UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Upstream Clean Energy, Complainant	)	
	)	
v.	)	**Docket No. EL23-81-000**
	)	
California Independent System Operator Corporation, Respondent	)	

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

The California Independent System Operator Corporation ("CAISO" or "Respondent")[1] hereby answers the complaint filed with the Federal Energy Regulatory Commission ("FERC" or "Commission") by Upstream Clean Energy ("Upstream" or "Complainant") on July 6, 2023 ("Complaint").[2] The Complaint hinges on Upstream's assertion that the CAISO erred in not conducting the Independent Study Process ("ISP") under the Tariff, contrary to the Tariff's plain language and intent. Upstream's assertions, if accepted, would undermine the policy goals of both the CAISO and this Commission. Upstream also fails to meet its legal burden to demonstrate the CAISO administered its Tariff in a manner that was unjust and unreasonable or unduly discriminatory or

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[1] Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the CAISO tariff ("Tariff"). References herein to specific tariff sections are references to sections of the Tariff, including the Generator Interconnection and Deliverability Allocation Procedures ("GIDAP") incorporated as Appendix DD thereto.

[2] The CAISO submits this answer pursuant to Rules 206(f) and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.206(f), 385.213 (2022), and the Notice of Complaint issued in this proceeding on July 7, 2023.

preferential. To the contrary, Upstream's Complaint asks the Commission to compel the CAISO to provide Upstream unduly preferential service. The Commission should dismiss the Complaint.

I. BACKGROUND AND EXECUTIVE SUMMARY

Complainant Upstream Energy ("Upstream") is an energy storage developer. Upstream plans to interconnect to the CAISO Controlled Grid a 250 MW stand-alone battery project known as the Ventana Reliability Project ("Ventana"). The CAISO processes and studies requests from Ventana and other generators seeking to interconnect to the CAISO Controlled Grid under the CAISO's Generator Interconnection and Deliverability Allocation Procedures ("GIDAP").[3]

Since 2008, the CAISO's default study process for generators such as the Ventana project has been a cluster study process whereby the CAISO groups projects into Queue Clusters and then studies the projects in each Queue Cluster in two phases, with projects that electrically affect each other being studied together.[4] The CAISO adopted the cluster approach to process the large number of generator interconnection requests that it receives efficiently. As the CAISO explained in the 2008 amendment, the clustered study approach offers a number of advantages over the then-existing serial study procedures, perhaps most notably the fact it would address the all-too-frequent occurrence whereby the

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[3] Tariff, Appendix DD.

[4] *See* Generator Interconnection Process Reform Initiative Tariff Amendment, Docket No. ER08-1317-000 (July 28, 2008) ("GIPR Amendment").

CAISO needed to conduct multiple re-studies to account for the impact of queue withdrawals on other pending requests.[5]

In 2010, the CAISO filed an amendment to further refine and improve its generator interconnection procedures.[6] Therein, the CAISO adopted the Independent Study Process ("ISP"), which allows interconnection requests meeting certain criteria to be studied serially and to achieve commercial operation on an expedited basis.[7] The ISP is limited in nature and was intended to supplement, not supplant, the default cluster study. Interconnection customers that wish to utilize the ISP must demonstrate that (1) inclusion in a Queue Cluster will not accommodate the facility's desired commercial operation date, (2) the customer has site exclusivity, and (3) most significantly (and most relevant to the Complaint), the facility is electrically independent of all other interconnection requests. As the CAISO explained at the time, the purpose of adding the ISP was to make the CAISO's interconnection process more efficient.[8]

In 2014, the CAISO revised the ISP's test for determining electrical independence.[9] First, the CAISO added language so projects alone in a study

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5 *Id.*, Transmittal Letter at 30.

6 *See* Tariff Amendment to Revise Generator Interconnection Procedures, Docket No. ER11-1830-000, Transmittal Letter at 15 (Oct. 19, 2010).

7 See *id.*

8 *Id.* at 15-16.

9 *See* Tariff Amendments to Implement Third Set of Interconnection Process Enhancements and to Satisfy Requirements of Order No. 792, Docket No. ER14-2586-000 (Aug. 4, 2014) ("2014 IPE Amendment"). *See also* CAISO, *Interconnection Process Enhancements: Draft Final Proposal Topics 4, 5, and 13,* (Mar. 25, 2014), https://www.caiso.com/Documents/DraftFinalProposal-Topics_4-5-13-InterconnectionProcessEnhancements.pdf (the "Draft Final Proposal," filed as Attachment D to the 2014 Interconnection Process Enhancement Filing).

area[10] are considered to satisfy the electrical independence determination without the need for any analysis, because such projects are self-evidently electrically independent from other projects in the queue.[11] The CAISO also modified the electrical independence determination to utilize the results of the Phase I cluster interconnection study to assess independence for those projects that do require analysis, rather than having to wait until after the Phase II interconnection study results to perform this assessment.[12] The CAISO made these changes to accelerate and streamline determinations of electrical independence.

