

137 FERC ¶ 61,024
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas & Electric Company

Docket No. ER11-3004-001

ORDER DENYING REHEARING

(Issued October 7, 2011)

1. In this order, we deny Clean Coalition's request for rehearing of an order issued on April 29, 2011, that conditionally accepted revisions to Pacific Gas & Electric Company's (PG&E) wholesale distribution tariff (WDT).¹

I. Background

2. On March 2, 2011, PG&E filed proposed revisions to its WDT to combine its small generator interconnection procedures (SGIP) and large generator interconnection procedures (LGIP) into a new set of generation interconnection procedures (GIP).² Prior to these revisions, PG&E used separate procedures to evaluate small and large generator interconnection requests; the SGIP used a serial study process, under which projects were studied one at a time, and the LGIP used a cluster study process that studied all electrically-related projects together.³ PG&E asserted that the SGIP serial study process, in combination with an increase in the number of small generator interconnection requests over the past three years, had resulted in a backlog of over 170 such requests.⁴

3. In the GIP Filing, PG&E proposed to offer a combined cluster study process as the default option for large and small generator interconnection requests, consistent with the timelines and financial security requirements used by the California Independent System

¹ *Pacific Gas & Elec. Co.*, 135 FERC ¶ 61,094 (2011) (PG&E GIP Order).

² PG&E March 2, 2011 Filing (GIP Filing).

³ PG&E GIP Order, 135 FERC ¶ 61,094 at P 4.

⁴ GIP Filing at 4.

Operator Corporation (CAISO) under its new GIP.⁵ As an alternative to the cluster study process, PG&E proposed to establish a new independent study process that would allow qualifying generators to be studied at any time during the year, outside of the cluster study process, using a modified and shortened version of the former SGIP serial study process.⁶ PG&E also proposed revisions to expand its existing fast track study process to make this option available for a greater number of generators.⁷

4. In the PG&E GIP Order, the Commission conditionally approved the GIP Filing, finding that it satisfied the applicable “consistent with or superior to” standard.⁸ Regarding PG&E’s proposal to offer a combined cluster study process, the Commission found that “[b]y grouping electrically-related projects into study clusters, instead of studying each project serially, PG&E will greatly reduce the aggregate amount of time necessary to evaluate each interconnection request.”⁹

5. The Commission rejected parties’ objections to the length of the combined cluster study process, finding that comparisons to how the SGIP serial study process works on paper were misplaced.¹⁰ The Commission also rejected Clean Coalition’s concern regarding the lack of objective criteria for determining cluster study boundaries. The Commission found that establishing such criteria would not be feasible because the composition of each cluster would be fact-sensitive and dependent on the characteristics of the specific applicants in each cluster window.¹¹ The Commission rejected requests for a technical conference or independent audit of the cluster study process, explaining that it was premature to require further refinements of its GIP before PG&E had an opportunity to gain experience with the new procedures and collaborate with CAISO and other participating transmission owners to identify any such future refinements.¹²

⁵ *Id.* at 10-11. CAISO’s GIP was conditionally approved by the Commission in December 2010. *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,223 (2010).

⁶ GIP Filing at 11-13.

⁷ *Id.* at 13-14.

⁸ PG&E GIP Order, 135 FERC ¶ 61,094 at P 27.

⁹ *Id.* P 42.

¹⁰ *Id.* P 53.

¹¹ *Id.* P 46.

¹² *Id.* P 47.

