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January 22, 2013

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: California Independent System Operator Corporation  
Compliance Filing  
Docket No. ER13-218-001**

Dear Secretary Bose:

The California Independent System Operator Corporation (“ISO”)<sup>1</sup> submits this filing in compliance with the Commission’s “Order on Tariff Amendment,” issued in the captioned proceeding on December 20, 2012.<sup>2</sup>

## **I. Compliance with the December 20 Order**

On October 29, 2012, the ISO filed an amendment to its tariff to provide a one-time opportunity for all customers in the ISO’s interconnection queue that entered the queue prior to cluster five to downsize their projects (“October 29 tariff amendment”). The ISO requested that the tariff changes be made effective as of January 1, 2013. A number of parties filed comments and protests regarding the October 29 tariff amendment, which the ISO addressed in an answer filed on November 30, 2012. In the December 20 order, the Commission accepted the ISO’s proposed effective date and most of the tariff changes, with two exceptions discussed below.

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the ISO tariff and in the tariff amendment filed in this proceeding on October 29, 2012.

<sup>2</sup> *California Independent System Operator Corp.*, 141 FERC ¶ 61,219 (2013) (“December 20 order”).

First, in the December 20 order, the Commission agreed with Southern California Edison Company and the ISO (in its answer) that the ISO should amend its tariff to ensure that downsizing generators bear the costs of their downsizing on all impacted generators, regardless of whether the impacted generator is interconnected to the ISO controlled grid or to the distribution system of a participating transmission owner. Accordingly, the Commission directed the ISO to submit tariff revisions on compliance to clarify that the terminology used in the October 29 tariff amendment will not limit the “hold-harmless” protections to generators that are interconnecting directly to the ISO controlled grid.<sup>3</sup>

To comply with this Commission directive, the ISO proposes the following amendments to Appendix GG:

- Modify the definition of “Affected Generator” in Section 1.2.2 to clarify that it can also refer to “an interconnection customer connecting to the distribution system of a Participating TO under a wholesale distribution tariff.” The ISO has also removed the capitalization of the term “Interconnection” so as to avoid any suggestion that this definition does not apply to distribution-level interconnections.
- Add a new defined term “Generator Interconnection Agreement” to Section 1.2.2 which, for purposes of Appendix GG, will mean all interconnection agreements entered into pursuant to the ISO’s generator interconnection procedures, as well as those interconnection agreements of Affected Generators who are interconnecting to a distribution system.
- Amend Sections 7.1 and 7.2 by adding or substituting the term “Affected Generator,” where appropriate, and making one reference to “Interconnection Customers” lowercase, in order to ensure that the “hold harmless” protections in these provisions apply to generators interconnecting to the distribution system of participating transmission owners.

The ISO is also proposing two changes necessary to implement the Commission’s directive in a manner that ensures that distribution-level customers will be treated in the same manner as transmission-level interconnection customers in the downsizing process:

- Add the term “Affected Generators” to Section 6.2 to clarify that distribution-level interconnection customers may obtain Base Case Data utilized in the Generator Downsizing Study pursuant to the same

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<sup>3</sup> *Id.* at P 48.

conditions applicable to other interconnection customers and ISO market participants.

- Add a sentence to Section 13 to state that as part of the process to amend interconnection agreements impacted by downsizing, participating transmission owners will tender draft amendments to any of their distribution-level customers with interconnection agreements impacted by downsizing.

Second, in the December 20 order, the Commission also directed the ISO to clarify on compliance that Article 4 of Appendix HH to the ISO tariff, which allows downsizing generators to continue to retain the right to downsize by an additional five percent of their capacity, applies to downsizing generators (as opposed to affected generators). The Commission explained that this compliance change will avoid confusion and will make the language of Article 4 consistent with Article 2 of Appendix HH.<sup>4</sup> To comply with the Commission's directive, the ISO has revised Article 4 to include clarifying prefatory language similar to the language at the start of Article 2.

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<sup>4</sup>

December 20 order at P 51.

## II. Materials Submitted

In addition to this transmittal letter, this compliance filing includes Attachments A and B. Attachment A contains clean ISO tariff sheets reflecting the tariff modifications described above. Attachment B shows these modifications in black-line format.

