

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

PacifiCorp

Docket No. ER04-767-000

ORDER ACCEPTING IN PART AND REJECTING IN PART PROPOSED
VARIATIONS FROM *PRO FORMA* LARGE GENERATOR INTERCONNECTION
PROCEDURES AND LARGE GENERATOR INTERCONNECTION AGREEMENT

(Issued June 25, 2004)

1. On April 26, 2004, PacifiCorp submitted, in compliance with Order No. 2003-A,¹ proposed substantive variations and non-substantive, typographical variations (*i.e.*, editorial revisions) from the *pro forma* Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA). In this order, the Commission accepts in part and rejects in part, the proposed variations. This order benefits customers because it provides just and reasonable terms and conditions of transmission service while ensuring that reliability is protected.

I. Background

2. In Order No. 2003, pursuant to its responsibility under sections 205 and 206 of the Federal Power Act (FPA)² to remedy undue discrimination, the Commission required all public utilities that own, control, or operate facilities for transmitting electric energy in interstate commerce to append to their open access transmission tariffs (OATT) a *pro forma* LGIP and *pro forma* LGIA. In order to achieve greater standardization of

¹ Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs., Regulations Preambles ¶ 31,146 (2003) (Order No. 2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220 (2004) (Order No. 2003-A), *reh'g pending*; *see also* Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

² 16 U.S.C. §§ 824d, 824e (2000).

interconnection terms and conditions, Order No. 2003 required such public utilities to file revised OATTs containing the *pro forma* LGIP and LGIA by January 20, 2004.³ The Commission left it to Transmission Providers⁴ to justify any variation to the *pro forma* LGIP or LGIA based on regional reliability requirements.⁵

3. Transmission Providers are also permitted to seek variations from the *pro forma* LGIP and LGIA not made in response to recognized regional reliability requirements. These requests for variation are FPA section 205 filings (rather than compliance filings) and will be approved only if they are "consistent with or superior to" the terms of the *pro forma* LGIA and LGIP.⁶ A Transmission Provider seeking a "consistent with or superior to" variation must demonstrate that its proposal is consistent with or superior to the *pro forma* LGIP and LGIA.

4. On April 26, 2004, PacifiCorp filed a revised LGIA and LGIP, pursuant to Order No. 2003-A, with a proposed effective date of January 20, 2004. It proposes variations from the *pro forma* LGIP and LGIA that were adopted in Order No. 2003-A.

II. Proposed Modifications

A. Substantive Proposed Modifications to the LGIA and LGIP

5. PacifiCorp has proposed to modify the section reference numbers to take into account that the LGIP in PacifiCorp's OATT starts at section 36 (e.g., section 2 of the LGIP becomes section 36, section 2.1 becomes section 36.1, section 2.2 becomes section 36.2, section 3 becomes section 37, section 3.1 becomes section 37.1, etc.).

³ See Notice Clarifying Compliance Procedures, *supra* note 1 (clarifying that Commission will deem OATTs of non-independent public utilities to be revised as of January 20, 2004).

⁴ The "Transmission Provider" is the entity with which the Generating Facility is interconnecting. The term "Generating Facility" means the specific device (having a capacity of more than 20 megawatts) for which the Interconnection Customer has requested interconnection. The owner of the Generating Facility is referred to as the "Interconnection Customer."

⁵ See Order No. 2003 at P 822-24, 826.

⁶ Order No. 2003 at P 825.

6. PacifiCorp proposes an additional option for Interconnection Customers to choose as part of the Interconnection Facility Study. Section 42.3 of the LGIP sets forth the accuracy of the cost estimates and time frame in which the Transmission Provider must complete the Interconnection Facilities Study and issue a draft Interconnection Facilities Study report. The following two options are provided: (1) ninety (90) Calendar Days with no more than a +/- 20 percent cost estimate, or (2) one hundred eighty (180) Calendar Days, if Interconnection Customer requests a +/- 10 percent cost estimate. The proposal modifies section 42.3 of the OATT by adding a third option which includes the phrase “or ninety (90) Calendar Days, with a cost estimate contained in the report that has no assigned accuracy if Interconnection Customer requests such.” Attachment A to Appendix 4 is where the Interconnection Customer elects one of the options outlined in section 42.3 of the LGIP. The proposal to add a third option is reflected in Attachment A to Appendix 4 of the LGIP, which would include the option “ninety (90) Calendar Days with no assigned accuracy to the cost estimate contained in the report.” PacifiCorp asserts that these modifications are superior to the Commission’s *pro forma* LGIP language.