6. The Commission accepted PG&E's proposal to establish an independent study process as an alternative to the cluster study process. The Commission disagreed with protestors' arguments that the two-part screen proposed by PG&E lacked sufficient detail. The Commission found that PG&E's evaluation of electrical independence, which relies on PG&E's engineering judgment, "is just and reasonable, given the purpose of the independent study process," which is designed to obviate the need for additional studies for electrically-independent projects.¹³

7. The Commission accepted PG&E's proposed modifications to its fast track process as a reasonable approach to study a broader range of projects as eligible for fast track treatment, while ensuring the safety and reliability of the grid. The Commission rejected Clean Coalition's allegation that certain proposed tariff sections contained "poison pill" language, which would effectively subject developers to unlimited financial risk. The Commission found that these provisions represent "a reasonable tradeoff between speed and accuracy," and are also consistent with well-established Commission policy that interconnection facilities and/or distribution upgrades are the financial responsibility of interconnection customers.¹⁴

8. The Commission also rejected requests to require PG&E to commit to future modification of the fast track review screens. The Commission found that the ten screens included in the GIP Filing were the same ten screens that PG&E used under the SGIP, which were taken directly from Order No. 2006.¹⁵ Because PG&E proposed no substantive change to the Commission approved *pro-forma* screens, the Commission found no basis for rejecting the screens or directing modifications.¹⁶ Moreover, the Commission noted that even if the ten review screens were to be considered a modification, in the sense that PG&E was proposing to combine its SGIP and LGIP, the fast track screens in the GIP Filing remained consistent with or superior to PG&E's SGIP.¹⁷

¹³ *Id.* P 51.

¹⁴ *Id.* P 67.

¹⁵ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006) (Order No. 2006).

¹⁶ PG&E GIP Order, 135 FERC ¶ 61,094 at P 68.

¹⁷ *Id.* P 69-70.

9. On May 30, 2011, Clean Coalition filed a timely request for rehearing.¹⁸

II. Request for Rehearing

10. Clean Coalition argues that the Commission erred by improperly applying a more lenient standard of review to the GIP Filing than that required by law. Clean Coalition asserts that the applicable law requires any proposed changes to PG&E's SGIP to be consistent with or superior to the existing SGIP, and that the Commission's determinations "must be supported by arguments explaining how each variation meets the standard of review."¹⁹ Clean Coalition contends that PG&E did not argue, nor did the Commission find, that each change in the GIP Filing is consistent with or superior to the SGIP. Clean Coalition argues that, rather than evaluating each modification to PG&E's SGIP, the Commission "took a gestalt approach and concluded ... that the net change was positive."²⁰

11. Specifically, Clean Coalition claims that the net effect of the GIP is to increase costs for applicants and lengthen the interconnection study timelines, which is not consistent with or superior to the SGIP. Clean Coalition asserts that the cluster study timeline estimate offered by PG&E of 330 days ignores waiting periods throughout the process. Clean Coalition argues that in order to make an "apples to apples" comparison between the old SGIP serial process and the new GIP cluster study process, those waiting periods must be accounted for. When these waiting periods are included, Clean Coalition estimates that the average cluster study process will take 690 days, as compared to SGIP timeline of 315 calendar days. Clean Coalition states that this doubling of the timeline on paper is the main reason why the GIP cannot be deemed consistent with or superior to the SGIP, unless PG&E shows that the fast track or independent study processes are viable alternatives. Clean Coalition acknowledges that it does not know what the average interconnection study timeline is under the SGIP, but states that it assumes it has been shorter than the paper timeline under the GIP.²¹

12. Clean Coalition argues that the fast track process is "fatally flawed," such that it is not a viable alternative to the cluster study process. According to Clean Coalition, the most serious problem lies in the effect of the newly-added sections 2.2.2, 2.2.3, and 2.4.1.1. Clean Coalition asserts that the financial responsibility this section imposes on

¹⁸ Clean Coalition May 30, 2011 Request for Rehearing (Clean Coalition Rehearing Request).

¹⁹ *Id.* at 5.

²⁰ *Id.* at 15-16.