If there are any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

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Counsel for the California Independent System Operator Corporation

**Attachment A – Clean Tariff**

**Compliance Filing for Tariff Amendment to Implement Downsizing Opportunity**

**for Interconnecting Generator Projects**

**California Independent System Operator**

**Fifth Replacement FERC Electric Tariff**

**January 22, 2013**

## Appendix GG

### One-Time Interconnecting Generator Downsizing Opportunity

\* \* \*

#### 1.2.2 Special Definitions for this Appendix GG.

In this Appendix GG, the following words and expressions shall have the meanings set opposite them:

“Affected Generator” shall mean an Interconnection Customer who is not a Downsizing Generator whose interconnection configuration, including but not limited to cost responsibility or schedule for Network Upgrades, has been modified through the Generator Downsizing Study. An Affected Generator may mean an interconnection customer connecting to the distribution system of a Participating TO under a wholesale distribution tariff.

“Downsizing Generator” shall mean an Interconnection Customer who submits a Generator Downsizing Request under this Appendix GG.

“Downsizing Generator Interconnection Agreement Amendment” shall mean the pro forma amendment to a Downsizing Generator’s or Affected Generator’s Generator Interconnection Agreement, which pro forma amendment is set forth in CAISO Tariff Appendix HH.

“Downsizing Generator Payment Obligation Agreement” shall mean the repayment agreement set forth in Appendix 3 of this Appendix GG, obligating the Downsizing Generator to pay for study work conducted for the Generator Downsizing Study, preparation of the Generator Downsizing Study Reports and Generator Interconnection Agreements, and amendments thereto necessary to implement this Appendix GG.

“Generator Downsizing Deposit” shall mean a deposit in the amount of two hundred thousand dollars (\$200,000) required by this Appendix GG that is to be paid in cash or cash equivalent funds only.

“Generator Downsizing Request” shall mean a request submitted under this Appendix GG to modify the Downsizing Generator’s Interconnection Request to reduce the megawatt generating capacity of the Small or Large Generating Facility.

“Generator Downsizing Request Due Date” shall mean January 4, 2013 at five o’clock (5:00) p.m., Pacific time, which shall be the due date for CAISO receipt of any Generator Downsizing Request under this Appendix GG.

“Generator Downsizing Study” shall mean that study or studies conducted in accordance with this Appendix GG.

“Generator Downsizing Study Report” shall mean the study report issued in conjunction with the Generator Downsizing Study to Downsizing Generators and Affected Generators.

“Generator Interconnection Agreement” shall mean, for purposes of this Appendix GG, Generator Interconnection Agreements as defined in Appendix A of the CAISO Tariff, as well as interconnection agreements of Affected Generators interconnecting to a distribution system of a Participating TO under a wholesale distribution tariff.

"Reasonable Efforts" shall mean, with respect to an action required to be attempted or taken by a Party under this Appendix GG, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

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## **6.2 Interconnection Base Case Data Used in Generator Downsizing Study**

In conjunction with the Generator Downsizing Study conducted by the CAISO under this Appendix GG, the CAISO and any applicable Participating TO(s) shall utilize applicable Interconnection Base Case Data.

The CAISO, in coordination with the applicable Participating TO(s), shall publish updated Interconnection Base Case Data containing applicable Base Case data developed for the Generator Downsizing Study, to a secured section of the CAISO Website.

Interconnection Base Case Data shall include information subject to the confidentiality provisions set forth in Section 13.1 of Appendix Y.

The CAISO shall require Affected Generators, current and former Interconnection Customers, Market Participants, and electric utility regulatory agencies within California to sign a CAISO confidentiality agreement and, where the Affected Generator, current or former Interconnection Customer or Market Participant is not a member of WECC, or its successor, an appropriate form of agreement with WECC, or its successor, as necessary. All other entities or persons seeking Interconnection Base Case Data must satisfy the foregoing requirements as well as all requirements under 18 C.F.R. Section 388.113 for obtaining the release of Critical Energy Infrastructure Information (as that term is defined by FERC).

\* \* \*

## **Section 7 Cost Allocation for Network Upgrades Modified or Substituted in Generator Downsizing Study**

The cost estimates for modified or substituted Network Upgrades identified in the Generator Downsizing Study shall be determined in accordance with the methodology used for the Phase II Interconnection Study for Interconnection Requests in a Queue Cluster.

### **7.1 Cost Allocation for Network Upgrades and Participating TOs' Interconnection Facilities**

To the extent that Network Upgrades or Participating TOs' Interconnection Facilities were modified or substituted in the Generator Downsizing Study as a result of the Generator Downsizing Requests, the costs shall be assigned to the Interconnection Customers who originally triggered the Network Upgrades or Participating TOs' Interconnection Facilities on a pro rata basis in proportion to the costs allocated among such Interconnection Customers in the governing Interconnection Studies undertaken before the Generator Downsizing Study. Provided, however, that no Affected Generator shall be assigned a cost amount arising out of the Generator Downsizing Study greater than the cost amount assigned to such Affected Generator for such Network Upgrades and Participating TOs' Interconnection Facilities in the Affected Generator's earlier-governing Interconnection Study or, if applicable, in the Affected Generator's Generator Interconnection Agreement.

