

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

**California Independent System) Docket No. ER22-2018-000
Operator Corporation)**

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO COMMENTS OF VISTRA**

The California Independent System Operator Corporation (CAISO)¹ answers the comments filed by Vistra Corp. and Dynegy Marketing and Trade, LLC (together, Vistra) in this proceeding² on the CAISO's June 2, 2022 tariff amendment filing (Tariff Amendment).³

I. Background and Summary

The Tariff Amendment contains twelve distinct sets of tariff revisions to improve the CAISO's generator interconnection process. These include revisions to set forth a process to enable expedited interconnection of new generation to the CAISO grid pursuant to an emergency declared by the

¹ Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff.

² Besides Vistra, the following entities filed motions to intervene in the proceeding: the American Clean Power Association; California Department of Water Resources State Water Project; Calpine Corporation; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; City of Santa Clara, California; CXA La Paloma, LLC; DCR Transmission, LLC; Golden State Clean Energy; Modesto Irrigation District; Northern California Power Agency; Pacific Gas and Electric Company; Solar Energy Industries Association; and Southern California Edison Company (SCE).

³ The CAISO files this answer pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213.

Governor of California and the satisfaction of a number of other conditions specified in the new tariff language.⁴

The only other intervenor besides Vistra commenting on the Tariff Amendment supports the twelve sets of revisions in the Tariff Amendment.⁵ These reforms were also broadly supported in the stakeholder process.⁶ Vistra acknowledges that many of the revisions “represent positive steps towards addressing certain shortcomings of the existing interconnection process,” and that “CAISO’s decision to propose a tariff-based approach to processing requests for emergency interconnection service is an improvement over its prior approach of attempting to accommodate such requests through seeking *ad hoc* waivers of existing interconnection rules.”⁷ Nevertheless, Vistra argues that the tariff revisions regarding the emergency interconnection process need to be clarified to ensure that they are just and reasonable and not unduly discriminatory or preferential.⁸

The Commission should find the tariff revisions as proposed in the Tariff Amendment are sufficiently clear and justified. The tariff revisions regarding the emergency interconnection process, some of which Vistra believes require additional detail, are either already worded as specifically as existing CAISO tariff

⁴ Transmittal letter for Tariff Amendment at 21-26. The tariff revisions on the emergency interconnection process will be contained in new section 3.10 of appendix DD to the CAISO tariff, which contains the CAISO’s Generator Interconnection and Deliverability Allocation Procedures (GIDAP).

⁵ SCE filed comments stating that it supports the Tariff Amendment in full. SCE at 2.

⁶ See Attachment D to Tariff Amendment (Board of Governors Memorandum) at 9-10.

⁷ Vistra at 2-3.

⁸ *Id.* at 4-5.

language previously approved by the Commission or can be supplemented with implementation detail, in the appropriate business practice manual, if needed, pursuant to the Commission's "rule of reason." Vistra's assertion that the emergency interconnection process will induce a deluge of new requests for such interconnections is wholly unsupported. Nor is there any merit to Vistra's claim that the emergency interconnection process may give resources that take part in the process undue preferential access to deliverable capacity. That claim is erroneous because resources taking part in the process will be compelled to receive deliverability on an interim basis which, as the Commission has already found, guards against interconnection queue-jumping and preserves the rights of interconnection customers further ahead in the queue. For these reasons, the Commission should accept the Tariff Amendment as filed without condition or modification.

II. Answer

A. The Tariff Revisions To Implement the Emergency Interconnection Process Contain Sufficient Detail

Vistra contends the proposed revisions in new section 3.10 of the GIDAP to implement the emergency interconnection process are insufficiently transparent and specific.⁹ None of Vistra's criticisms of these tariff revisions has any merit. All of the tariff revisions Vistra criticizes provide sufficient detail as to the practices that significantly affect rates and services, consistent with the Commission's rule of reason. To the extent that additional implementation detail

⁹ *Id.* at 5-9.

is warranted, such detail is properly reserved for a CAISO business practice manual.

