

120 FERC ¶ 61,180  
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.

California Independent System Operator Corporation      Docket No. ER07-447-001

ORDER GRANTING CLARIFICATION

(Issued August 22, 2007)

1. On April 19, 2007, Calpine Corporation (Calpine) filed a limited request for clarification or, in the alternative, rehearing (Request for Clarification or Rehearing) of a March 20, 2007 Commission order granting the California Independent System Operator Corporation's (CAISO) request for one-time waivers of certain provisions within the CAISO Open Access Transmission Tariff (OATT).<sup>1</sup> This order grants clarification.

**Background**

2. The CAISO began this proceeding when it requested a one-time waiver of two provisions in its large generator interconnection procedures (LGIP) established in the Commission's Order No. 2003<sup>2</sup> and as set forth in the CAISO's OATT. CAISO requested waiver of section 4.2 to change the Queue Cluster Window for simultaneously studying pending generator interconnection requests from 180 days to 33-months

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<sup>1</sup> *California Independent System Operator*, 118 FERC ¶ 61,226 (2007) (March 2007 Order). The facts of the proceeding are described in detail in the March 2007 Order.

<sup>2</sup> *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. National Association of Regulatory Utility Commissioners v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

(September 4, 2003 through May 24, 2006), so that it could conduct a clustered interconnection system impact study of the Tehachapi Wind Resource Area (TWRA).<sup>3</sup> The CAISO also requested a waiver of the 180-day advance notice posting that is required by section 4.2 to notify market participants of a change to the established system impact study Queue Cluster Window.

3. The CAISO explained that expansion of the Queue Cluster Window would allow it to efficiently and cost effectively identify transmission network upgrades necessary to interconnect the 4,350 megawatts of primarily wind generating facilities in the TWRA known as the Tehachapi Transmission Project (TTP).

4. The CAISO further explained that because of the proximate geographic location of the nineteen (19) separate generating facilities requesting interconnection (including Calpine's Pastoria Energy Facility Expansion Project (Pastoria Project), which is not a wind generator),<sup>4</sup> incremental study and transmission expansion would be inefficient in the design of the necessary upgrades and the use of the CAISO's planning resources.<sup>5</sup>

5. The CAISO maintained that granting the waivers would not harm third parties. The CAISO explained that projects interconnecting in the TWRA would benefit from a clustered study because duplicative and redundant incremental studies would be eliminated and the result would provide lower costs to generation developers, transmission owners and transmission customers. The CAISO further explained that the waivers protected Calpine, and similarly situated generation developers from exposure to costs associated with the interconnection-related network upgrades.

6. The CAISO confirmed that SoCal Edison had already conducted a serial system impact study and Technical Assessment Study for the Pastoria Project under the CAISO

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<sup>3</sup> The TWRA is located within Southern California Edison Company's (SoCal Edison) service territory, in the San Joaquin Valley, between Bakersfield and Mohave, California.

<sup>4</sup> In the CAISO Waivers Request proceeding, Calpine explained that the Pastoria Project is a 160 MW simple-cycle combustion turbine generator designed to be added to the original 750 MW combined cycle energy facility to provide peaking power to SoCal Edison's grid. The combined total capacity of approximately 910 MW will be interconnected at SoCal Edison's Pastoria substation. *See* Calpine February 14, 2007 Motion to Intervene Out of Time and Protest at 3-4.

<sup>5</sup> *See* CAISO Waivers Request at 11.

Amendment 39 interconnection procedures that preceded the LGIP. The CAISO explained that its review of the Technical Assessment Study concluded that the Pastoria Project could be accommodated assuming the presence of all transmission upgrades required by generation projects higher in the queue. The CAISO further explained that these assumed transmission upgrades would involve significant infrastructure additions that have been incorporated into the CAISO's comprehensive TTP.<sup>6</sup>

7. The CAISO stated that the full cost and ownership of the transmission network facilities associated with the TTP upgrade plan involving TWRA-related interconnection resources would be assigned to SoCal Edison and recovered through the CAISO Transmission Access Charge.<sup>7</sup> The CAISO also stated that SoCal Edison has committed to provide up-front financing for network upgrades identified through the clustered system impact study, subject to the California Public Utility Commission's (California Commission) authorization of backstop cost recovery for the transmission upgrade costs.<sup>8</sup>

8. Calpine protested, chiefly arguing that forcing its Pastoria Project to repeat its system impact study as part of a 33-month cluster would cause it to lose the financial benefits of its current queue position.