### **7.2 Limitation on Cost Allocation as a Result of Downsizing**

(1) If the estimated costs of a Network Upgrade or Participating TO's Interconnection Facilities modified or substituted as a result of Generator Downsizing Requests that are assigned to an Affected Generator in this process are higher than the costs which such Affected Generator has already been assigned for the original Network Upgrade or Participating TO's Interconnection Facilities pursuant to their relevant Interconnection Studies, such costs shall not be allocated to the Affected Generator. Instead, such costs shall be re-allocated to applicable Downsizing Generators pursuant to the methodology set forth in Section 7.1.

(2) If the Generator Downsizing Study indicates that a Network Upgrade identified in a Downsizing Generator's or Affected Generator's pertinent Interconnection Studies will no longer be needed by the originally triggering Downsizing Generator or Affected Generator, or by Interconnection Customers in the same Cluster Study as the Downsizing Generator or Affected Generator, but the Network Upgrade or a substitute Network Upgrade will still be needed by later-queued Affected Generators (provided they are being studied in Queue Cluster 4 or earlier) in the Generator Downsizing Study, the later-queued Affected Generators shall not be allocated the costs of the Network Upgrade. Instead, the interconnection customers that were originally assigned the costs of such Network Upgrade will continue to be assigned the costs of the Network Upgrade, or the substitute Network Upgrade, and shall be required to fund those Network Upgrades on the same schedule as contained in the Downsizing Generator's Generator Interconnection Agreement prior to the Downsizing Request, if maintenance of such schedule is needed by Affected Generators.

(3) If, as a result of the Generator Downsizing Study, a Network Upgrade that was originally triggered by an interconnection to the Distribution System of a Participating TO is no longer needed by such interconnection, but the upgrade is needed by Affected Generators, then the cost of the upgrade shall not be allocated to the Distribution System interconnection customer; rather, the cost shall be allocated among the Downsizing Generators, based upon flow impact in the case of Delivery Network Upgrades and based upon short circuit duty or megawatt (MW) capacity in the case of Reliability Network Upgrades, in accordance with Section 6 of Appendix Y.

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## **Section 13 Reflecting Plan of Service Changes in Generator Interconnection Agreements**

Within thirty (30) calendar days after the CAISO provides the Generator Downsizing Study Report to the Downsizing Generator or Affected Generator, the applicable Participating TO(s) and the CAISO shall, if necessary, tender a draft amendment to the executed GIA, together with draft amended appendices. Any such amendment shall be in the form of CAISO Tariff Appendix HH. Concurrent with this, the Participating TOs will tender draft amendments to Affected Generators who are wholesale distribution interconnection customers pursuant to the terms of the applicable wholesale distribution tariffs. If the Downsizing Generator or Affected Generator has not yet executed a GIA, then the applicable Participating TO(s) and the CAISO shall, if necessary, tender a revised draft GIA with draft appendices within thirty (30) calendar days after the CAISO provides the Generator Downsizing Study Report. The process for providing comments, negotiation, and execution and filing of a revised GIA, or an amendment to an executed GIA, including all timeframes, shall be identical to the process set forth in Section 11 of Appendix Y, or as agreed to by the Downsizing Generator or Affected Generator, CAISO, and Participating TO(s).

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## **Appendix HH**

### **Generation Interconnection Agreement Amendment**

#### **Re: Generator Downsizing**

*This Appendix HH is to be used to implement amendments to Generation Interconnection Agreements pursuant to CAISO Tariff Appendix GG for Interconnection Customers who are either Downsizing Generators or Affected Generators*

\* \* \*

#### **AMENDMENT**

\* \* \*

4. *[This Amendment Section 4 shall apply only to a Large Generator Interconnection Customer who was a Downsizing Generator whose Generator Downsizing Request was included in the Generator Downsizing Study]*

This Amendment Section 4 adds the following Article XX to the GIA:

**XX Permitted Reductions in output capacity (MW generating capacity) of the Generating Facility.** An Interconnection Customer may reduce the MW capacity of the Generating Facility by up to five percent (5%) for any reason, during the time period between the Effective Date of this GIA and the Commercial Operation Date. The five percent (5%) value shall be established by reference to the MW generating capacity as set forth in this GIA as amended pursuant to Appendix GG.