Vistra argues that the tariff revisions do not state how the CAISO will determine whether there are any negative impacts on existing interconnection requests and any impact on an affected system.¹⁰ This argument ignores the fact that the tariff revisions provide the same amount of specificity as the existing tariff does. The tariff revisions state in relevant part that an emergency interconnection “would not have a negative impact on the cost or timing of any existing Interconnection Request.”¹¹ The quoted language parallels the existing CAISO tariff definition of a Material Modification, which means in relevant part a modification that “has a material impact on the cost or timing of any Interconnection Request.”¹² And the CAISO definition of a Material Modification is modeled after the definition of the same term in the Commission’s *pro forma* Large Generator Interconnection Procedures (LGIP).¹³ In addition, as explained in the Tariff Amendment, the requirement in the tariff revisions that an emergency interconnection must have no a negative impact mirrors the Commission’s criteria for allowing a public utility to waive its normal interconnection

¹⁰ *Id.* at 6.

¹¹ Tariff appendix DD, new section 3.10(c).

¹² Tariff appendix A, existing definition of “Material Modification.”

¹³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-A, appendix B, section 1 (at definition of “Material Modification”), 106 FERC ¶ 61,220 (2004) (Order 2003-A).

procedures.¹⁴ Those criteria require that the utility's action must have no undesirable consequences, such as harming third parties.¹⁵

The tariff revisions also require that the emergency interconnection “will not impact Affected Systems.”¹⁶ Similarly, this tariff language is comparable to a provision in the existing CAISO tariff requiring the CAISO to “coordinate the conduct of any studies required to determine the impact of the Interconnection Request on Affected Systems with Affected System Operators,”¹⁷ which again parallels language in the *pro forma* LGIP.¹⁸ As the CAISO explained in the Tariff Amendment, an emergency interconnection will not be permitted to proceed if it negatively impacts the reliability of an Affected System.¹⁹

Vistra also argues the tariff revisions should provide greater specificity regarding how the expedited studies under the emergency interconnection process will confirm the interconnection “may mitigate the emergency.”²⁰ However, Vistra fails to consider that the analysis of whether or not an interconnection may mitigate a particular emergency will necessarily depend on the specific facts of a particular emergency, which cannot reasonably be known in advance. As the CAISO explained in the Tariff Amendment, if the emergency

¹⁴ Transmittal letter for Tariff Amendment at 23.

¹⁵ *See Cal. Indep. Sys. Operator Corp.*, 176 FERC ¶ 61,159, at P 20 (2021).

¹⁶ Tariff appendix DD, new section 3.10(h).

¹⁷ Tariff appendix DD, existing section 3.7.

¹⁸ Order No. 2003-A, appendix B, section 3.5 (stating that “Transmission Provider will coordinate the conduct of any studies required to determine the impact of the Interconnection Request on Affected Systems with Affected System Operators”).

¹⁹ Transmittal Letter for Tariff Amendment at 24.

²⁰ Vistra at 5, 6 (referencing tariff appendix DD, new section 3.10(i)).

interconnection studies performed by the CAISO and participating transmission owner demonstrate the interconnection would not alleviate a particular emergency (e.g., because the emergency requires deliverable capacity to a certain load center during certain hours but the studies demonstrate the generator's energy would not be deliverable), the emergency interconnection request will be rejected and the developer would need to pursue interconnection using other existing procedures.²¹ Thus, there is no need for the tariff revisions to provide additional specificity.

Vistra claims it is unclear whether the CAISO will perform a more rapid version of the studies typically conducted for interconnection requests that go through non-emergency processes, or whether wholly different or *ad hoc* study processes will apply.²² Given the proposed emergency tariff provisions are contained in the CAISO's GIDAP and say nothing about *ad hoc* or any other type of "alternative" study, the only logical reading of the term "studies" in proposed section 3.10 is as a reference to the studies specified in the GIDAP. To confirm, the CAISO will perform the exact same reliability, affected system, and materiality analyses it uses under the existing GIDAP in non-emergency circumstances.²³ The only difference is that the CAISO will perform those

²¹ Transmittal letter for Tariff Amendment at 25.