Upstream submitted an interconnection request for the Ventana project on September 29, 2022, requesting processing through the ISP. Consistent with the ISP provisions of the GIDAP, Ventana was studied for electrical independence from other projects in the same study area based on the results of the Phase I interconnection study from the most recent Queue Cluster (Cluster 14). Because the project did not pass the short circuit analysis, the CAISO informed Upstream that the Ventana project was ineligible for the ISP, but had the option to participate in the next Queue Cluster (Queue Cluster 15).[13] Rather than avail itself of the default Queue Cluster study process, Upstream filed the instant

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[10] Each study area is a transmission sector where grid changes impact each other. The CAISO currently has ten study areas.

[11] 2014 IPE Amendment, Transmittal Letter at 12.

[12] *Id.* at 22 ("By electing to use the independent study process, an interconnection customer will receive the benefit of an expedited process that does not include a [P]hase II interconnection study.").

[13] *See* Draft Final Proposal at 27 ("If an ISP project fails any of the tests for electrical independence, the interconnection customer will be notified and given the option to participate in the next cluster as a non-ISP project.").

Complaint alleging the CAISO had improperly analyzed the Ventana project for electrical independence. The Complaint contends that rather than utilizing Phase I interconnection study results from Queue Cluster 14 to perform the relevant screens, the CAISO should have created a new baseline to account for one or more projects that withdrew from the CAISO interconnection queue after the Phase I study was completed. Upstream maintains that had the CAISO assessed the Ventana project against this updated baseline, it would have passed the electrical independence tests.

As discussed below, Upstream fails to meet its burden to show that the CAISO violated its Tariff and business practices or that the relevant provisions thereof are unjust and unreasonable. Upstream's preferred outcome is at odds with the plain language of the Tariff, which unambiguously states that the CAISO will utilize existing Phase I study results to perform the electrical independence tests.

Moreover, Upstream's reading is contrary to the intent of the ISP. The ISP provides a limited serial study option for projects that meet a relatively narrow set of criteria. The CAISO intended to integrate the ISP efficiently with the default Queue Cluster study process. To that end, the ISP has, from its inception, utilized existing study cases to determine project eligibility. It has never required the CAISO to create additional base cases and modify study results against which to assess whether projects are eligible for the ISP. Upstream's interpretation would require the CAISO to perform potentially significant

additional study work and divert time and resources away from conducting the Queue Cluster studies.

Given the challenges associated with processing large volumes of interconnection requests, this outcome would be unjust and unreasonable. Undercutting the Queue Cluster process in order to devote more resources to the ISP will hinder, rather than help, bring capacity online in California, nearly all of which the CAISO is processing through its Queue Cluster study procedures.

II. ANSWER

Pursuant to Rules 213 of the Commission's Rules of Practice and Procedure, answers to complaints must admit or deny, specifically and in detail, each material allegation of the pleading answered; and set forth every defense relied on.[14] As discussed in greater detail below, the CAISO denies each of Complainant's material allegations.

A. Upstream Fails to Satisfy its Section 206 Burden of Proof

Under Federal Power Act ("FPA") section 206, "the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon . . . the complainant."[15] The courts and the Commission have long recognized that a complainant "carries the heavy burden of making a convincing showing that [a

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[14] 18 C.F.R. § 385.213(c)(2).

[15] *CXA La Paloma, LLC v. Cal. Indep. Sys. Operator Corp.*, 169 FERC ¶ 61,045, at P 36 (2019) (quoting FPA § 206(b)) ("La Paloma"). See also, e.g., *FirstEnergy Serv. Co. v. FERC*, 758 F.3d 346, 353 (D.C. Cir. 2014); *Md. Pub. Serv. Comm'n v. FERC*, 632 F.3d 1283, 1285 n.1 (D.C. Cir. 2011).

rate approved by Commission order] is invalid because it is unjust and unreasonable in its consequences."[16] "Without a showing that the existing rate is unlawful," the Commission "has no authority to impose a new rate."[17]

Accordingly, in bringing its Complaint, Upstream has the obligation to demonstrate that: (1) the CAISO violated its existing Tariff provisions governing the ISP; or (2) implementation of the ISP under the CAISO's GIDAP leads to consequences that are unjust, unreasonable, unduly discriminatory, or preferential.[18] Upstream fails to meet this burden. Instead, Upstream focuses on an individual Tariff term out of context in an unavailing attempt to show that the CAISO has not correctly implemented the ISP. Upstream also misconstrues the proceedings that led to the creation of those provisions. Finally, Upstream fails to show that practical or policy considerations require a different result. Absent a showing that the CAISO's administration of the ISP—or the outcomes thereof—were unjust, unreasonable, unduly discriminatory, or preferential, Upstream fails to meet the burden of proof under FPA section 206. As such, the Commission must dismiss the Complaint.

