



conditional nature of that commitment is not premature given the need to move construction of the interconnection forward. SCE requests rehearing finding that the LGIA is consistent with Order 2003 so that the interconnection can move forward as originally planned.

## **I. BACKGROUND**

### **A. The Planned Interconnection**

On August 31, 2005, Calico Solar submitted a request to CAISO to interconnect an 850 MW solar generating facility (“Generating Facility”) to SCE’s transmission system at the Pisgah 220 kV substation (“Pisgah Substation”). This interconnection request was studied by the CAISO and SCE on the basis of 850 MWs. A System Impact Study completed on March 7, 2006 determined that a number of facility upgrades would be required to interconnect the Generating Facility’s 850 MW output to the Pisgah Substation, including expansion of the existing Pisgah Substation to a 500 kV substation and certain 500 kV transmission upgrades (collectively, “500 kV Facilities”).

In October 2006, Calico Solar requested that SCE conduct a study to determine how much, if any, of Calico Solar’s requested 850 MWs of generation capacity could be interconnected to the existing transmission facilities at the Pisgah Substation for early partial operation of the Generating Facility until the 500 kV Facilities were completed. SCE and the CAISO concluded that, with certain more limited network upgrades, 275 MWs could be accommodated without construction of the 500 kV Facilities. Calico Solar thereafter made arrangements to construct its Generating Facility in two phases. The subsequent transmission studies separately identified the network upgrades required

for the interconnection of Phase 1 (275 MW) and Phase 2 (575 MW). The executed LGIA confirmed that:

[t]he interconnection of the . . . Generating Facility . . . with a generating capability of 850 MW . . . will be constructed in two phases. The initial interconnection (“Phase 1”) will provide Interconnection Service for up to 275 MW connected to the existing Pisgah 220 kV Switchyard. The final interconnection (“Phase 2”) will provide Interconnection Service for the full output of 850 MW from the proposed Generating Facility connected to the expanded Pisgah 500/220 kV Substation.<sup>2</sup>

Thus, at all times, the scope of work and the cost estimate was for the construction of the network upgrades required for an 850 MW Generating Facility.

In the LGIA, SCE committed to up-front finance the Phase 2 network upgrades, subject to the following conditions: Calico Solar’s payment for the Phase 1 network upgrades; successful commercial operation of Phase 1; receipt of Abandoned Plant Approval for the Phase 2 network upgrades; and continued achievement of the development milestones.

#### **B. The LGIA Order**

The LGIA Order conditionally accepted the provisions of the LGIA that pertain to Phase 1, but rejected without prejudice the LGIA provisions pertaining to the Phase 2 network upgrades.<sup>3</sup> The Commission rejected the LGIA provisions pertaining to the Phase 2 network upgrades on the grounds that those provisions conditioned SCE’s commitment to fund the Phase 2 network upgrades upon its receipt of a Commission order granting SCE full recovery of abandoned plant.<sup>4</sup> The Commission found that including an abandoned plant approval provision in the LGIA was premature because,

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<sup>2</sup> *LGIA Filing* at Appendix A.

<sup>3</sup> *LGIA Order* at P 24.

<sup>4</sup> *Id.*

although SCE voiced its intention to file a petition for declaratory order requesting that the Commission grant abandoned plant approval for the Phase 2 network upgrades, it had not yet made such a filing.<sup>5</sup> Additionally, the Commission noted that SCE did not clearly demonstrate the need for an LGIA for Phase 2 network upgrades to be on file at this time given SCE's conditions relative to its up-front financing of Phase 2 network upgrades.<sup>6</sup> The LGIA Order directs SCE to make a compliance filing within 60 days of the date of the order "that removes those provisions related to the Phase 2 network upgrades."<sup>7</sup> The LGIA Order does not discuss further the rejection of the LGIA provisions pertaining to the Phase 2 network upgrades or the related compliance filing and is, therefore, ambiguous as to whether the compliance filing must remove from the LGIA (i) only the provisions addressing SCE's need for abandoned plant approval to fund the Phase 2 network upgrades or (ii) references to Phase 2 in their entirety. Additionally, the LGIA Order advises SCE that, if it later files an amended LGIA that includes the Phase 2 network upgrades, it will need to support its deviations from the CAISO's *pro forma* LGIA.

## **II. SPECIFICATION OF ERRORS/STATEMENT OF ISSUES**

The following concise Specification of Errors in the LGIA Order and Statement of Issues for consideration on rehearing is provided in accordance with Rule 713(c)(1) of the Commission's Rules of Practice and Procedure:

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<sup>5</sup> *Id.*  
<sup>6</sup> *Id.*  
<sup>7</sup> *Id.* at P 25.

- The Commission erred when it bifurcated the LGIA and rejected the provisions related to the Phase 2 network upgrades as this ruling is inconsistent with the interconnection principles laid out in Order 2003 and the CAISO LGIP.

