (2004). All subsequent references to LGIP provisions in this order refer to the sections in which those LGIP provisions can be found in PacifiCorp's OATT.

and Mud Lake, Idaho. PacifiCorp responded to Leadore's request by letter dated May 31, 2006, and indicated that it had assigned Leadore a queue position with a May 23, 2006 date, but that study work related to the request could not begin until Leadore had completed an interconnection request, submitted all necessary information required by section 38.3.1 of the LGIP, and tendered a \$10,000 interconnection request deposit to PacifiCorp. Consistent with section 38.3.3 of its LGIP, PacifiCorp notified Leadore that it should provide the additional requested information needed to constitute a valid interconnection request within 10 days in order to maintain its assigned queue position.² On July 13, 2006, Leadore provided the application and \$10,000 interconnection request deposit, and on August 7, 2006, Leadore provided its site control documentation and confirmed the size of the proposed generating facility at 540 MW.

4. After a September 25, 2006 scoping meeting between the parties, PacifiCorp sent Leadore an Interconnection Feasibility Study Agreement for signature on October 9, 2006.³ Pursuant to section 41.1 of PacifiCorp's LGIP, Leadore was asked to provide a \$10,000 feasibility study deposit and certain technical data required to perform a feasibility study.⁴ Leadore was informed that, under LGIP section 41.1, it would have 30 calendar days to provide the information, execute the Interconnection Feasibility Study Agreement and submit the study deposit.

5. By letter dated November 6, 2006, Leadore explained that it could not provide the requested technical data and sought an extension of PacifiCorp's deadline for submittal of the technical data required by section 41.1 of its LGIP. PacifiCorp denied the request on November 15, 2006, explaining that it could not waive the requirements of section 41.1. PacifiCorp further indicated that because Leadore did not execute and deliver the Interconnection Feasibility Study Agreement and required deposit to PacifiCorp in the allotted period pursuant to section 38.6 of its LGIP, Leadore had not adhered to the requirements of the LGIP and PacifiCorp deemed the interconnection request withdrawn.

² Subsequently, by letter dated June 28, 2006, PacifiCorp again notified Leadore that its request for interconnection was deficient and, pursuant to § 38.6 of the LGIP, indicated that Leadore had 15 business days to cure the deficiency.

³ A feasibility study is the first technical study in the interconnection process. PacifiCorp LGIP § 41.2.

⁴ The necessary information included the size, impedance and winding configuration of the planned collector system step-up transformers, and the size and positive and zero sequence impedance of the planned 59-mile radial transmission line. *See* PacifiCorp LGIP, Attachment N, Appendix 1 Attachment A.

Consistent with section 38.6 of the LGIP, PacifiCorp indicated that Leadore had 15 business days to cure the deficiencies or PacifiCorp would remove the request for interconnection from PacifiCorp's generation queue and return the deposit, less the costs incurred in processing the application.

6. Leadore executed the Interconnection Feasibility Study Agreement on November 27, 2006, which PacifiCorp received on November 30, 2006. The executed agreement did not include the required technical data or the feasibility study deposit. On December 5, 2006, PacifiCorp notified Leadore that it must provide the feasibility study deposit and the required technical data by December 8, 2006 in order for PacifiCorp to study the interconnection request. As of December 22, 2006, Leadore had not submitted the requested information.

Leadore's Filing

7. Leadore requests that the Commission extend the deadline for submitting the required data for the Interconnection Feasibility Study Agreement to PacifiCorp from November 30, 2006 to November 10, 2007. In addition, Leadore explains that it has not paid the \$10,000 deposit for the feasibility study because PacifiCorp still has excess money from the deposit that accompanied the interconnection request. Leadore explains that failure by the Commission to take action would jeopardize the viability of its proposed wind project and harm the economy in Lemhi County, Idaho.

Notice of Filings and Responsive Pleadings

8. Notice of Leadore's filing was published in the *Federal Register*, 71 Fed. Reg. 75,240 (2006), with comments, interventions, and protests due on or before December 21, 2006. PacifiCorp filed a motion to intervene out-of-time and a protest on December 22, 2006.

PacifiCorp's Protest

9. According to PacifiCorp, Leadore wishes to suspend the LGIP because Leadore does not possess the technical information required to study the system impacts of its proposed generating facility. PacifiCorp notes that Leadore requests that the Commission waive certain requirements of the LGIP in PacifiCorp's OATT to allow Leadore to maintain its queue position while Leadore continues to design and plan its proposed generating facility.

10. PacifiCorp states that Leadore has not provided sufficient factual or legal support to justify the Commission granting its request to suspend the applicability of the LGIP

requirements to Leadore's interconnection request. PacifiCorp states that Leadore is in the earliest stages of development and its interconnection request is premature. Without the required technical data, PacifiCorp states that it cannot conduct the required studies to determine the potential system impacts and requirements to interconnect Leadore's proposed generating facility.

