

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Small Generator Interconnection Agreements     )     Docket No. RM13-2-000  
and Procedures   )

**Motion for Leave to File Reply Comments and Reply Comments of the  
Solar Energy Industries Association**

Pursuant to Rule 212 of the Federal Energy Regulatory Commission (“Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.212, and in response to comments submitted to the Commission in this proceeding, the Solar Energy Industries Association (“SEIA”) hereby submits this motion for leave to file reply comments and reply comments in response to the Federal Energy Regulatory Commission’s (“FERC” or the “Commission”) January 17, 2013 Notice of Proposed Rulemaking (“NOPR”) on Small Generator Interconnection Agreements and Procedures.<sup>1</sup>

SEIA reiterates its support for most of the proposed revisions to the Small Generator Interconnection Procedures and Agreement (“SGIP” and “SGIA”, respectively) described in the NOPR, and submits these reply comments in response to certain issues raised by commenters that are of greatest importance to solar wholesale distributed generation developers. In particular, SEIA addresses comments related to (1) the Supplemental Review process and screens, including the 100% Minimum Load Screen and the order in which those screens are to be applied in the Supplemental Review; (2) the timeframe for utilities to prepare pre-application reports and provide

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<sup>1</sup> *Small Generator Interconnection Agreements and Procedures*, 78 Fed. Reg. 7524 (Feb. 1, 2013) (notice of proposed rulemaking).

them to developers; and (3) commenters' proposed expansion of Facilities Study costs allocable to developers.

## **I. MOTION FOR LEAVE TO FILE REPLY COMMENTS**

The Commission has accepted reply comments in prior rulemaking proceedings where such reply comments will aid the Commission in its decision-making process or clarifying the issues under consideration.<sup>2</sup> While the Commission did not establish formal procedures to file reply comments in this proceeding, SEIA submits that its reply comments will contribute to the development of a complete and accurate rulemaking record in this proceeding and will aid the Commission in its decision-making process. Therefore, SEIA respectfully requests that the Commission accept and consider the following reply comments.

## **II. REPLY COMMENTS**

### **A. The Commission Should Adopt the Supplemental Review Screens and Structure as Proposed in the NOPR**

SEIA reiterates its general support of the proposed Supplemental Review screens and structure set forth in the NOPR. SEIA responds here to two issues raised in comments. First, SEIA urges the Commission to adopt the 100% Minimum Load Screen in the Final Rule, and opposes comments proposing a Minimum Load Screen of less than 100%. Second, SEIA opposes any proposal to change the order in which the Supplemental Review screens are applied, and believes the Commission should adopt in the Final Rule the same order of application as was proposed in the NOPR.

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<sup>2</sup> See, e.g., Promoting Transmission Investment Through Pricing Reform, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 223 (2006), 71 Fed. Reg. 43294 (July 31, 2006) (citing reply comments filed by International Transmission Company although NOPR made no provision for the filing of reply comments).

## 1. The Commission Should Adopt the 100% Minimum Load Screen

Some commenters urge the Commission to weaken the NOPR's 100% Minimum Load Screen.<sup>3</sup> Commenters propose, without any supporting data or rationale, that the minimum load screen should not exceed 67 percent and that the Commission should then hold annual technical workshops to assess the efficacy of the 67 percent screen.<sup>4</sup>

SEIA opposes any suggestion that the Minimum Load Screen be reduced from 100%. For the reasons set forth more fully in its initial comments, there is no reason to believe that the proposed 100% Minimum Load Screen poses any safety or reliability concerns. In these reply comments, SEIA specifically addresses commenters' proposal that the Minimum Load Screen be reduced to 67%. The only justification provided for this proposal seems to be an interim 67% Minimum Load Screen recently adopted in Massachusetts.<sup>5</sup> The Commission should not model nationally applicable interconnection procedures on Massachusetts' interim rule. Moreover, commenters' proposal calls on the Commission to hold annual technical workshops for ongoing reassessment of the interim screen. Such annual reassessments would pose uncertainty for both utilities and developers alike and would impose on the Commission an unnecessary burden of convening annual technical workshops.