### **III. REQUEST FOR REHEARING**

#### **A. The LGIA can not be bifurcated**

The LGIA Order requires that SCE remove from the LGIA all of the provisions referencing Phase 2. This requirement would leave Calico Solar without an interconnection agreement for 575 MWs of its project. Consistent with the requirements of the LGIP, Calico Solar submitted an interconnection request for the full 850 MW Generating Facility and upon the completion of the interconnection study process, pursuant to the LGIP, negotiated and executed an LGIA for the total amount of MWs studied throughout the interconnection process.<sup>8</sup> The Commission’s only rationale for the rejection of the provisions of the LGIA pertaining to the Phase 2 network upgrades is a finding that including an abandoned plant approval provision in the LGIA is premature when SCE has not yet filed a request seeking abandoned plant approval for the Phase 2 upgrades.<sup>9</sup> The Commission, however, fails to provide any “rational connection” between the fact that SCE has not yet filed a request for abandoned plant treatment and the Commission’s determination that all provisions related to the Phase 2 network upgrades must be removed.<sup>10</sup> The fact that SCE has agreed to finance Phase 2 network upgrades upon the satisfaction of certain conditions precedent in no way eliminates the

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<sup>8</sup> CAISO, FERC Electric Tariff, Fourth Replacement Volume No. II, § 11.

<sup>9</sup> See *LGIA Order* at P 24.

<sup>10</sup> See *supra* n. **Error! Bookmark not defined.**

need for the LGIA to reflect the Phase 2 network upgrades at this time. In fact, inclusion of provisions related to the Phase 2 network upgrades is both required by the LGIP and essential to the Generating Project's viability.<sup>11</sup>

The LGIA's inclusion of network upgrades for both Phase 1 and Phase 2 is consistent with both the scope of the interconnection request and the interconnection studies that analyzed the impact of the 850 MW project to the transmission system. The Commission's directive to remove all provisions related to Phase 2 network upgrades, which are essential to accommodate 575 MWs of the requested 850 MW interconnection, is inconsistent with the Commission-approved interconnection procedures, which require Calico Solar to either execute an LGIA on the basis of the completed study results or withdraw from the queue. The LGIP provides that:

if the Interconnection Customer has not executed and returned the LGIA, requested filing of an unexecuted LGIA, or initiated Dispute Resolution procedures . . . within ninety (90) Calendar Days after issuance of the final Interconnection Facilities Study report, *it shall be deemed to have withdrawn its Interconnection Request.*<sup>12</sup>

CAISO, SCE and Calico Solar have complied with Section 11.2 of the LGIP, and the *LGIA Order* provides no explanation why the LGIA provisions should be completely removed. The concern that SCE has not yet satisfied a condition precedent to its agreement to fund Phase 2 network upgrades is wholly unrelated to whether those facilities should be included in the LGIA. It is not clear how SCE would file a new

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<sup>11</sup> Calico Solar is pursuing the development of the full 850 MWs. Calico Solar has executed renewable power purchase and sale agreements for the full 850 MW output of the Generating Facility. Additionally, Calico Solar has applied to the U.S. Department of Energy ("DOE") for a loan guarantee for the full 850 MW Generating Facility pursuant to the DOE's July 29, 2009 solicitation entitled "Federal Loan Guarantees for Projects that Employ Innovative Energy Efficiency, Renewable Energy, and Advanced Transmission and Distribution Technologies" - reference number: DE-FOA-000140

<sup>12</sup> LGIA, Section 11.2 (*emphasis added*).

LGIA for the remaining 575 MWs, as two separate LGIAs are not envisioned in the CAISO tariff.

Additionally, Calico Solar's need for an executed LGIA for the entire 850 MW project is immediate and far from premature. In order to continue to develop the Generating Facility, Calico Solar needs certainty on its project's viability and cost. In rejecting the provisions of the LGIA pertaining to the Phase 2 network upgrades as premature, the *LGIA Order* leaves open both the scope of the interconnection and its cost impact. This uncertainty may hinder Calico Solar's ability to obtain financing for the entire 850 MW Generating Facility and to negotiate its remaining project agreements.

Because 1) the total MWs of Phase 1 and Phase 2 reflect the amount of MWs included in the interconnection request and the interconnection study results; 2) the LGIP requires that an LGIA reflect the total amount of MWs for the interconnection; and 3) SCE understands that an executed and Commission approved LGIA for the full 850 MWs is a crucial milestone for the development and financing of the Generating Facility, the LGIA should be restored to include the network upgrades for both Phase 1 and Phase 2.