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[16] *FPC v. Hope Natural Gas Co*., 320 U.S. 591, 602 (1944) ("*Hope*"). Although *Hope* addressed section 5 of the Natural Gas Act, the Commission properly applies these bedrock principles to the analogous provisions of the FPA. *See Cal. Mun. Utils. Ass'n v. Cal. Indep. Sys. Operator Corp*., 126 FERC ¶ 61,315, at P 70 (2009), *order on reh'g*, 143 FERC ¶ 61,174 (2013).

[17] *La Paloma* at P 36 (quoting *Emera Maine v. FERC*, 854 F.3d 9, 25 (D.C. Cir. 2017)).

[18] *Id*.

B. Upstream's Interpretation Is Inconsistent with the Plain Text of the CAISO Tariff

In the Complaint, Upstream repeatedly highlights portions of the GIDAP that refer to the electrical independence tests being conducted using "active" interconnection requests.[19] Upstream relies upon its selective reading of the Tariff language to argue that the CAISO should be—effectively—constantly creating new base cases to include only those interconnection requests effective at the instant each individual interconnection request considered for purposes of ISP comes up for review. Upstream's unfounded interpretation of the GIDAP misunderstands the Tariff language's clear directive is to utilize the most recently available study results for a given study area, and *not* to create new base cases every time the CAISO conducts the electrical independence tests under the ISP.[20]

Under the ISP, the determination of electrical independence consists of two steps. First, the CAISO evaluates whether there are any other active Interconnection Requests in the current Queue Cluster or ISP located in the same study area as the project. This step is irrelevant to the current Complaint, as no party disputes that there were other active requests in the same study area (North of Lugo) as Upstream's Ventana project. Because there were other projects in the area, Section 4.2 provides that the project must pass the relevant tests for electrical independence (the flow impact, short circuit, transient stability,

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[19] *See, e.g.*, Complaint at 4, 5, 8.

[20] *See* GIDAP, Section 4.2 ("These tests will utilize study results for active Interconnection Requests in the same study area[.]").

and reactive support analyses) "*utiliz[ing] study results* for active Interconnection Requests" in the relevant study area:

> These tests will utilize study results for active Interconnection Requests in the same study area, including Phase I Interconnection study results for Generating Facilities in the current Queue Cluster and any system impact study (or combined system impact and facilities study) results for earlier queued Generating Facilities being studied in the Independent Study Process.[21]

Upstream asks the Commission to focus exclusively on the word "active," while completely ignoring the remainder of Section 4.2.[22] This is at odds with the fundamental principle of statutory and tariff construction that individual terms should not be read in isolation but, rather, must be interpreted in context.[23] In particular, Upstream's interpretation ignores the remaining words in this sentence, which state that the electrical independence tests will "*utilize study results for* active Interconnection Requests" as the baseline against which the various analyses are performed (emphasis added). For projects in a Queue Cluster, Section 4.2 indicates that those "study results" include the results of the Phase I interconnection study for the current Queue Cluster. Nothing in this language refers to conducting additional studies, let alone requiring the CAISO to create new base case scenarios.

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[21] *Id.* (emphasis added).

[22] Upstream raises a similar argument with regard to the discussion of the electrical independence determination in the CAISO's *Business Practice Manual for Generator Interconnection Procedures* (May 25, 2022) ("GIP BPM"). *See* Complaint at 16-17. However, as the Complaint points out, GIDAP BPM § 6.3.2 simply reiterates the language of the Tariff, rendering Upstream's arguments regarding the GIP BPM unavailing for the same reasons its arguments regarding the Tariff fall short.

[23] *See Oklahoma Gas & Elec. Co. v. FERC*, 11 F.4th 821, 827 (D.C. Cir. 2021) ("A tariff provision must be understood according to its plain meaning, which we draw from its text and context.").

To evaluate electrical independence from projects being studied in Queue Clusters, the logical and contextual reading of the phrase "utilize study results for active Interconnection Requests" is that the CAISO will use the Phase I interconnection study results from the current Queue Cluster as the baseline for performing such analyses, even if those results may include projects that subsequently withdrew from the queue.[24] Those withdrawals would not appear in the study results for active interconnection customers until the next phase of the cluster study. Contrary to Upstream's claim, the CAISO is not reading the term "active" out of the Tariff, but merely reading it in context and consistent with the entirety of Section 4.2.