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<sup>3</sup> See, e.g., Comments of the National Rural Electric Cooperative Association, Edison Electric Institute, and American Public Power Association on the Notice of Proposed Rulemaking to Update the Small Generator Interconnection Rules and Procedures ("NRECA-EEI-APPA Comments") at 23-25.

<sup>4</sup> *Id.* at 25.

<sup>5</sup> See *id.*, citing Investigation by the Department of Public Utilities on its own Motion into Distributed Generation Interconnection, Order on the Distributed Generation Working Group's Redlined Tariff and non-Tariff Recommendations, D.P.U. 11-75-E (March 13, 2013).

Commenters also suggest that some minimum load data may be unavailable.<sup>6</sup> In making this suggestion, however, commenters state that “most of the Joint Commenters’ members review 12 months of minimum load data, where available for impact studies” and “when unavailable, those utilities may rely on other sources of data.”<sup>7</sup> This is precisely what the Commission intended when it proposed the 100% Minimum Load Screen and observed that “the screen allows Transmission Providers the flexibility to calculate, estimate, or otherwise determine minimum load.”<sup>8</sup> Thus, commenters’ statements demonstrate that the Commission provided Transmission Providers adequate flexibility to determine minimum load, which supports adoption of the proposed Minimum Load Screen.

## **2. The Supplemental Review Screens Should Be Applied in the Order Proposed in the NOPR**

Some commenters suggest that the Commission should change the order in which the Supplemental Review screens are applied.<sup>9</sup> Specifically, commenters recommend that the safety and reliability screen be applied first, with the minimum load screen applied second.<sup>10</sup> SEIA opposes commenters’ proposed change in order of the Supplemental Review screens because doing so would be inconsistent with California’s Rule 21, and no justification has been provided for creating such inconsistency.

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<sup>6</sup> *Id.* at 24.

<sup>7</sup> *Id.*

<sup>8</sup> NOPR at P 36.

<sup>9</sup> NRECA-EEI-APPA Comments at 26-27.

<sup>10</sup> *Id.*

As the Commission noted, the NOPR Supplemental Review screens are modeled on the California Rule 21 screens.<sup>11</sup> The NOPR proposes to apply the screens in the same order as the Rule 21 screens.<sup>12</sup> The California utilities recognize that efficiencies incorporated in California’s Rule 21 would be eroded if the Final Rule adopted here were to vary significantly from Rule 21.<sup>13</sup> Given the similarity between the analysis and the screens, the Commission should avoid creating an inconsistency in how they are applied.

Commenters’ suggested reordering is supported only by the general assertion that doing so will “spare the utilities the time and cost of performing additional screens.”<sup>14</sup> This concern is unfounded, first, because the NOPR proposal contemplates that the Interconnection Customer must pay for the Supplemental Review.<sup>15</sup> In fact, the Supplemental Review fee that Interconnection Customers would pay under the NOPR proposal is expressly nonrefundable.<sup>16</sup> Therefore, the utilities incur no “time and cost” in performing the Supplemental Review screens; those costs are incurred by the developer, and thus cannot support changing the NOPR proposal.

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<sup>11</sup> NOPR at P 35 n.56.

<sup>12</sup> Compare NOPR, Appendix C § 2.4.1 with Decision Adopting Settlement Agreement Revising Distribution Level Interconnection Rules and Regulations – Electric Tariff 21 and Granting Motions to Adopt the Utilities’ Rule 21 Transition Plans, D-12-09-018, Attachment A, Attachment 1 § G.2, California Public Utilities Commission Rulemaking 11-09-011 (Sept. 22, 2011) (“CPUC Decision”).

<sup>13</sup> Comments of San Diego Gas & Electric Company, Southern California Edison Company and Pacific Gas and Electric Company at 2-3.

<sup>14</sup> NRECA-EEI-APPA Comments at 27.

<sup>15</sup> NOPR, Appendix C § 2.4.

<sup>16</sup> *Id.*

**B. The Commission Should Not Extend the Time for Preparation of Pre-Application Reports**

The NOPR requires Transmission Providers to provide an Interconnection Customer with a pre-application report within ten business days of receiving the written request and payment.<sup>17</sup> SEIA believes this is an adequate amount of time for utilities to assemble the basic information that would be contained in the pre-application report.

