

136 FERC ¶ 61,243
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;
Marc Spitzer, Philip D. Moeller,
John R. Norris, and Cheryl A. LaFleur.

Pacific Gas and Electric Company
Southern California Edison Company

Docket Nos. ER11-2592-002
ER11-2694-002

(Not Consolidated)

ORDER GRANTING EXTENSION OF WAIVER

(Issued September 30, 2011)

1. On August 31, 2011, Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SoCal Edison) (jointly, Applicants) filed a joint progress report in compliance with the Commission's order issued on June 30, 2011.¹ Applicants also filed a request to extend the existing temporary waiver of sections 40.9.5 and 40.9.6 of California Independent System Operator Corporation's (CAISO) tariff. In this order, we accept the joint progress report and grant the Applicants' request for extension of waiver until the earlier of the date of the Commission's order on CAISO's expected filing or December 31, 2011, as discussed below.

I. Background

2. On March 31, 2011, the Commission issued an order granting PG&E and SoCal Edison temporary waivers of sections 40.9.5 and 40.9.6 of CAISO's tariff for all Qualifying Facility (QF) Resource Adequacy (RA) resources until June 30, 2011.² The purpose of the waivers is to temporarily exempt PG&E and SoCal Edison from the forced outage reporting requirements defined in the CAISO tariff for certain QF RA resources while the parties work with CAISO to resolve associated reporting issues and develop a resolution through the CAISO stakeholder process. In addition, the Commission directed

¹ *Pacific Gas and Elec. Co.*, 135 FERC ¶ 61,282 (2011) (June 30 Order).

² *Pacific Gas and Elec. Co.*, 134 FERC ¶ 61,265 (2011) (March 31 Order).

PG&E and SoCal Edison to file a joint progress report detailing the outcome of the expected stakeholder process and, if necessary, an explanation of why the parties have been unable to reach a resolution.³

3. Pursuant to the March 31 Order's directives, PG&E and SoCal Edison submitted a joint progress report on June 20, 2011. In addition, PG&E and SoCal Edison filed a request for an extension of the waiver granted in the March 31 Order, stating that the CAISO stakeholder process would not be finished until June 30, 2011, after which the parties would need additional time to take any further action necessary to remedy unresolved reporting issues. On June 30, 2011, the Commission accepted PG&E and SoCal Edison's joint progress report, and extended the waiver until September 30, 2011; however, the Commission stated its expectation that the parties resolve the reporting issues in a timely manner. The Commission also directed PG&E and SoCal Edison to submit an additional joint progress report explaining the permanent solution the parties reach during the CAISO stakeholder process and if further action or tariff filings are necessary by August 31, 2011.⁴

II. Joint Progress Report and Motion for Extension of Waiver

4. On August 30, 2011, Applicants filed a joint progress report and a motion for an extension of the waiver granted in the June 30 Order. Applicants request that the Commission extend the existing waiver until the earlier of December 31, 2011, or the effective date of a Commission order addressing CAISO's anticipated filing proposing tariff language to permanently resolve the reporting issues.

5. In the joint progress report, Applicants describe the recommendation and schedule CAISO posted on its website intended to resolve the reporting issues. Applicants state that CAISO plans to develop and file modifications to section 40.9 of its tariff to exempt scheduling coordinators for grandfathered and California Public Utilities Commission-extended (CPUC) QF contracts from the forced outage reporting requirements, as well as exempt the scheduling coordinators for CPUC-extending QF contracts from non-availability charges and availability incentive payments. In order to effectuate this resolution, Applicants assert that CAISO has proposed a timeline for the month of September which includes stakeholder participation and, ultimately, the filing of new tariff language with the Commission by September 30, 2011. Applicants contend that the anticipated CAISO filing will permanently resolve the reporting issues.

³ March 31 Order, 134 FERC ¶ 61,265 at P 17.

⁴ June 30 Order, 135 FERC ¶ 61,282 at P 13.

6. Applicants argue that extending the waiver beyond September 30, 2011 will allow the parties to complete the stakeholder process and file the proposal with the Commission. In addition, Applicants contend that the additional time will ensure that they are not in violation of the CAISO tariff during the Commission review of its expected tariff filing. Applicants state that CAISO supports their request to extend the temporary waiver.

III. Notice and Interventions

7. Notice of Applicants' joint filing in Docket No. ER11-2592-002 was published in *Federal Register*, 76 Fed. Reg. 56,192 (2011), with interventions, comments, and protests due on or before September 22, 2011. Notice of Applicants' joint filing in Docket No. ER11-2694-002 was published in *Federal Register*, 76 Fed. Reg. 60,014 (2011) with interventions, comments, and protests due on or before September 22, 2011. No responsive pleadings have been submitted.

IV. Commission Determination

8. The Commission historically has granted certain waiver requests involving an emergency situation or an unintentional error.⁵ Waiver, however, is not limited to those circumstances. For example, in several recent cases, the Commission has found good cause to grant waiver where the waiver is of limited scope, where there are no undesirable consequences, or where there are resultant benefits to customers.⁶ We find that the requested waiver in the instant proceeding meets the criteria, as discussed below.

9. We find that the instant filing demonstrates Applicants' active participation in the CAISO stakeholder process aimed at reaching a permanent solution to resolve the reporting requirements discussed in this order. Applicants indicate that the CAISO stakeholder process has reached its final stage and that CAISO will file revised tariff language to reflect the resolution reached during the stakeholder process by

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

⁶ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226 (2007); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132 (2010); *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,020 (2010); *Coso Energy Developers*, 134 FERC ¶ 61,088 (2011).

September 30, 2011. We understand Applicants' concern that they are at risk of being found in violation of the CAISO tariff if the current waiver is allowed to lapse pending Commission review of the expected CAISO tariff filing. Therefore, we find good cause to grant extension of the waiver to the earlier of the date of our order on CAISO's expected filing or December 31, 2011. We also accept for filing Applicants' progress report.

The Commission orders:

(A) The waiver is hereby extended until the earlier of the date of the Commission's order on CAISO's expected filing or December 31, 2011.

(B) Applicants' joint progress report is hereby accepted for filing.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.