

could harm subsequent Interconnection Customers in the queue, since it could affect the portfolio of technologies in the queue and the diversity of the Transmission System as a whole. According to the CPUC, an Interconnection Customer wishing to sell its position should be required to provide assurances that it will pay not only for any Interconnection Studies needed as a result of the change, but also for the costs to subsequent Interconnection Customers in the queue as a result of the change. The seller of the Queue Position should also be liable for any obligations that the buyer of the position is unable to fulfill in the event of a Default.

Commission Conclusion

160. While the commenters raise legitimate concerns with Queue Position trading in general, we conclude that the restrictions on transferability that are already contained in Section 4.3 address these concerns. Section 4.3 of the Final Rule LGIP permits an Interconnection Customer to transfer its Queue Position to another entity only if such entity acquires the specific Generating Facility identified in the Interconnection Request and the Point of Interconnection does not change. These limitations on transferability greatly reduce the potential impact on lower queued Interconnection Customers. The new Interconnection Customer would also be required to show, under Section 4.4.3 of the Final Rule LGIP, that any proposed change is not a Material Modification.

161. *Section 4.4—Modifications—*Proposed LGIP Section 4.4 would have required that the Interconnection Customer submit to the Transmission Provider, in writing, modifications to any information provided in the Interconnection Request. Either the Interconnection Customer or the Transmission Provider would be permitted to identify changes to the planned interconnection that may reduce the costs and increase the benefits (including reliability) resulting from the interconnection. If the changes are acceptable to the Transmission Provider and Interconnection Customer (such acceptance not to be unreasonably withheld), the Transmission Provider would make the necessary changes and proceed with interconnection restudies in accordance with Sections 6.4, 7.6 and 8.5 of the LGIP, as applicable. Accordingly, the Generating Facility would retain its Queue Position.

162. *Section 4.4.1—Proposed LGIP* Section 4.4.1 LGIP would allow an Interconnection Customer to make the following modifications to its

Interconnection Request, provided that it makes them before returning the executed Interconnection System Impact Study Agreement to the Transmission Provider: (1) A reduction of as much as 60 percent in the megawatt output of the proposed project, (2) modification of the technical parameters associated with the Generating Facility technology or the step-up transformer impedance characteristics, (3) modification of the interconnection configuration, or (4) any other type of change except to the proposed Point of Interconnection. Any increase in the Generating Facility's megawatt output would be placed at the end of the queue.

Comments

163. Dynegy argues that item (4) is confusing, makes the other items in the list redundant, and does not belong in this section. Several commenters, including Duke Energy and WEPCO, advocate allowing an Interconnection Customer to increase the output of its Generating Facility by up to ten percent of the voltage level of the line to which it is interconnecting without affecting its Queue Position.

Commission Conclusion

164. We agree with Dynegy that item (4) does not belong in this section. The item more appropriately belongs in Section 4.4.3. Accordingly, Final Rule LGIP Section 4.4.3 includes the following sentence: "Any change to the Point of Interconnection shall constitute a Material Modification."

165. We reject the other commenters' proposal to allow an Interconnection Customer to increase the output of its Generating Facility by up to ten percent. The percentage by which the capacity of the proposed Generating Facility could be increased without substantially changing the size and configuration of necessary Network Upgrades needed to accommodate the change in output would depend on the size and location of the Generating Facility and the voltage level at the Point of Interconnection, among other things. This could vary significantly from case to case, and may well be less than ten percent.

166. *Section 4.4.3—Proposed LGIP* Section 4.4.3 would have required that, prior to making a modification other than one specifically permitted by Sections 4.4.1, 4.4.2, and 4.4.5, the Interconnection Customer may first ask the Transmission Provider to evaluate whether the modification is actually a Material Modification. A Material Modification would be a modification that has a material effect on the cost or

timing of a lower queued Interconnection Customer. The Transmission Provider would be required to evaluate the proposed modification and inform the Interconnection Customer in writing whether the modification would be considered a Material Modification. The Interconnection Customer could then either withdraw the proposed modification or submit a new Interconnection Request for such modification.

Comments

167. SoCal Water District and Dynegy ask the Commission to clarify the definition of Material Modification to avoid disputes between the Parties regarding the Generating Facility's Queue Position. Ameren argues that a modification that is proposed as not being "material" may in fact be a Material Modification. FirstEnergy opposes giving the Transmission Provider the discretion to determine whether a request is a Material Modification. El Paso observes that reading proposed LGIP Sections 4.4.3 and 4.4.5 together implies that the Transmission Provider will be forced to judge whether an extension of three years or more is material and to determine if a cost effect or other project change is material. El Paso supports defining a Material Modification as: (1) A change greater than 12 months in Commercial Operation Date, (2) an increase of greater than \$100,000 or 10 percent in the Transmission Provider's cost that a later queued Interconnection Customer would bear; or (3) a change greater than five miles in the location of, or any change in the voltage level at, the Point of Interconnection. Edison Mission believes that the Final Rule LGIP should clarify the effect of material improvements and modifications to existing Generating Facilities on the interconnection status and the rights of such Generating Facilities. The Bureau of Reclamation expresses concern that the NOPR does not define how or when an existing Interconnection Customer would be affected by Material Modifications. The Bureau of Reclamation is concerned because design and approval of its generator refurbishment is a federal responsibility and would be subject to the federal appropriation process.

Commission Conclusion

168. It is not necessary to revise proposed LGIP Section 4.4.3 to define precisely what constitutes a Material Modification. The impact of a modification depends in large part on the size, location, type of project and the