Various commenters proposed extending this ten-day time period and giving the Transmission Provider a delay mechanism. For example, while one commenter suggests that the Final Rule should require the pre-application report to be produced within twenty business days,<sup>18</sup> and another commenter proposes instituting a queuing process to process pre-application report requests under which there would be no set timeline required.<sup>19</sup>

SEIA supports the ten-day time period proposed in the NOPR. As the Commission clearly stated, the utility is only required to provide existing information; the utility is not required to obtain new information in preparing the pre-application report.<sup>20</sup> SEIA also notes that California's Rule 21 contains a similar ten-day time period for the pre-application report.<sup>21</sup>

SEIA also underscores that it is essential for developers to have access to the information needed to assess the viability of proposed projects, and predictability as to when such information, once requested, will be provided. For this reason, SEIA strongly opposes any mechanism that would permit utilities to delay indefinitely providing a

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<sup>17</sup> *Id.* at § 1.2.2.

<sup>18</sup> Comments of PJM Interconnection L.L.C. at 10.

<sup>19</sup> Comments of Duke Energy Corporation at 4.

<sup>20</sup> NOPR at P 28.

<sup>21</sup> CPUC Decision, Attachment A, Attachment 1 § E.1.

requested pre-application report to the interconnection customer. Indefinite delay could greatly impede developers' ability to assess potential projects, and cripple productive communications between developers and Transmission Providers.

Although SEIA believes that the ten day time period described in the NOPR is an adequate amount of time, if the Commission is inclined to extend the ten-day timeframe it should only do so if a well-defined deadline can be maintained. SEIA suggests that the Commission should retain the currently proposed ten-day timeframe and, if it determines any extension of this time period is necessary, it could consider providing Transmission Providers with the ability to request one ten-day extension after which the pre-application report must be provided to the requesting Interconnection Customer. No additional extensions should be permitted. (This proposal is also consistent with PJM's proposal for a twenty-day turnaround.) While this would not fully provide the certainty that SEIA's members desire, it would at least provide a reasonable timeframe within which developers could plan and make timely decisions.

**C. Facilities Study Agreement Costs Attributable to Interconnection Applicants Should Be Clearly Defined**

The NOPR proposal would allow an interconnection applicant to review and comment on upgrades proposed by the Transmission Provider as necessary for interconnection.<sup>22</sup>

SEIA supported the NOPR proposal and continues to do so here.<sup>23</sup> Utility commenters do not oppose the NOPR proposal, but ask to be compensated for the "extra

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<sup>22</sup> NOPR at PP 41-44.

<sup>23</sup> Comments of the Solar Energy Industries Association at 14-15.

meetings and data gathering” associated with utilities documenting their decision-making criteria and analysis.<sup>24</sup> SEIA opposes this request for two reasons.

First, such a provision is not consistent with the similar Large Generator Interconnection Procedures (“LGIP”) provisions on which the NOPR proposal is patterned.<sup>25</sup> The LGIP provides that the Interconnection Customer may comment on the draft Interconnection Facilities Study and may request supporting documentation, workpapers, and databases or data.<sup>26</sup> The LGIP, however, requires the Interconnection Customer to compensate the Transmission Provider only for the actual cost of the Interconnection Facilities Study.<sup>27</sup> SEIA asserts that there is no reason for the Commission to deviate from the parallel LGIP provision in this rulemaking and no compelling justification for doing so has been provided by Joint Commenters.

Second, Joint Commenters’ proposal that utilities should be compensated for meetings and data gathering would amount to an unlimited and undefined blank check for the utilities. SEIA notes that the Facilities Study Agreement already contains provisions requiring the Interconnection Customer to pay the actual costs of the study.<sup>28</sup> Extending the Interconnection Customer’s cost responsibility beyond the actual study costs to cover the utilities’ documentation practices and “extra meetings” would create unnecessary uncertainty regarding what costs are attributable to the Interconnection Customer, and may result in the Interconnection Customer being charged for items beyond the actual study costs.

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<sup>24</sup> NRECA-EEI-APPA Comments at 27-28.

<sup>25</sup> See NOPR at PP 41-44.

<sup>26</sup> LGIP § 8.3.

<sup>27</sup> LGIP § 8.1

<sup>28</sup> NOPR, Appendix C, Attachment 8 § 11.

