

and the CAISO's compliance with its tariff.⁴ Based on clear Commission precedent, the CAISO's tariff provisions, and good utility practice, the appropriate interconnection service capacity for the Replacement GIA is 1,062 MW. La Paloma has presented no evidence except for a single attachment to its original protest: an affidavit by an expert who has elsewhere contradicted his own attestation.⁵ Based on the evidence, the Commission must rule in favor of the CAISO's offered interconnection service capacity of 1,062 MW.

The December 15 Order also expressly states that "No answers or additional briefs will be permitted."⁶ The Order contemplates that all parties present their evidence in their initial briefs and all parties have the same opportunity to respond. To the extent La Paloma seeks to provide new evidence in a response, the Commission's schedule expressly prohibits the CAISO from responding. The Commission cannot accept any new evidence or arguments that La Paloma may put forth in its response because it failed to include them in an initial brief. This is consistent with the basic tenets of administrative procedure, reasoned decisionmaking, and Commission precedent to maintain equity within the paper hearing process. In several cases the Commission has prohibited reply briefs when a party failed to file an initial brief.⁷ Commission Administrative Law Judges also have prohibited parties from raising new arguments in reply.⁸

⁴ The CAISO's tariff expressly addresses conversions from two-party to three-party GIA, including the conversion that gave rise to this dispute. The CAISO submitted eighteen attachments to its initial brief demonstrating that it relied on La Paloma's own representations of its capacity in determining the appropriate interconnection service capacity under those tariff provisions.

⁵ See *Initial Brief of the California Indep. Sys. Operator Corp.*, Docket No. ER21-2592 (filed Feb. 13, 2023) at 28.

⁶ *Id.* at 5.

⁷ See, for example, *El Paso Natural Gas Co.*, 46 FERC ¶ 63,029 at 65,104 (1989) (ignoring reply brief of party who did not file initial brief because all parties wishing to address issues must set forth their position in an initial brief so that other participants could respond in their reply briefs).

⁸ See *Confederated Salish and Kootenai Tribes and Energy Keepers Incorporated*, 156 FERC § 63,036 (2016) (noting that submitting new arguments and new evidence on reply "deprives opposing participants of any opportunity to respond, thus depriving them due

Instead of filing an initial brief in this proceeding, La Paloma filed a separate complaint against the CAISO, making the same baseless claim that it constructed a generating facility larger than it has ever represented, but again provided no credible evidence.⁹ La Paloma then filed a motion to consolidate the two proceedings, disregarding the hearing schedule set in this proceeding by attempting to re-litigate the issue of material fact already at issue in this paper hearing. The Commission should stop such procedural gamesmanship and issue an order in this proceeding accepting the Replacement GIA as proposed.

The CAISO respectfully requests the Commission approve the Replacement GIA with a capacity of 1,062 MW, consistent with the compelling evidence submitted by the CAISO.

/s/ Sarah E. Kozal

Roger E. Collanton

General Counsel

Anthony Ivancovich

Deputy General Counsel

William H. Weaver

Assistant General Counsel

Sarah E. Kozal

Counsel

California Independent System

Operator Corporation

250 Outcropping Way

Folsom, CA 95630

(916) 351-4400

skozal@caiso.com

Dated: March 15, 2023

Counsel for the California Independent
System Operator

process.”); *see also Texas Eastern Transmission Corp.*, 39 FERC ¶ 63,036 at 65,204 (1987) (motion to strike granted because “to hold otherwise would deny [the] opponents a chance to... refute late evidence....”).

⁹ *CXA La Paloma, LLC v. Cal. Indep. Sys. Op. Corp.*, Complaint of CXA La Paloma, LLC, Docket No. EL23-24- 000, at 3 (filed Jan. 23, 2023). La Paloma only provided the affidavit mentioned above, which the CAISO has rebutted.

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 Folsom, California this 15th day of March, 2023.

/s/ Jacqueline Meredith

Jacqueline Meredith

An employee of the California ISO