²² Vistra at 6.

²³ Consequently, there is no basis for Vistra's worry that "failing to study emergency generation resources using methodologies and analyses that are comparable to those used in the ordinary interconnection processes may have the effect of underestimating the impact of these resources on the grid." *Id.* at 7. Because the methodologies and analyses will be comparable, no such underestimates can occur.

analyses more quickly when the conditions for an emergency interconnection are met.

Vistra also argues the CAISO should clarify that emergency interconnection requests will be subject to the Internet posting requirements set forth in the existing CAISO tariff. Vistra states that it “assumes that CAISO plans to subject such requests to the same posting and transparency requirements as other interconnection requests.”²⁴ Vistra is correct. The existing tariff states that “[t]he CAISO will maintain on the CAISO Website a list of *all* Interconnection Requests.”²⁵ Requests for emergency interconnection are a type of Interconnection Request,²⁶ and therefore they will be subject to the Internet posting requirements. Nothing in proposed section 3.10 states or suggests otherwise.

Vistra itself concedes that the CAISO tariff “need not include implementation details better suited to inclusion in manuals and guidance documents.”²⁷ To the extent that additional detail regarding the implementation of the emergency interconnection process proves helpful, the CAISO’s business practice manual is the appropriate place to include that detail. The Commission

²⁴ *Id.* at 9-10.

²⁵ Tariff appendix DD, existing section 3.6 (emphasis added).

²⁶ The CAISO tariff defines an Interconnection Request as “[a]n Interconnection Customer’s request, in the form of Appendix 1 to the Generator Interconnection Deliverability Allocation Procedure (Appendix DD), in accordance with Section 25.1.” Tariff appendix A, existing definition of “Interconnection Request.”

²⁷ Vistra at 8 n.12. Indeed, the Commission references the possibility of keeping material in the business practice manual pursuant to the rule of reason in the same paragraph of a Commission order that Vistra cites. See *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,147, at P 58 n.38 (2009) (cited in Vistra at 7 n.11).

has explained that “[d]ecisions regarding whether an item should be placed in a tariff or in a business practice manual are guided by the Commission’s rule of reason policy, under which provisions that significantly affect rates, terms, and conditions of service, are readily susceptible of specification, and are not generally understood in a contractual agreement must be included in a tariff, while items better classified as implementation details may be included only in the business practice manual.”²⁸ With regard to the CAISO in particular, the Commission has found that Business Practice Manuals “document through procedures, examples and timelines the manner in which the CAISO conducts its operations under the [CAISO] Tariff. The manuals will serve as guides for internal operations and inform market participants of the CAISO’s practices.”²⁹

B. The Emergency Interconnection Process Will Only Be Used in Limited Circumstances

Vistra argues that the tariff language on the emergency interconnection process needs to contain more detail given what Vistra sees as “clear indications of a coming flood of emergency interconnection requests.”³⁰ Vistra believes the CAISO “may soon be inundated with requests for emergency interconnection” based on the most recent revised budget proposal issued in May 2022 by the

²⁸ *Midcontinent Indep. Sys. Operator, Inc.*, 169 FERC ¶ 61,137, at P 252 (2019) (internal quotation marks omitted). See also *Midcontinent Indep. Sys. Operator, Inc.*, 168 FERC ¶ 61,060, at P 17 (2019) (“MISO’s proposed Tariff definition provides a reasonably articulated framework, and it is consistent with the direction provided in the March 29 Order for MISO to leave the more granular implementation details in BPM [Business Practice Manual]-008.”); *Cal. Indep. Sys. Operator Corp.*, 122 FERC ¶ 61,271, at P 84 (2008) (“The Business Practice Manuals exist to provide additional implementation details and transparency about the CAISO’s operations to market participants.”).

²⁹ *Cal. Indep. Sys. Operator Corp.*, 116 FERC ¶ 61,274, at P 1358 (2006).