9. In the March 2007 Order, the Commission found that good cause existed to grant the one-time waivers of the 180-day Queue Cluster Window and the accompanying 180-day advance notice requirement based upon the resulting efficiency and cost savings. The Commission also found that the waivers were of limited scope and adequate protection was provided by SoCal Edison's financial commitment. The Commission determined that a clustered system impact study would eliminate duplicative and redundant incremental studies and therefore lower the costs to generation developers,

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<sup>6</sup> March 2007 Order at 20 (*citing* Motion of the California Independent System Operator Corporation for Leave to Answer and Answer, March 5, 2007, at 6) (CAISO Answer)).

<sup>7</sup> *See* March 2007 Order at P 10; *see also* CAISO Waivers Request at 8-9.

<sup>8</sup> *See* CAISO March 14, 2007 Answer at 4 n.5. CAISO cites the 2006 California Commission Decision 06-06-034, where the California Commission, 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.

transmission owners, and transmission customers. The Commission found that inclusion of the Pastoria Project in the 33-month Queue Cluster Window was not inconsistent with the Amendment 39 interconnection procedures under which Pastoria was first analyzed.

### **Request for Clarification or Alternatively, Rehearing**

10. Calpine requests clarifications that fall into two categories. First, it requests that the inclusion of its Pastoria Project in the clustered system impact study will not subject it to costs for network upgrades greater than those to which it would have been exposed under either the Amendment 39 interconnection procedures or the non-cluster procedures of the LGIP. Calpine argues that clarification is necessary, and consistent with the March 2007 Order, because the Commission failed to address the potential that SoCal Edison could partially or fully withdraw its commitment to finance network upgrades for the TTP.

11. Calpine argues that to the extent SoCal Edison withdraws its commitment, Calpine's allocated share of network upgrade costs under a cluster study could be far greater than under a serial study. In that event, Calpine requests that the Commission clarify that it will be held harmless from costs of network upgrades greater than those to which it would have been exposed under either the non-cluster procedures of the LGIP or the Amendment 39 interconnection procedures.

12. Second, Calpine requests clarification that it will not be subject to undue delay by its inclusion in the cluster study. Specifically, it requests that the Commission clarify that, if requested by Calpine, the CAISO and SoCal Edison shall complete any other serial study requirements not encompassed by the clustered system impact study and that Calpine's ability to obtain a large generator interconnection agreement (LGIA) for the Pastoria Project will not be delayed as a result of its inclusion in the new cluster study. Calpine explains that the Pastoria Project's system impact study has been substantially completed, subject only to a discrete re-study to account for the withdrawal of higher-queued projects. Calpine adds that the Technical Assessment Study, completed after its system impact study, indicated that Calpine would incur only minimal interconnection costs. Calpine claims that its ability to complete and market the Pastoria Project will be adversely affected by any delay such as project construction and energization, which will necessarily occur if Calpine cannot proceed serially to obtain an LGIA, but must instead wait until the conclusion of the cluster study process. Calpine argues that there are no outstanding cost allocation issues since the cluster study will only identify the required network upgrades to be financed by SoCal Edison, and that therefore, there is no need to unnecessarily delay completion of Calpine's pending interconnection request.

13. If clarification is not granted, Calpine alternatively seeks rehearing arguing, among other things, that the March 2007 Order is arbitrary and capricious and that the waivers amount to retroactive ratemaking and violate the filed rate doctrine.

### **Commission Determination**

#### **Costs to Calpine**

14. Calpine requests clarification that it will not be forced to share in additional transmission upgrade costs associated with later-queued projects if the Pastoria Project is re-studied as part of the clustered system impact study and if SoCal Edison withdraws its financing commitment. Although it is unclear from Calpine's request for clarification, presumably the withdrawal could occur in the situation where some facilities are classified by the Commission as directly assignable facilities that would make them ineligible for rate recovery, or if SoCal Edison has trouble acquiring the necessary financing. While not explicitly stated, Calpine may incur additional costs due to either (1) the difference in financing costs it would incur for these network upgrades as compared to the interest received under section 35.19 (a) of the Commission's regulations,<sup>9</sup> or (2) that the Commission would disagree with the classification of some of the facilities as network facilities and thus, require a direct assignment of those costs to the generation developers.