Upstream argues it would be "passing strange" to exclude withdrawn ISP projects from considerations of electrical independence, but include withdrawn projects in the queue cluster study process.[25] However, there is nothing strange about this result given the relevant differences between studies for Queue Cluster projects and those conducted for ISP projects. For projects in a Queue Cluster, the CAISO performs group studies to determine the collective impacts of those projects on the system and any required upgrades to address those impacts. If a project withdraws after the Phase I study, the CAISO does not perform a separate individual study to account for any impacts associated with the withdrawal of that project. Rather, it accounts for that withdrawal by

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[24] *See also* GIDAP Section 4.1.5 (providing that ISP evaluations will commence once the Phase I interconnection study is completed).

[25] Complaint at 13.

removing the project when it conducts subsequent cluster studies. The entire purpose of the cluster study process is to account for proposed interconnections and changes in queue simultaneously, not serially. The CAISO thus accounts for modifications and withdrawals in its annual reassessment and in the Phase II interconnection study, not immediately after each withdrawal and modification.

On the other hand, the CAISO performs ISP studies individually and serially and thus, once an ISP project withdraws, the associated studies no longer include any active interconnection requests and can simply be ignored without having to create a new baseline. Stated another way, the error in Upstream's argument is that the electrical independence determination does not focus on which *projects* are included or excluded, but rather, which *study results* the CAISO utilizes.

For purposes of assessing electrical independence from projects studied in a Queue Cluster, Section 4.2 is clear that the CAISO utilizes the most recent Phase I study results—which include any projects subsequently withdrawn—"*for* active interconnection requests." (Emphasis added.) Thus, depending on the timing of an ISP request, the Phase I study results used to conduct an electrical independence test may contain one or more projects that withdrew from the queue after completion of that study. However, as discussed below, this outcome is consistent with the purpose and design of the ISP: a limited alternative to the CAISO's standard cluster-based interconnection process intended to make the overall interconnection process more, not less, efficient.

C. Upstream's Tariff Interpretation Is Contrary to the Purpose and Design of the ISP

When presented with a dispute regarding a tariff's correct interpretation, Commission precedent is clear:

> [T]he Commission looks first to the language of the tariff or contract itself, and only if it cannot discern the meaning of the contract or tariff from the language of the contract or tariff, will it look to extrinsic evidence of intent. Extrinsic evidence (which may include the parties' course of performance) is admissible to ascertain the intent of the parties when the intent has been imperfectly expressed in ambiguous contract language[.][26]

For the reasons discussed in the preceding section, the Commission should find that the CAISO is conducting the electrical independence tests consistent with the plain meaning of the relevant Tariff language. However, should the Commission determine that the GIDAP provisions implementing the ISP are unclear on their face, it should look to extrinsic evidence, including the purpose and design of the ISP, which is evident based on the record that preceded the Commission's acceptance of the enhanced GIDAP provisions.[27] That evidence shows that the ISP has consistently relied on study results and base cases prepared as part of the cluster study process and for other ISPs to evaluate electrical independence. The purpose of the ISP was to provide a

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[26] *New York Independent System Operator, Inc.*, 131 FERC ¶ 61,032, at P 30 (2010) (footnote omitted).

[27] *Sw. Power Pool, Inc.*, 163 FERC ¶ 61,063 at P 26 (2018) (citing *Miss. River Transmission Corp.*, 96 FERC ¶ 61,185, at 61,819 (2001) (rejecting assertion that matter must be resolved against the company that drafted the tariff and stating that if a contract is ambiguous, the parties may introduce extrinsic evidence of the parties' intent); *Keyspan-Ravenswood LLC v. N.Y. Indep. Sys. Operator, Inc.*, 119 FERC ¶ 61,089, at P 27 (2007) (accepting independent system operator's interpretation of ambiguous language in its own tariff)).

limited serial option that would improve, not detract from, the efficiency of the overall CAISO interconnection process. Upstream's proposed interpretation of the GIDAP provisions would lead to the inefficient and unfair result of allocating scarce resources away from the Queue Cluster study process.[28] This outcome would therefore contradict the purpose of the ISP, and let ISP projects effectively "jump the queue" over Queue Cluster interconnection customers that preceded them.[29]

The CAISO proposed the enhancements to the ISP in 2014 to reduce delays and uncertainties in the conduct of the electrical independence tests, and, as part of a broader effort, to improve the efficiency and flexibility of its generator interconnection process.[30] The CAISO proposed the enhanced ISP provisions and the improvements to the CAISO's fast track process alongside Tariff amendments to comply with the Commission's Order No. 792.[31] However, the enhancements to the CAISO's non-cluster study processes were not reactive compliance changes; rather, they emerged from the CAISO's Interconnection

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[28] *See* Attachment A, Declaration of Robert Sparks, at P 12 ("Sparks Declaration").

[29] 2014 IPE Amendment at 2 ("The goal … is to identify and implement further improvements to the CAISO's [overall] generator interconnection process, in order to better meet the needs of developers, transmission owners, the CAISO, and ratepayers in California's rapidly evolving generation marketplace.").