³⁰ Vistra at 8-9.

Governor of California, which includes a proposed \$5.2 billion to support the deployment of 5,000 MW of emergency capacity (called the Strategic Electricity Reliability Reserve, or the Reserve for short) on the CAISO grid.³¹

Vistra's concerns are purely speculative and provide no reason for the Commission to require the CAISO to make further changes to its tariff. Vistra appears to misunderstand the nature of the "emergency capacity" addressed in the recent California budget proposal. This is capacity that would be procured in addition to existing resource adequacy obligations and available for dispatch during grid emergencies, not necessarily capacity needed on an expedited basis. The revised budget proposal states:

[t]he resources from which the Reserve will be developed may include existing generation capacity that was scheduled to retire, new generation, new storage projects, clean backup generation projects, diesel and natural gas backup generation projects with emission controls and all required permits, and customer side load reduction capacity that is visible to and dispatchable by the California Independent System Operator (CAISO) during grid emergencies.³²

Thus, the revised budget proposal contemplates that the Reserve may consist of a variety of generation and load reduction resources, only some of which might be new generation that could require emergency interconnection.

Further, pursuant to the proposed emergency interconnection process, generation could be interconnected on an emergency basis only if all of the conditions set forth in the tariff revisions were satisfied. These conditions include

³¹ *Id.* at 3.

³² <https://www.ebudget.ca.gov/2022-23/pdf/Revised/BudgetSummary/ClimateChange.pdf>, at 62.

but are not limited to: (1) the governor identifies an emergency that requires capacity on an expedited basis; (2) the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), or a California agency specifically identifies the interconnection as needed to respond to that emergency declaration; (3) the interconnection would not have a negative impact on the cost or timing of any existing Interconnection Request of a different developer; (4) the interconnection does not require Network Upgrades that cost more than \$1 million; and (5) the Reliability Network Upgrades required will be constructed in fewer than six months.³³ The CAISO anticipates that the obligation to meet all of the conditions specified in the tariff revisions will limit the amount of new generation that might be interconnected pursuant to the emergency interconnection process.

C. The Tariff Revisions To Implement the Emergency Interconnection Process Will Not Provide Unduly Preferential Access to Deliverability

Vistra requests that the CAISO clarify how it will allocate Deliverability to resources interconnected to the CAISO grid pursuant to the emergency interconnection process.³⁴ Vistra expresses concern that such resources will receive unduly preferential access to Deliverability.

³³ Tariff appendix DD, new sections 3.10(a)-(e).

³⁴ Vistra at 10-12. The CAISO tariff defines Deliverability in relevant part as “[t]he annual Net Qualifying Capacity of a Generating Facility, as verified through a Deliverability Assessment and measured in MW, which specifies the amount of resource adequacy capacity the Generating Facility is eligible to provide.” Tariff appendix A, existing definition of “Deliverability.”

The CAISO will not provide any undue preference to those resources.

The tariff revisions specify:

[t]he emergency interconnection will be ineligible for Delivery Network Upgrades or TP [Transmission Plan] Deliverability *except Interim Deliverability consistent with Section 4.6 of this GIDAP*, or until it can obtain TP Deliverability by submitting a subsequent Interconnection Request pursuant to Sections 3.5 or 5.1 of this GIDAP.³⁵

Thus, the only type of Deliverability that a resource interconnecting through the emergency process can get (until it submits a subsequent Interconnection Request) is Interim Deliverability.³⁶ The Tariff Amendment does not propose any changes to how Interim Deliverability works.³⁷

Section 4.6 of the GIDAP (referenced in the tariff revisions quoted above) states that if a Generating Facility achieves its Commercial Operation Date before the Deliverability Assessment is completed or before any necessary Delivery Network Upgrades are in service, the CAISO will determine whether Interim Deliverability (which represents capacity that would otherwise go unused)

³⁵ Tariff appendix DD, new section 3.10(g) (emphasis added). Resources with Interim Deliverability will also be subject to the new Deliverability allocation process proposed in the Tariff Amendment. As the CAISO explains, that Deliverability allocation process is just and reasonable. See transmittal letter for Tariff Amendment at 9-13.