The CAISO (in consultation with the applicable Participating TO(s)) will consider an Interconnection Customer's request for a reduction in the MW generating capacity greater than five percent (5%) under limited conditions where the Interconnection Customer reasonably demonstrates to the Participating TO and CAISO that the MW generation capacity reduction is warranted due to reasons beyond the control of the Interconnection Customer. Reasons beyond the control of the Interconnection Customer shall consist of any one or more of the following:

- (i) the Interconnection Customer's failure to secure required permits and other governmental approvals to construct the Generating Facility at its total MW generating capacity as specified in its Interconnection Request after the Interconnection Customer has made diligent effort to secure such permits or approvals;
- (ii) the Interconnection Customer's receipt of a written statement from the permitting or approval authority (such as a draft environmental impact report) indicating that construction of a Generating Facility of the total MW generating capacity size specified in the Interconnection Request will likely result in disapproval due to a significant environmental or other impact that cannot be mitigated;
- (iii) failure to obtain the legal right of use of the full site acreage necessary to construct and/or operate the total MW generating capacity size for the entire Generating Facility, after the Interconnection Customer has made a diligent attempt to secure such legal right of use. This subsection (iii) applies only where an Interconnection Customer has previously demonstrated and maintained its demonstration of Site Exclusivity prior to invoking this subsection as a reason for downsizing.

If relying on subsections (i) or (ii) above, in order to be eligible for a capacity reduction greater than five percent (5%), the Interconnection Customer must also demonstrate to the CAISO that a reduction of MW generating capacity of the Generating Facility to the reduced size that the Interconnection Customer proposes will likely overcome the objections of the permitting/approving authority or otherwise cause the permitting/approving authority to grant the permit or approval. The Interconnection Customer may satisfy this demonstration requirement by submitting to the CAISO either a writing from the permitting/approving authority to this effect or other evidence of a commitment by the permitting/approving authority that the MW capacity reduction will remove the objections of the authority to the permit/approval application.

If relying on subsection (iii) above, the Interconnection Customer must also reasonably demonstrate to the CAISO that the proposed reduced-capacity Generating Facility can be constructed on the site over which the Interconnection Customer has been able to obtain legal rights of use.

Upon such demonstration to the reasonable satisfaction of the CAISO (after consultation with the applicable Participating TO) the CAISO will permit such reduction. No permitted reduction of MW generation capacity under this Article shall operate to diminish the Interconnection Customer's cost responsibility for Network Upgrades or to diminish the Interconnection Customer's right to repayment for financing of Network Upgrades under this generator interconnection agreement.

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**Attachment B – Marked Tariff**

**Compliance Filing for Tariff Amendment to Implement Downsizing Opportunity**

**for Interconnecting Generator Projects**

**California Independent System Operator**

**Fifth Replacement FERC Electric Tariff**

**January 22, 2013**

## Appendix GG

### One-Time Interconnecting Generator Downsizing Opportunity

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“Downsizing Generator” shall mean an Interconnection Customer who submits a Generator Downsizing Request under this Appendix GG.

“Downsizing Generator Interconnection Agreement Amendment” shall mean the pro forma amendment to a Downsizing Generator’s or Affected Generator’s Generator Interconnection Agreement, which pro forma amendment is set forth in CAISO Tariff Appendix HH.

“Downsizing Generator Payment Obligation Agreement” shall mean the repayment agreement set forth in Appendix 3 of this Appendix GG, obligating the Downsizing Generator to pay for study work conducted for the Generator Downsizing Study, preparation of the Generator Downsizing Study Reports and Generator Interconnection Agreements, and amendments thereto necessary to implement this Appendix GG.

“Generator Downsizing Deposit” shall mean a deposit in the amount of two hundred thousand dollars (\$200,000) required by this Appendix GG that is to be paid in cash or cash equivalent funds only.

“Generator Downsizing Request” shall mean a request submitted under this Appendix GG to modify the Downsizing Generator’s Interconnection Request to reduce the megawatt generating capacity of the Small or Large Generating Facility.

“Generator Downsizing Request Due Date” shall mean January 4, 2013 at five o’clock (5:00) p.m., Pacific time, which shall be the due date for CAISO receipt of any Generator Downsizing Request under this Appendix GG.

“Generator Downsizing Study” shall mean that study or studies conducted in accordance with this Appendix GG.

“Generator Downsizing Study Report” shall mean the study report issued in conjunction with the Generator Downsizing Study to Downsizing Generators and Affected Generators.

“Generator Interconnection Agreement” shall mean, for purposes of this Appendix GG, Generator Interconnection Agreements as defined in Appendix A of the CAISO Tariff, as well as interconnection agreements of Affected Generators interconnecting to a distribution system of a Participating TO under a wholesale distribution tariff.