[30] *See* 2014 IPE Amendment at 1.

[31] *Small Generator Interconnection Agreements and Procedures*, Order No. 792, 78 Fed. Reg. 73,239 (Dec. 5, 2013), 145 FERC ¶ 61,159 (2013) ("Order No. 792"), *order clarifying compliance procedures*, Order No. 792-A, 146 FERC ¶ 61,214 (2014) ("Order No. 792-A").

Process Enhancements stakeholder initiative and garnered broad stakeholder support.[32]

The ISP has never required the CAISO to create new base cases for testing individual ISP requests for electrical independence, and contrary to Upstream's assertions,[33] nothing in the 2014 IPE Amendment changed this. Upstream focuses on the fact that the CAISO added the phrase "active Interconnection Requests" to the GIDAP in the 2014 IPE Amendment, while once again ignoring the relevant context. In the stakeholder materials supporting the 2014 IPE Amendment, the CAISO addressed the purpose for this change. The CAISO explained the then-existing process for determining electrical independence, which relied on base cases used for the current Queue Cluster, meant that the CAISO could not commence this analysis until the Phase II interconnection study results were completed. To expedite conducting this assessment, the CAISO proposed to "use the [P]hase I interconnection study results of the current cluster to test for electrical independence."[34]

The CAISO provided an example to highlight this. In that example, a project received in May 2014 fails the first part of the independence test because there are other projects in the same study area. At that point, "the tests for electrical independence will be performed *using the [P]hase I interconnection*

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[32] *See* 2014 Interconnection Process Enhancement Filing at 2; Draft Final Proposal at 49.

[33] *See* Complaint at 14-16.

[34] *See* Draft Final Proposal at 26.

study results for the current cluster."[35] If the project passes these tests, "then an SIS and facilities study will be performed using the latest available cluster base case and the ISP project will be eligible to interconnect as an [Energy Only] project . . . as early as Q1 of 2015."[36] There was no mention of the CAISO performing additional analyses to account for projects that withdraw after completion of the Phase I study.

Stakeholders supported this proposed modification, and the CAISO included it in the 2014 IPE Amendment, where the CAISO provided the same rationale for the changes. Namely, to reduce delays in conducting the electrical independence tests, the CAISO proposed to revise the GIDAP to specify that those tests would be conducted utilizing study results in the same study area, including Phase I interconnection study results for Queue Cluster projects.[37] The Commission approved the 2014 IPE Amendment based on this rationale and not, as Upstream asserts, due to some fixation on the term "active."

Administering the provisions of the GIDAP according to Upstream's interpretation would defeat the express purpose of the revisions to the electrical independence determination adopted in the 2014 IPE Amendment. Requiring the CAISO to create new base cases for each ISP to account for after-the-fact withdrawals from Phase I interconnection studies would increase, not reduce, delays and uncertainty in conducting the electrical independence tests.[38]

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35 *Id*. at 23-24 (emphasis added).

36 *Id.*

37 2014 IPE Amendment at 13.

38 *See* Sparks Declaration at PP 10, 12.

Moreover, Upstream's preferred outcome would undermine one of the main purposes of the ISP itself, which is to provide a streamlined and predictable avenue for electrically independent interconnection requests to proceed outside of the Queue Cluster study process, thereby improving the overall efficiency of the GIDAP process by exempting projects that can be studied independently.[39] Requiring the CAISO instead to create new base cases for every ISP, as Upstream requests, would unduly delay and undermine the efficient processing of *all* interconnection requests in the CAISO Controlled Grid by requiring the diversion of time and resources from the Queue Cluster study process.[40]

The Commission has previously found that even where tariff language is arguably ambiguous, the "significant difficulty" that would result from implementing a complainant's interpretation of the relevant language may serve as further evidence the language's drafter did not intend that interpretation.[41] The CAISO never intended the ISP to be conducted in the manner Upstream suggests. The CAISO and Participating Transmission Owner ("PTOs") could not support administration of the ISP in this way, as doing so would divert needed time and resources away from the administration of Queue Cluster studies. Thus, even if the Commission were to find the language of the GIDAP is unclear, the Commission should conclude that Upstream's requested result would be unjust and unreasonable. Under these circumstances, the CAISO would seek to

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39 *See* 2014 Interconnection Process Enhancement Filing at 6.

40 *See* Sparks Declaration at PP 10, 12.