³⁶ The CAISO tariff defines Interim Deliverability Status as

[a]n interim designation that allows an Interconnection Customer that has requested Full Capacity Deliverability Status or Partial Capacity Deliverability Status to obtain non-zero Net Qualifying Capacity, as determined annually by the CAISO pursuant to the provisions of the CAISO Tariff and the applicable Business Practice Manual, pending the in-service date of all the required Network Upgrades required for its requested Deliverability Status.

Tariff appendix A, existing definition of "Interim Deliverability Status."

³⁷ See transmittal letter for Tariff Amendment at 24 & n.93.

is available, and will temporarily award it to the Generating Facility.³⁸ Section 4.6 of the GIDAP allows the Generating Facility to retain any Interim Deliverability only until: (1) the Interconnection Customer to which that Deliverability was originally allocated achieves its Commercial Operation Date; or (2) the CAISO completes the next scheduled Deliverability Assessment and the Generating Facility’s Delivery Network Upgrades are complete, thereby enabling Partial Capacity or Full Capacity Deliverability Status.³⁹ The Commission accepted these tariff provisions as just and reasonable in 2021, finding that the cutoff of Interim Deliverability in either of the two circumstances described above will “guard against queue jumping and preserve the rights of interconnection customers further ahead in the queue.”⁴⁰

Granting Interim Deliverability (e.g., to a resource interconnecting through the emergency process) does not give that resource undue preferential access to Deliverability. To the contrary, as the Commission found in its 2021 order, such a temporary grant of Deliverability preserves the rights of higher-queued interconnection customers. Insofar as Vistra attempts to take issue with Interim Deliverability in the instant proceeding, that is a collateral attack on the findings in the 2021 order.⁴¹ Vistra also states that “providing generating resources with preferential access to *permanent* interconnection service and deliverability would

³⁸ Tariff appendix DD, existing section 4.6.

³⁹ *Id.*

⁴⁰ *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,160, at P 68 (2021).

⁴¹ Vistra filed a doc-less motion to intervene in the proceeding that resulted in the 2021 order (Docket No. ER21-1536), but submitted no other pleading. No entity requested rehearing of the 2021 order.

be inappropriate and raise queue-jumping concerns.”⁴² But the CAISO does not propose to give resources interconnected pursuant to the emergency process any permanent Deliverability; such resources will only receive Interim Deliverability as described above.

Apart from the fact that Interim Deliverability is only temporary, it also constitutes only a tiny fraction of all Deliverability. As demonstrated in the “Final Net Qualifying Capacity Report for Compliance Year 2022” document available on the CAISO website,⁴³ which is a snapshot of Deliverability status at that time, there were 1,696 units in the list and only 52 (*i.e.*, 3 percent) of those units had Interim Deliverability. In the last three weeks, five of those units have received Deliverability because the upgrade they were waiting for has been completed. Further, as explained in the preceding section of this answer, Vistra’s concerns that significant amounts of resources may be interconnected pursuant to the emergency process are speculative. Therefore, the CAISO would expect that any resulting volume of Interim Deliverability would be correspondingly small.

⁴² Vistra at 11 (emphasis added).

⁴³ <https://www.caiso.com/planning/Pages/ReliabilityRequirements/Default.aspx>, at Microsoft Excel spreadsheets listed under “Net qualifying capacity (NQC) and effective flexible capacity (EFC)” and dated 6/15/2022.

III. Conclusion

For the reasons explained in the Tariff Amendment and this answer, the Commission should issue an order accepting the tariff revisions proposed in the Tariff Amendment without condition or modification.

Respectfully submitted,

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Dated: July 8, 2022

CERTIFICATE OF SERVICE

I certify that I have served the foregoing document upon the parties listed on the official service list in the captioned proceedings, 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, DC this 8th day of July, 2022.

/s/ Daniel Klein

Daniel Klein