15. We note that Order No. 2003-A and the CAISO LGIP state that a Transmission Provider may allocate the cost of common upgrades for clustered Interconnection Requests without regard to queue position.<sup>10</sup> However, the CAISO stated that if some unforeseen obstacle results in the withdrawal of SoCal Edison's commitment to finance the network upgrades for the TTP, the CAISO would attempt to mitigate the risk of additional costs accruing to all affected developers by estimating, as closely as possible, the network upgrades and costs that each particular project would have accrued.<sup>11</sup>

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<sup>9</sup> Article 11.4.1 of the CAISO non-customer-specific LGIA provides for a repayment of amounts advanced for network upgrades on a dollar for dollar basis including interest.

<sup>10</sup> See Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P18; see also CAISO LGIP at section 4.1.

<sup>11</sup> CAISO Answer at 6.

CAISO concluded that Calpine would not be worse off if the Commission granted the CAISO's limited request for waivers.<sup>12</sup>

16. This comment, as it relates to Calpine's Pastoria Project and the need to protect the project from additional financial exposure for network upgrade costs exclusively due to its inclusion in the clustered system impact study, was an important consideration in our decision to grant the waiver.<sup>13</sup> We clarify that if SoCal Edison withdraws its commitment to provide full upfront financing for all network upgrades and, as a result, the Pastoria Project is assessed additional costs, Calpine should bring this matter to the Commission's attention in the form of a complaint.

### **Clustered System Impact Study Issues**

17. Calpine argues that the system impact study for the Pastoria Project has already been substantially completed subject only to what it characterizes as a discrete re-study. Calpine requests clarification that: (1) the inclusion of the Pastoria Project in the clustered system impact study will not cause undue delay; (2) if requested by Calpine, any serial study requirements not encompassed by the clustered system impact study will be completed by the CAISO and SoCal Edison; and (3) an LGIA will be tendered prior to the completion of the clustered system impact study.

18. Calpine acknowledges that it may be necessary for its LGIA to specify that project energization is subject to construction of certain network facilities identified through the TWRA cluster study process. However, Calpine contends that there are no outstanding cost allocation issues with regard to the clustered system impact study, since it will only identify the SoCal Edison financed network upgrades pursuant to the CAISO's bifurcated approach. Calpine concludes, therefore that there is no reason to delay Calpine's interconnection request pending completion of the clustered system impact study.<sup>14</sup>

19. Our review confirms that the CAISO will apply a bifurcated approach to the clustered system impact study to focus exclusively on identifying network upgrades, and will separately study the cost of the directly assignable Interconnection Facilities (*i.e.*, radial wind collector systems).

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<sup>12</sup> See CAISO Answer at 3-4.

<sup>13</sup> See March 27 Order at P 26.

<sup>14</sup> See March 2007 Order at P 10-11.

20. We also note that the SoCal Edison TO Tariff states that if no costs are likely to be incurred for any Direct Assignment Facilities, any Reliability Upgrades, or to implement operating procedures in order to interconnect a Grandfathered Large Generating Facility, such as Calpine's Pastoria Project, then the Interconnection Customer will continue the interconnection process under section 11.2 of the CAISO LGIP.<sup>15</sup> Under section 11.2, the Interconnection Customer may begin negotiating an LGIA following the execution of a Facilities Study Agreement.

21. We agree with Calpine that based upon the CAISO's bifurcated approach, if SoCal Edison finances the TTP network upgrades, it is unlikely that Calpine will incur costs from the clustered system impact study. We find that with regard to the clustered system impact study, Calpine, a Grandfathered Large Generating Facility, falls under the SoCal Edison TO Tariff provision for continuing the interconnection process where study costs will not be incurred. Therefore, consistent with the TO Tariff and governing interconnection procedures,<sup>16</sup> we direct the CAISO, SoCal Edison and Calpine to resolve all issues not contingent upon results from the clustered system impact study, and following execution of the Facilities Study Agreement, to begin negotiations for entering into an LGIA on a timeline consistent with the LGIP without undue delay. Because we grant Calpine's request for limited clarification, we do not address Calpine's request for rehearing.

The Commission orders:

Calpine's request for clarification is hereby granted as discussed in the body of this order. Calpine's alternative request for rehearing is dismissed.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Acting Deputy Secretary.

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<sup>15</sup> See Southern California Edison Company, FERC Electric Tariff, Second Revised Volume No. 6, section 2.6.1.

<sup>16</sup> The relevant procedures are encompassed in the LGIP, TO Tariff, and Amendment 39 Procedures.