²¹ *Id.* at 6-8.

developers, which is associated with subsequent engineering or study work related to both distribution and network upgrades, does not contain a temporal limit for this cost liability. Clean Coalition repeats the arguments made in its protest that these provisions constitute “poison pill” language that effectively renders the fast track process useless because it is too risky. Clean Coalition requests that the Commission order PG&E to remove any reference to future costs other than those identified at the time of interconnection through the fast track studies.²²

13. Clean Coalition also argues that in the PG&E GIP Order, the Commission made unwarranted assumptions about the efficacy of the fast track process in the past and, therefore, misjudged the efficacy of the proposed revisions. Clean Coalition asserts that only two fast track projects have been successfully interconnected in the entire history of PG&E’s fast track program. On the basis of this data, Clean Coalition contends that the fast track option has not been viable in the past and will, therefore, not be viable in the future unless the Commission requires PG&E to make the requested changes.²³

14. Further, Clean Coalition asserts that the Commission made several factual errors that constitute grounds for rehearing. First, Clean Coalition claims that the PG&E GIP Order commits logical and factual contradictions by finding that the fast track is a viable alternative to the cluster study process while also arguing that fast track applicants “must accept uncapped, undefined and indefinite financial liability” in order to proceed under that option.²⁴ Second, Clean Coalition also argues that the PG&E GIP Order made a factual error by describing the range of protestors’ estimates of the cluster study timeline as “between 510 to 690 days.” Clean Coalition emphasizes that it argued that the process would take an average, and not a maximum, of 690 days. Clean Coalition contends that this is a significant difference in meaning and constitutes grounds for rehearing.²⁵

15. With regard to the independent study process, Clean Coalition argues that this process is “fatally flawed” because the GIP provides no objective criteria for determining whether a project qualifies for this option. Clean Coalition contends that unlike CAISO, which uses objective screens for electrical independence, PG&E bases its screens entirely on engineering judgment. Thus, Clean Coalition repeats the arguments raised in its protest that, as written, the independent study process constitutes a “black box” that grants PG&E total discretion to deny independent study requests with no explanation other than “engineering judgment.” Clean Coalition asserts that without improvements or

²² *Id.* at 8-9.

²³ *Id.* at 9-10.

²⁴ *Id.* at 11-12.

²⁵ *Id.* at 12.

clarifications on this issue, the independent study process, like the fast track process, represents a “false hope” for small developers.²⁶

16. Clean Coalition also refers to paragraph 46 of the PG&E GIP Order, in which the Commission rejected Clean Coalition’s request for objective criteria for determining cluster boundaries, and asserts that the Commission confused Clean Coalition’s point regarding the need for objective criteria. Clean Coalition contends that “objective” criteria apply to all situations, so no foreknowledge of the individual projects in any particular area is necessary. Clean Coalition questions why the use of objective criteria is feasible for CAISO’s GIP, but not PG&E’s.²⁷

17. Clean Coalition claims that the fatally flawed fast track and independent study processes will force small developers into the cluster study process. Clean Coalition also asserts that under PG&E’s revisions to the SGIP, applicants seeking to avoid the default cluster process may opt for the independent study process with “literally no way to know if the independence criterion will be met before applying”²⁸ Clean Coalition asserts that such a process will cause applicants to “throw money down the drain” by having to pay a second application fee of \$50,000 plus \$1,000 per megawatt if the applicant is rejected from the independent study process and forced to later join the cluster study process.²⁹

18. Finally, Clean Coalition argues that the Commission erroneously disregarded intervenors’ concerns by finding, over protests, that PG&E’s GIP includes viable alternatives to the cluster study process and that the revised fast track process includes relaxed qualification standards.³⁰

III. Discussion

19. We will deny Clean Coalition’s request for rehearing. While the PG&E GIP Order may not have expressly made the finding that each and every provision of PG&E’s proposal was “consistent with or superior to” the *pro forma*, the Commission clearly stated that “consistent with or superior to” was the applicable standard of review and found that “PG&E’s revised GIP satisfies the consistent with or superior to standard.”³¹

²⁶ *Id.* at 12-13.

²⁷ *Id.* at 13-14.