11. PacifiCorp argues that granting Leadore's request to extend the deadline for submitting the required data to November 2007 could prejudice subsequent interconnection customers that have complied with the LGIP because other customers could face disruption of PacifiCorp's study process due to the need to reallocate planning resources and upgrade requirements based on Leadore's queue priority when Leadore submits sufficient technical data to conduct the studies. Consequently, PacifiCorp argues that Leadore should be withdrawn from PacifiCorp's generator interconnection queue.

12. PacifiCorp argues that the Commission should deny Leadore's request for extension. PacifiCorp argues that Leadore has failed to provide information required under section 41.1 of PacifiCorp's OATT to process its request for interconnection service.⁵ PacifiCorp notes that Leadore admits that it has not reached a stage in the development of its project where it can provide the information necessary to study the impact of the facility on PacifiCorp's transmission system. PacifiCorp adds that Leadore may reapply at any time after it has made sufficient progress in its development and design of the generating facility to provide the necessary data.

Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. The Commission grants the late intervention of PacifiCorp since its intervention and protest will not result in disruption of the proceeding or prejudice to any party at this early stage of the proceeding.

B. Analysis

14. Although Leadore styles its filing as a request for Commission intervention and order extending the relevant deadline, we will treat the filing as a complaint under

⁵ See *supra*, n. 4

sections 206 and 306 of the Federal Power Act⁶ because it is the standard procedural vehicle for bringing issues involving a public utility's administration of its tariff before the Commission. Based on our review of the correspondence provided, and the applicable OATT, LGIP tariff sections,⁷ we conclude that (1) the LGIP does not permit a customer to request an extension of time, nor allow PacifiCorp to grant such a request by Leadore; and (2) Leadore has failed to comply with the informational requirements under section 41.1. Therefore, we deny Leadore's request for an almost one-year extension of time to provide the required data for the Interconnection Feasibility Study Agreement.

15. As noted above, PacifiCorp offered an Interconnection Feasibility Study Agreement to Leadore on October 9, 2006 and provided 30 days for Leadore's response consistent with the LGIP. Further, consistent with the LGIP, section 38.6, on November 15, 2006, PacifiCorp deemed the interconnection request withdrawn because the additional technical data necessary to proceed with the feasibility study was not provided. We find that these actions by PacifiCorp are consistent with its LGIP and although Leadore submitted the executed Interconnection Feasibility Study Agreement on November 27, 2006, within the 30 calendar day response period, the technical data was not provided and the requirements of section 41.1 were not satisfied. Therefore, we agree with PacifiCorp that Leadore should be withdrawn from PacifiCorp's generator interconnection queue because it has failed to provide the information required by PacifiCorp's LGIP⁸ in order to proceed with the feasibility study.⁹

⁶ 16 U.S.C. §§ 824e, 825e (2000).

⁷ *See* PacifiCorp LGIP § 38 (addressing interconnection requests) and § 41 (addressing the interconnection feasibility study).

⁸ Section 41.1 of PacifiCorp's LGIP requires that the interconnection customer provide the technical data on or before the return of an executed Interconnection Feasibility Study Agreement. *See* PacifiCorp LGIP, Attachment N, Appendix 1, Attachment A.

⁹ *See* PacifiCorp LGIP § 38.6 (“[I]f Interconnection Customer fails to adhere to all requirements of this LGIP, except as provided in Section 48.5 (Disputes), Transmission Provider shall deem the Interconnection Request to be withdrawn and shall provide written notice to Interconnection Customer of the deemed withdrawal and an explanation of the reasons for such deemed withdrawal.”). Leadore did not avail itself of the provision governing disputes between parties under § 48.5.

16. We note that although Leadore will lose its current queue position, it may submit, without prejudice, a new interconnection request to PacifiCorp when additional details regarding its proposal are more certain and when it is in a position to provide timely information consistent with the requirements of the LGIP under PacifiCorp's OATT. Furthermore, in accordance with PacifiCorp's OATT, we expect that PacifiCorp will refund Leadore's \$10,000 interconnection request deposit in full (plus interest) since no interconnection studies were conducted.¹⁰ In the event that a disagreement with PacifiCorp should arise with respect to any future interconnection request, we recommend that Leadore use the dispute resolution procedures in PacifiCorp's LGIP as a means to resolve the dispute.¹¹

The Commission orders:

Leadore's complaint is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹⁰ See PacifiCorp LGIP § 38.3.1 (stating that the interconnection request deposit "shall be applied toward any Interconnection Studies pursuant to the Interconnection Request"); *id.* § 38.6 (requiring that, when an interconnection request is deemed withdrawn, the interconnection customer receive a refund of its deposit, less costs incurred by the transmission provider, plus interest).

¹¹ PacifiCorp LGIP § 48.5.