41 *See Xcel Energy Servs. Inc v. Sw. Power Pool, Inc.*, 178 FERC ¶ 61,096, at P 30 (2022).

amend its Tariff to remove the ISP altogether because creating individually tailored base cases for every ISP would lead to significant difficulty and painstaking delays, and it would divert much-needed staff and time away from Queue Cluster study process.[42]

Upstream also contends that the CAISO has, in at least one other instance, conducted an electrical independence test in accordance with Upstream's preferred reading of the ISP's electrical independence provisions. Upstream's sole evidence for this claim is an email from an ISO interconnection specialist stating that "recent withdrawals and modifications" were taken into account in performing this analysis for a single previous Upstream storage project.[43] Based on the CAISO's review, this only occurred with respect to a single ISP request. However, even if a single engineer at a single transmission owner went beyond the process set forth in Section 4.2 in this one instance, it does not establish a pattern of conduct. Upstream fails to meet its burden to establish any practice contrary to Section 4.2, relying instead on wholesale speculation as to what it "believes" may have happened, and a transparent attempt to shift its burden of proof to the CAISO.[44]

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42 *See* Sparks Declaration at P 12.

43 Complaint at 17-18.

44 *Id*. at 18.

D. There Is Insufficient Analysis to Determine that Upstream's Tariff Interpretation Would Have Led to a Different Outcome

Upstream asserts that if the CAISO administered the existing ISP according to its interpretation of the Tariff—*i.e.*, if the CAISO excluded withdrawn projects from consideration—Upstream's Ventana Reliability Project would not have failed the short circuit analysis.[45] In arguing against the sufficiency of the CAISO's determination to the contrary, Upstream points only to the initial email it received validating its interconnection request and informing it that "[t]he engineers will now perform the [electrical independence tests]" and its own estimation as to when those tests were actually performed.[46]

Upstream offers an analysis prepared by its third-party consultant to bolster its claims.[47] The CAISO has not attempted to replicate this analysis. There is no need to do so because the analysis is premised on a misreading of the Tariff, and replication of the analysis same would contravene the plain language of the ISP and provide Upstream unduly preferential treatment. Thus, even assuming *arguendo* that this analysis is correct, it is beside the point. If the Commission nevertheless were to rule in favor of Upstream's interpretation, the CAISO and the relevant PTO, Southern California Edison ("SCE"), would have to conduct their own analysis.

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45 *Id.* at 19-20.

46 *See id.*

47 *See* Complaint, Appendix A.

E. Upstream's Tariff Interpretation Would Undermine, Not Promote, Important Policy Goals

Upstream's public policy arguments in favor of its interpretation of the GIDAP[48] are unfounded. First, Upstream's argument that unless the Commission adopts its proposed interpretation, few if any projects will pass the ISP[49] is unsubstantiated. Nor does Upstream's baseless claim demonstrate the CAISO's interconnection process as a whole, is in any way unjust and unreasonable. There is nearly 150,000 MW of battery storage in the CAISO queue, most of which is being studied in a Queue Cluster. The CAISO currently has 5,600 MW of storage available for dispatch, up from 1,500 MW in August of 2021.[50] The CAISO anticipates an *additional* 4,650 MW of storage will come online this year alone.[51]

Interpreting the GIDAP provisions as requested by Upstream could lead to substantial delays in the overall CAISO interconnection process, contrary to the CAISO's goals[52] and the Commission's policy directives. Lengthy interconnection queues and the procedural roadblocks preventing access to the

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48 *See id.* at 18-19.

49 *Id*.

50 *See* http://www.caiso.com/Documents/new-storage-milestone-reached-for-the-california-grid-more-than-5000-mw-now-available-for-dispatch.pdf; http://www.caiso.com/Documents/Summer-2021-Reliability-Monthly-Report-Oct-8-2021.pdf.

51 Sparks Declaration at P 13.

52 *See* 2014 IPE Amendment at 4 ("California's ambitious renewable portfolio standard and the associated changes in the generation development marketplace have made it increasingly important over the past several years for the CAISO to identify ways to better administer its generation interconnection queue . . . to best promote the achievement of California's energy policy goals while ensuring that they continue to be grounded in principles of fairness and non-discrimination.").

same have been topics of considerable importance to the Commission in recent years as needed renewable generation seeks to connect to the grid. "As the Commission has previously observed, delayed interconnection study results or unexpected cost increases can disrupt numerous aspects of generating facility development[.]"[53] However, "efficient interconnection queues and well-functioning wholesale markets deliver enormous benefits to consumers by driving down wholesale electricity costs."[54] The CAISO designed, and subsequently refined, the ISP with these goals in mind.[55]

Upstream's contention that its preferred interpretation would not create a substantial administrative burden is also unconvincing. In addition to being conclusory, Upstream contradicts its own argument. On one hand, Upstream argues that one of the benefits of adopting its interpretation is that more projects would be able to utilize the ISP, but it then points to the relatively few number of projects that have actually gone through the ISP to argue that any burden associated with its request would be minimal.