²⁸ *Id.* at 15.

²⁹ *Id.*

³⁰ *Id.* at 16-17.

³¹ PG&E GIP Order, 135 FERC ¶ 61,094 at P 27.

Regarding Clean Coalition's assertion that PG&E's GIP fails the consistent with or superior to standard due to increased study timelines, we find that once again Clean Coalition bases its comparison on the paper process set forth in the former SGIP rather than using the actual results and consequences of that process. Clean Coalition has admitted that it does not know the average interconnection study timeline under the SGIP, but appears to assume that it is shorter than the new process under the WDT.³² As we stated in our original order, Clean Coalition's comparison of the serial study process to the cluster study process is flawed because its comparison fails to take into account the backlog that has occurred under the serial study process when multiple interconnection requests are electronically related to each other.³³ As with its initial comments, Clean Coalition's only support for its objections regarding the timeline of the GIP process is this flawed comparison. Therefore, we deny rehearing on this issue.

20. Second, we continue to reject Clean Coalition's claim that the fast track process is flawed due to the alleged "poison pill" provision that imposes financial responsibility for subsequent engineering or study work related to the upgrades. We find that Clean Coalition's argument ignores well-established Commission policy that interconnection upgrades are the financial responsibility of interconnection customers.³⁴ As the Commission stated in the PG&E GIP Order, the provisions at issue simply provide notice to interconnection customers that such facilities might be identified later and, if so, will be reflected in an updated generator interconnection agreement. If a generator opts for an expedited study process, it does so with the knowledge that the associated cost estimates may be less accurate than it participated in the full cluster study process, which has greater cost certainty due to the inclusion of additional studies.³⁵ Thus, we find that Clean Coalition raises no new arguments to persuade us to reconsider our finding in the PG&E GIP Order.

21. Similarly, we reject Clean Coalition's arguments regarding the independent study process. First, we find that Clean Coalition appears to conflate the issue of objective criteria for cluster boundaries with the issue of objective criteria for determining

³² Clean Coalition Rehearing Request at 7-8.

³³ PG&E GIP Order, 135 FERC ¶ 61,094 at P 43. Our alleged error in describing Clean Coalition's argument as presenting a cluster study timeline of up to 690 days rather than an average of 690 days is irrelevant to our ultimate determination. Regardless of the timeline applied, Clean Coalition is still comparing the GIP to the SGIP's paper process. Because it is the comparison itself that is inappropriate, using a different timeline would not result in a different determination.

³⁴ *See, e.g.*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180 at P 407-408.

³⁵ PG&E GIP Order, 135 FERC ¶ 61,094 at P 67.

electrical independence. The question of whether a project belongs in a particular cluster is distinct from whether that project can be safely studied independently and therefore does not have to be part of a cluster at all. We continue to find, for the reasons cited in the PG&E GIP Order,³⁶ that objective criteria for cluster boundaries is impractical. Additionally, we find that PG&E's electrical independence test is sufficiently objective as to make the independent study process a viable alternative to the cluster study process.

22. We disagree with Clean Coalition that PG&E's independence review constitutes a "black box of engineering judgment." As the Commission explained in the PG&E GIP Order, PG&E's test comprises not only PG&E's engineering judgment, but also the objective criteria set forth in the CAISO GIP.³⁷ Based on the CAISO criteria and the system information provided by PG&E, applicants should have a reasonable idea of whether a project will qualify for this process. Finally, the posting requirements established in the PG&E GIP Order should provide transparency into PG&E's interconnection process and further assist applicants in selecting the most appropriate interconnection process for the project at issue.

23. Regarding Clean Coalition's other claims of alleged factual errors that warrant rehearing, we find that the alleged errors amount to mere semantic differences with no substantive bearing on the Commission's analysis or findings.

The Commission orders:

Clean Coalition's request for rehearing is denied.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

³⁶ *Id.* P 46.

³⁷ *Id.* P 51.