7. PacifiCorp also proposes to modify the *pro forma* LGIP by adding a preamble⁷ to the LGIP and an Attachment A to Appendix 5 (identifying assumptions used in conducting the Optional Interconnection Study).

8. PacifiCorp has added a Part V to the OATT entitled Small Generator Interconnection Service. This section contains a preamble exempting certain generators and outlines generator interconnection procedures (e.g., application requirements, system impact study procedures, generation interconnection facilities study agreement, generation interconnection facilities study procedures, network upgrades, etc.) applicable to generators less than or equal to twenty (20) megawatts.

9. PacifiCorp has also added the following attachments to the *pro forma* LGIA: (1) Attachment O (Form of Service Agreement for Generation Interconnection Facilities Greater Than One (1) and Less Than Twenty (20) megawatts), (2) Attachment P (Form of Service Agreement for Generation Interconnection Operation and Maintenance Agreement), (3) Attachment Q (Methodology for Completing a Generation Interconnection System Impact Study), (4) Attachment R (Methodology for Completing

⁷ The preamble sets forth the requirements that exempt certain generators from compliance with the LGIP and the requirement to submit a separate request for Transmission Service in order to become a Transmission Customer.

a Generation Interconnection Facilities Study), and (5) Attachment S (Index of Generation Interconnection Customers) which identifies its interconnection customers. Attachments O through R state that the attachments are to be completed at a later date.

B. Non-substantive Proposed Modifications to the LGIA and LGIP

10. PacifiCorp proposes editorial revisions to change the reference to refund interest calculation in three locations within the LGIA. The *pro forma* LGIA originally referred to 18 C.F.R. § 35.19(a) (2) (ii), which refers to interest on funds held prior to September 30, 1979. PacifiCorp states that it believes this to be a typographical error and proposes an editorial revision to make reference to 18 C.F.R. § 35.19 (a) (2) (iii) in the LGIA at Articles 5.17.8(ii), 11.14.1, and 12.4.

11. PacifiCorp has also made editorial revisions modifying the *pro forma* LGIP by excluding the Table of Contents at the beginning of the LGIP and the exclusion of a definition section in the LGIP.⁸

III. Notice and Responsive Pleadings

12. Notice of PacifiCorp's filing was published in the Federal Register, 69 Fed. Reg. 26,586 (2004), with comments, protests, and interventions due on or before May 18, 2004. Calpine Corporation (Calpine) filed a motion to intervene.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motion to intervene serves to make Calpine a party to this proceeding.

⁸ The definitions for terms used in the LGIP have been moved to the definition section at the beginning of the OATT.

B. Substantive Modifications to the *Pro Forma* LGIA and LGIP

14. PacifiCorp has modified its section reference numbers to take into account that the LGIP in PacifiCorp's OATT starts at section 36. Section 1 (Definitions) of the *pro forma* LGIP was eliminated and incorporated in the definitions section of the OATT. There appears to be a typographical error in the modifications to the renumbered section 38.4.3 referring to renumbered sections 37.4.1, 37.4.2, and 37.4.5. The reference should be to renumbered sections 38.4.1, 38.4.2, and 38.4.5. We find these modifications to be a reasonable incorporation of the Commission's *pro forma* LGIP into PacifiCorp's OATT; however, section 1 of the *pro forma* LGIP should be retained. We will accept PacifiCorp's proposal to renumber the LGIP in PacifiCorp's OATT starting at section 36 with the inclusion of a renumbered section 1 of the *pro forma* LGIP and the correction of the typographical reference error.