Similarly unconvincing is Upstream's assertion that accounting for interconnection request withdrawals in its project's study area would have been "easy" and would not have diverted time away from the Queue Cluster study

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53 *Improvements to Generator Interconnection Procedures and Agreements*, Notice of Proposed Rulemaking, 179 FERC ¶ 61,194, at P 30 (2022).

54 *Id.*

55 *See* 2014 IPE Amendment at 6 ("The [ISP] is intended to benefit generating facilities eligible for that process by allowing them to be studied on a serial and expedited basis, thereby permitting them to achieve commercial operation on an earlier schedule than would normally be possible under the cluster study process. The [ISP] is also meant to improve the overall efficiency of the GIDAP process[.]").

process.[56] This argument ignores the fact that the CAISO has a duty to enforce its Tariff in a non-discriminatory manner, regardless of the burden unduly preferential treatment represents. Moreover, if Upstream's prediction of greater ISP utilization is true, the CAISO would need to conduct bespoke base case analyses for numerous projects in addition to Upstream's. Administering the ISP would quickly become prohibitively time-consuming if the CAISO and collaborating PTO engineers were required to account for every new queue withdrawal or modification on an *ad hoc* basis, rather than relying on the latest available cluster study results and resultant base case, generation of which occurs on a tariff-mandated schedule and aligns with the CAISO's overall transmission planning process and PTOs' distribution interconnection processes.[57] Utilizing the latest available cluster study results and base case provides applicants and reviewers alike with certainty regarding the set of interconnection requests considered, promotes overall process efficiency, and avoids the need to constantly update studies to reflect withdrawn or modified requests.

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[56] *See* Complaint at 10.

[57] *See* Sparks Declaration at PP 9-10.

III. THE COMMISSION SHOULD DENY UPSTREAM'S REQUEST FOR FAST TRACK PROCESSING

Upstream requests fast track processing on the sole grounds that "fast track process is required to prevent irreparable harm to Ventana, which has been improperly removed from the ISP."[58] The Commission should deny Complainant's request.

The Commission's regulations state that the Commission "may resolve complaints using fast track procedures if the complaint requires expeditious resolution."[59] The regulations also require the complainant to explain "why expedition is necessary" and "why the standard processes will not be adequate for expeditiously resolving the complaint."[60] Upstream fails to satisfy these requirements.

In an attempt to justify its request for expedition, and on the apparent assumption that the Complaint will elicit a favorable ruling from the Commission, Upstream merely references the timeline necessary "for CAISO and SCE to complete the interconnection study process for Ventana that would qualify the project for the annual Transmission Plan Deliverability ("TPD") allocation."[61] Upstream states that "Ventana must submit an affidavit to determine its TPD allocation order[,]" and "[w]orking backwards from February 1, 2024 demonstrates the need for fast-track processing[,]" but does not explain how the

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58 Complaint at 24. Complainant submits its request pursuant to 18 C.F.R. §§ 385.206(b)(11) and 385.206(h).

59 18 C.F.R. § 385.206(h)(1).

60 18 C.F.R. §§ 385.206(b)(11), 385.206(h)(2).

61 Complaint at 24.

need to meet a speculative due date satisfies the highly credible claim and persuasive showing required by the Commission's standards.

As discussed above, the Commission should dismiss the Complaint outright. Regardless, fast track procedures will not be necessary. Accordingly, the Commission should deny Complainant's request for fast track processing, as it has done in other cases where the complainant failed to provide adequate support for such a request.[62]

IV. SERVICE AND COMMUNICATIONS

All service of pleadings and documents and all communications regarding this proceeding should be addressed to the following:

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[62] *See, e.g.*, *Sage Grouse Energy Project, LLC v. PacifiCorp*, 153 FERC ¶ 61,272, at P 96 (2015) ("We will deny the request for fast-track processing because the complaint failed to justify the request.").

V. CONCLUSION

For the foregoing reasons, the Commission should deny the request for fast-track proceeding and dismiss the Complaint submitted by Upstream in this proceeding.

Respectfully submitted,

/s/ William H. Weaver

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Counsel for the California Independent System Operator Corporation

Dated: July 26, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 26th day of July, 2023.

/s/ Daniel Klein
Daniel Klein
Davis Wright Tremaine LLP
1301 K Street NW, Suite 500 East
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ATTACHMENT A

Declaration of Robert Sparks

California Independent System Operator Corporation

July 26, 2023

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Upstream Clean Energy, Complainant	)	
	)	
v.	)	**Docket No. EL23-81-000**
	)	
California Independent System Operator Corporation, Respondent	)	

DECLARATION OF ROBERT SPARKS
ON BEHALF OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

I, Robert Sparks, declare as follows:

1. My name is Robert Sparks. My business address is 250 Outcropping Way, Folsom, California, 95630.

2. I have a Master's of Science in Electrical Engineering from Purdue University, West Lafayette, IN, and a Bachelor's of Science in Electrical Engineering from California State University, Sacramento.

