

184 FERC ¶ 61,050
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

Pacific Gas and Electric Company

Docket Nos. ER21-2592-000
ER21-2592-001

CXA La Paloma, LLC v. California Independent
System Operator Corporation

EL23-24-000
(not consolidated)

ORDER ON PAPER HEARING AND DENYING COMPLAINT

(Issued July 27, 2023)

1. On August 2, 2021, Pacific Gas and Electric Company (PG&E) filed an unexecuted conforming Large Generator Interconnection Agreement (Replacement GIA) among PG&E, CXA La Paloma, LLC (La Paloma), and California Independent System Operator Corporation (CAISO) (together, Parties). On December 21, 2021, the Commission accepted the Replacement GIA for filing, suspended it for a nominal period, effective August 3, 2021, and established a paper hearing.¹ On January 23, 2023, La Paloma filed a complaint (Complaint) alleging that the Replacement GIA violates Order No. 2003,² the Commission's directives addressing surplus interconnection

¹ *Pac. Gas & Elec. Co.*, 177 FERC ¶ 61,213 (2021) (December 2021 Order).

² *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 812 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *affirmed sub nom. Nat'l Ass'n of Regul. Util. Com'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

capacity in Order No. 845,³ and CAISO's tariff.⁴ Based on our examination of the record in these proceedings, we find the Replacement GIA to be just and reasonable and not unduly discriminatory or preferential, and deny the Complaint.

I. Background

A. Original and Replacement Generator Interconnection Agreements

2. On October 9, 2001, PG&E entered into a service agreement with La Paloma Generating Company, LLC under PG&E's Transmission Owner Tariff, which included a Generator Special Facilities Agreement and a Generator Interconnection Agreement (Original GIA)⁵ for the generating facility located in McKittrick, California (Project).⁶

3. On June 2, 2021, PG&E filed a notice of termination of the Original GIA effective August 3, 2021, the date upon which the agreement would expire by its own terms. PG&E stated that the Parties planned to negotiate and submit a replacement agreement to provide for continued interconnection service. PG&E stated that, should it and La Paloma fail to fully execute a replacement generator interconnection agreement (GIA) before the termination date of the Original GIA, it would file an unexecuted replacement GIA before August 2, 2021, to ensure continued service.⁷ The Commission accepted PG&E's notice of termination effective August 3, 2021.⁸

4. On August 2, 2021, PG&E filed the Replacement GIA, stating that the Parties engaged in good-faith negotiations but were unable to complete and execute a replacement GIA prior to termination of the Original GIA on August 3, 2021. PG&E stated that it filed the Replacement GIA while the Parties were continuing to negotiate the

³ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043, at P 491 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019), *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

⁴ La Paloma Complaint at 1-3.

⁵ The Original GIA predated Order No. 2003 and included a 20-year term. In March 2018, La Paloma Generating Company, LLC assigned its rights and obligations under the Original GIA to La Paloma.

⁶ The Project is a four-unit combined cycle, natural gas-fired generating facility.

⁷ PG&E, Filing, Docket No. ER21-2592-000, at 2.

⁸ *Pac. Gas & Elec. Co.*, 176 FERC ¶ 61,067 (2021) (Termination Order).

amount of interconnection service capacity provided to La Paloma.⁹ La Paloma protested the filing, arguing that the Original GIA provided for 1,160 MW of interconnection service, but the Replacement GIA reduced the interconnection capacity to 1,062 MW without justification. La Paloma requested that the Commission direct CAISO and PG&E to amend the Replacement GIA to allow La Paloma to retain the original 1,160 MW of interconnection capacity. In the alternative, La Paloma requested that the Commission (1) direct CAISO and PG&E to compensate La Paloma for the 98 MW of interconnection capacity the Replacement GIA returns to CAISO and PG&E, and (2) charge the ongoing cost-of-ownership fees based on the reduced interconnection capacity in the Replacement GIA.¹⁰ La Paloma also argued that the Replacement GIA is unduly discriminatory. According to La Paloma, the Commission adopted new rules governing surplus interconnection service capacity in Order No. 845 that allow an interconnection customer to transfer to an affiliate, or to sell to a third party, any unused interconnection service up to the quantity of interconnection service reflected in the interconnection customer's interconnection agreement.¹¹

5. In the December 2021 Order, the Commission accepted for filing the Replacement GIA and suspended it for a nominal period, effective August 3, 2021, as requested, and established a paper hearing.¹² The Commission also established settlement judge procedures and held the paper hearing in abeyance pending the outcome of those procedures.¹³ On June 14, 2022, the Chief Administrative Law Judge terminated the settlement judge procedures after the Settlement Judge reported that the participants had reached an impasse.

B. Paper Hearing Order

6. On December 15, 2022, the Commission lifted the abeyance of the paper hearing and established a briefing schedule, with initial briefs due February 23, 2023, and reply

⁹ PG&E, Filing, Docket No. ER21-2592-000, at 2.

¹⁰ The Commission found the Replacement GIA's proposed cost-of-ownership charge to be just and reasonable in the December 2021 Order. December 2021 Order, 177 FERC ¶ 61,213 at P 19.

¹¹ La Paloma, Protest, Docket No. ER21-2592-000, at 6-8 (filed Aug. 23, 2021).

¹² The Commission found that the record did not provide sufficient information to determine whether the amount of interconnection service capacity reflected in the unexecuted Replacement GIA was appropriate. December 2021 Order, 177 FERC ¶ 61,213 at P 20.

¹³ *Id.*