15. We will reject PacifiCorp's proposal to modify section 42.3 of the OATT and Attachment A to Appendix 4 to the *pro forma* LGIP to include the option of a "no accuracy" cost estimate. Other than making unsupported claims in the cover letter to its filing, PacifiCorp has not demonstrated that these modifications are consistent with or superior to the options provided by the *pro forma* LGIP.

16. Similarly, PacifiCorp does not provide any support for (or even mention) modification of the *pro forma* LGIP with the addition of a preamble in the LGIP and the addition of an Attachment A to Appendix 5 of the LGIP (the identification of assumptions used in conducting the Optional Interconnection Study). PacifiCorp has not demonstrated that these changes are consistent with or superior to the *pro forma* LGIP. Accordingly, we will reject these changes.

17. With respect to the addition of Part V, Small Generator Interconnection Service, the Commission is currently reviewing comments to a proposed rule for interconnection procedures and an agreement applicable to small generators.⁹ The Commission will not consider new terms and conditions for small generator interconnection that are submitted in compliance with Order No. 2003. Therefore, we will reject the proposed addition of Part V.

18. Further, PacifiCorp neither mentioned, nor provided support for the following attachments to the *pro forma* LGIA: (1) Attachment O (Form of Service Agreement for Generation Interconnection Facilities Greater Than One (1) and Less Than Twenty (20)), (2) Attachment P (Form of Service Agreement for Generation Interconnection Operation and Maintenance Agreement), (3) Attachment Q (Methodology for Completing a Generation Interconnection System Impact Study), (4) Attachment R (Methodology for Completing a Generation Interconnection Facilities Study), and (5) Attachment S (Index of Generation Interconnection Customers) which identifies its interconnection customers. Since PacifiCorp has not demonstrated that the additions are consistent with or superior to the *pro forma* LGIA language, we will reject these additions.

C. Non-substantive Modifications to the *Pro Forma* LGIA and LGIP

19. With respect to PacifiCorp's revision of the reference to 35.19(a)(2)(ii) pertaining to refund interest calculation, we agree with PacifiCorp's modification to reference 18 C.F.R. 35.19(a)(2)(iii) in the *pro forma* LGIA at Articles 5.17.8(ii), 11.14.1, and 12.4. Section 35.19(a)(2)(iii) pertains to all excessive rates or charges held on or after October 1, 1979, therefore we will accept these proposed editorial changes.

20. PacifiCorp does not provide any support for (or even mention) other editorial changes modifying the *pro forma* LGIP to exclude the Table of Contents at the beginning of the LGIP and excluding a definition section in the LGIP. We believe that these proposed editorial changes are more appropriately addressed in the rulemaking proceeding where they may be considered in a single proceeding and applied generically.

⁹ See Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking, 68 Fed. Reg. 49,974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003). A Transmission Provider's existing procedures (*i.e.*, those procedures in effect prior to its Order No. 2003 compliance filing) should remain in effect and be applicable only to interconnections to small generators (any energy resource having a capacity no larger than 20 MW, or the owner of such a resource) that seek to interconnect to the transmission provider.

Accordingly, we reject these other proposed editorial revisions without prejudice to the outcome of the order on rehearing of Order No. 2003-A.

21. In addition PacifiCorp has requested an effective date of January 20, 2004 for its filing. The requested effective date of this filing should be April 26, 2004, consistent with the effective date of Order 2003-A.

The Commission orders:

(A) PacifiCorp's proposed variations concerning its LGIP and LGIA are hereby accepted in part and rejected in part, as discussed in the body of this order. The accepted provisions are effective April 26, 2004.

(B) PacifiCorp is hereby directed to submit the Order No. 2003-A *pro forma* LGIP and LGIA, with the modifications we are accepting herein, within 30 days of the date of this order.

By the Commission.

(S E A L)

Linda Mitry.
Acting Secretary.