**B. Public Policy Dictates that the LGIA be approved as executed.**

As SCE stated in the LGIA, SCE has agreed to finance the cost of the network upgrades needed to interconnect the Phase 2 Project only on the condition that SCE receives Commission approval for 100 percent recovery of the cost of abandonment if the network upgrades required for the Phase 2 are abandoned for reasons outside SCE's control.<sup>13</sup> SCE's offer to finance these upgrades is consistent with the language of Order 679, which specifies that existing cost-based recovery mechanisms have been insufficient

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<sup>13</sup> EITP Incentives Order at P 58 (acknowledging that "SoCal Edison argues that its ability to provide upfront financing for the EITP is dependent upon the Commission's assurance to SoCal Edison that it will be able to recover abandonment costs of the EITP.").

to stimulate investment in infrastructure and that giving an entity assurance of cost recovery would incentivize the development of transmission infrastructure.<sup>14</sup> The language in the LGIA describing SCE's commitment to finance the network upgrades conditioned upon abandoned plant approval recognized that this approval had not yet been requested or obtained by SCE and that, simultaneously, the interconnection customer was requesting to move its project forward to meet its proposed online date and financing requirements for the generation project.

Under the *pro forma* LGIA, the interconnection customer is generally responsible for upfront financing Network Upgrades.<sup>15</sup> In that situation, the cost of abandonment is borne entirely by the interconnection customer rather than transmission ratepayers or utility shareholders. SCE has offered to finance the network upgrades required for the Phase 2 Project only if SCE receives cost recovery assurance for abandonment costs if the network upgrades must be abandoned for reasons outside of SCE's control. It is SCE's belief that this upfront financing offer is an important step in helping California meet its renewables goals. Allowing SCE to move forward with the LGIA in its original form gives the interconnection customer certainty and does not delay the interconnection process.

It is appropriate and consistent with Commission policy that the interconnection customer bear the risk of the costs of the network upgrades until SCE has a decision on whether it can recover its costs if it has to abandon the project for reasons outside of its control. For instance, in the Tehachapi project, the Commission concluded that SCE

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<sup>14</sup> Order 679 at P 10.

<sup>15</sup> Conformed Fourth Replacement CAISO Tariff, Appendix U, § 3.4.1 ("Unless the Participating TO elects to fund the capital for Reliability and Delivery Network Upgrades, they shall be solely funded by the Interconnection Customer"); *see also* Appendix V, § 11.3.

should not shoulder the abandonment risk of that project.<sup>16</sup> This same reasoning applies to the basis for SCE's requirement that it must have final approval of the 100 percent abandoned plant incentive prior to financing the Phase 2 network upgrades. Requiring SCE to remove all reference to the Phase 2 interconnection until such time as it files a request for abandoned plant causes unnecessary delay and uncertainty for the Generation Project.

#### **IV. THE COMMISSION SHOULD ACT EXPEDITIOUSLY ON THIS REQUEST**

The Generating Project is needed to further California's important renewable energy goals. Indeed, the interconnection customer is requesting a DOE loan guarantee for the full 850 MWs. Requiring the LGIA to be split into two separate agreements puts the interconnection customer at risk for not being able to finalize its financing, as the arrangements for the needed transmission for the full output of the generation are not finalized.

In order to receive the DOE loan guarantee, SCE understands that the interconnection customer has specific deadlines for actions to maintain its eligibility for the funding. Until such time as this issue on the present LGIA is resolved, an unsatisfied contingency currently exists that has the potential to significantly affect the Interconnection Customer's ability to perfect the generation project financing needed prior to the commencement of construction activities. If FERC does not act expeditiously to approve the LGIA without the required removal of the Phase 2 language, the lack of

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<sup>16</sup> Order 679 at P 156. (citing to *SCE*, 112 FERC ¶ 61,014, *reh'g denied*, 113 FERC ¶ 61,143 at P 9-15).

clarity on the contingent financing liability has the significant potential to adversely impact the Interconnection Customer's ability to perfect its project financing.

**V. REQUEST FOR STAY OF COMPLIANCE FILING**

As SCE has shown above, bifurcation of the LGIA will have major impacts on the ability of the Interconnection Customer to move the permitting and financing of its Generating Facility forward. Additionally, bifurcation of the LGIA will cause major procedural hurdles and impact SCE's ability to meet its in-service date for the transmission facilities. Therefore the Commission should stay SCE's obligation to remove the Phase 2 facilities from the LGIA until the Commission rules on this rehearing request.

**VI. CONCLUSION**

For the foregoing reasons, SCE respectfully requests that the Commission grant a stay of the compliance filing, grant rehearing, and order the relief requested herein.

Respectfully submitted,

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Dated: May 26, 2010

## CERTIFICATE OF SERVICE

I hereby certify that in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have, this day, served a copy of the foregoing document, on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rosemead, California, this 26th day of May, 2010.

/s/ Vicki.Carr-Donerson

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