3. I am employed by the California Independent System Operator Corporation ("CAISO") as a Sr. Manager Regional Transmission - South. I have held this position from November 2010 to the present time. Prior to that, I was a Lead Regional Transmission Engineer at the CAISO from October 2003 to November 2010. My primary responsibilities at the CAISO involve reviewing the results of interconnection studies for generation interconnection projects, and managing a group of engineers responsible for planning the CAISO

controlled transmission system in southern California to ensure compliance with NERC, WECC, and CAISO Transmission Planning Standards..

4. I offer this declaration in support of the CAISO's Answer to the complaint filed with the Federal Energy Regulatory Commission by Upstream Clean Energy on July 6, 2023 ("Complaint"). This declaration explains that conducting the CAISO's Independent Study Process ("ISP") in the manner suggested in the Complaint would likely be both prohibitively time consuming and detrimental to the efficiency of the CAISO's interconnection processes more generally.

5. The interconnection study analyses I conduct or are conducted under my supervision in my capacity as Sr. Manager Regional Transmission - South contribute to the administration of processes intended to facilitate the interconnection of generation to the CAISO Controlled Grid. These processes are governed by the provisions of the CAISO's Generator Interconnection and Deliverability Allocation Procedures ("GIDAP"), and include both the CAISO's default Queue Cluster study process and the ISP.

6. In order to participate in the ISP, an interconnection customer must demonstrate that (1) its generation facility will not meet the desired commercial operation date if it is included in a Queue Cluster, (2) the customer has site exclusivity, and (3) the customer's facility is electrically independent of any other interconnection requests.

7. Lone projects in a study area are considered to be electrically independent without the need for any further analysis. For those projects that do require additional analysis to determine their electrical independence, the GIDAP requires the project to pass four tests: (1) the flow impact test, (2) the short circuit test, (3) the transient stability test, and (4) the reactive support test. Under the GIDAP, these tests utilize the study results for active Interconnection Requests in the latest available Queue Cluster and the base case study models that were used to produce those study results.

8. The electrical independence tests are carried out and analyzed by the engineering staff of the CAISO and the CAISO's Participating Transmission Owners ("PTOs"). Those tests are performed utilizing existing results for studies performed for other projects in the same study area, including the Phase I interconnection study results for facilities being studied through a Queue Cluster.

9. The ISP was intentionally designed to provide a more efficient alternative to the Queue Cluster process for qualifying projects. Under the current process that does not include updating the study models and study results prior to performing the ISP analysis, completing the ISP and analyzing the existing study results generally requires anywhere from 4 to 8 work hours per project.

10. If the engineering staff of the CAISO and PTOs were required to continuously generate updated base cases and study results to account for every new queue withdrawal or modification in the course of their ISP analyses, the time

required to complete these analyses would be substantially greater—20 to 80 work hours per project depending on (a) the number of withdrawals and modifications that must be accounted for, and (b) their impact on each of the ISP independence screens the customer passes—resulting in significant efficiency losses.

11. For example, the independent study flow impact test is based on the previously identified reliability network upgrades. After a withdrawal, the powerflow contingency analysis would need to be repeated to determine if the upgrades are still needed. Stability and reactive support tests would also need to be repeated to determine if the stability issues and reactive support needs have been eliminated.

12. The CAISO's and PTOs' ability to efficiently administer the ISP will be undermined if they are required to create individually tailored base cases for individual ISP requests, as doing so would require diverting staff and resources needed for administration of the Queue Cluster process. CAISO and PTO staff are already challenged to process the large number of interconnection requests in the CAISO interconnection queue in accordance with the tariff-mandated timelines that ensure alignment with the CAISO's transmission planning process and the PTOs' distribution interconnection processes. Queue Cluster 14 included almost 400 interconnection requests, and Queue Cluster 15, the most recent Queue Cluster, contains over 500 requests. This represents a substantial increase from prior Queue Clusters,

which have usually contained no more than 150 new requests. Distracting key CAISO and PTO staff with the additional work required to create individual ISP base cases would have a detrimental impact on the large number of storage projects that might otherwise successfully come online through the Queue Cluster process, as well as other projects in the CAISO interconnection queue.

13. The Queue Cluster process has a proven track record of success for studying and bringing new projects online, including significant amounts of battery storage. In 2023 alone, the CAISO anticipates that 4,650 MW of battery storage will achieve commercial operation. Of that 4,650 MW, 1,813 MW is already synchronized to the grid and is either undergoing final testing or has achieved commercial operation.

14. This concludes my Declaration.

Executed this 26th day of July, 2023, at Folsom, California.

/s/ Robert Sparks

Robert Sparks
Senior Manager
Regional Transmission, South
California ISO