"Reasonable Efforts" shall mean, with respect to an action required to be attempted or taken by a Party under this Appendix GG, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

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## **6.2 Interconnection Base Case Data Used in Generator Downsizing Study**

In conjunction with the Generator Downsizing Study conducted by the CAISO under this Appendix GG, the CAISO and any applicable Participating TO(s) shall utilize applicable Interconnection Base Case Data.

The CAISO, in coordination with the applicable Participating TO(s), shall publish updated Interconnection Base Case Data containing applicable Base Case data developed for the Generator Downsizing Study, to a secured section of the CAISO Website.

Interconnection Base Case Data shall include information subject to the confidentiality provisions set forth in Section 13.1 of Appendix Y.

| The CAISO shall require Affected Generators, current and former Interconnection Customers, Market Participants, and electric utility regulatory agencies within California to sign a CAISO confidentiality agreement and, where the Affected Generator, current or former Interconnection Customer or Market Participant is not a member of WECC, or its successor, an appropriate form of agreement with WECC, or its successor, as necessary. All other entities or persons seeking Interconnection Base Case Data must satisfy the foregoing requirements as well as all requirements under 18 C.F.R. Section 388.113 for obtaining the release of Critical Energy Infrastructure Information (as that term is defined by FERC).

\* \* \*

## Section 7 Cost Allocation for Network Upgrades Modified or Substituted in Generator Downsizing Study

The cost estimates for modified or substituted Network Upgrades identified in the Generator Downsizing Study shall be determined in accordance with the methodology used for the Phase II Interconnection Study for Interconnection Requests in a Queue Cluster.

### 7.1 Cost Allocation for Network Upgrades and Participating TOs' Interconnection Facilities

To the extent that Network Upgrades or Participating TOs' Interconnection Facilities were modified or substituted in the Generator Downsizing Study as a result of the Generator Downsizing Requests, the costs shall be assigned to the Interconnection Customers who originally triggered the Network Upgrades or Participating TOs' Interconnection Facilities on a pro rata basis in proportion to the costs allocated among such Interconnection Customers in the governing Interconnection Studies undertaken before the Generator Downsizing Study. Provided, however, that no ~~Interconnection Customer Affected Generator except a Downsizing Generator~~ shall be assigned a cost amount arising out of the Generator Downsizing Study greater than the cost amount assigned to such ~~Interconnection Customer Affected Generator~~ for such Network Upgrades and Participating TOs' Interconnection Facilities in the ~~Interconnection Customer's Affected Generator's~~ earlier-governing Interconnection Study or, if applicable, in the ~~Interconnection Customer's Affected Generator's~~ Generator Interconnection Agreement.

### 7.2 Limitation on Cost Allocation as a Result of Downsizing

(1) If the estimated costs of a Network Upgrade or Participating TO's Interconnection Facilities modified or substituted as a result of Generator Downsizing Requests that are assigned to an Affected Generator in this process are higher than the costs which such Affected Generator has already been assigned for the original Network Upgrade or Participating TO's Interconnection Facilities pursuant to their relevant Interconnection Studies, such costs shall not be allocated to the Affected Generator. Instead, such costs shall be re-allocated to applicable Downsizing Generators pursuant to the methodology set forth in Section 7.1.

(2) If the Generator Downsizing Study indicates that a Network Upgrade identified in a Downsizing Generator's ~~or Affected Generator's~~ pertinent Interconnection Studies will no longer be needed by the originally triggering Downsizing Generator ~~or Affected Generator~~, or by Interconnection Customers in the same Cluster Study as the Downsizing Generator ~~or Affected Generator~~, but the Network Upgrade or a substitute Network Upgrade will still be needed by later-queued ~~Interconnection Customers Affected Generators~~ (provided they are being studied in Queue Cluster 4 or earlier) in the Generator Downsizing Study, the later-queued ~~Interconnection Customers Affected Generators~~ shall not be allocated the costs of the Network Upgrade. Instead, the ~~Interconnection Customers~~ ~~interconnection customers~~ that were originally assigned the costs of such Network Upgrade will continue to be assigned the costs of the Network Upgrade, or the substitute Network Upgrade, and shall be required to fund those Network Upgrades on the same schedule as contained in the Downsizing Generator's Generator Interconnection Agreement prior to the Downsizing Request, if maintenance of such schedule is needed by Affected Generators.

(3) If, as a result of the Generator Downsizing Study, a Network Upgrade that was originally triggered by an interconnection to the Distribution System of a Participating TO is no longer needed by such interconnection, but the upgrade is needed by Affected Generators, then the cost of the upgrade shall not be allocated to the Distribution System interconnection customer; rather, the cost shall be allocated among the Downsizing Generators, based upon flow impact in the case of Delivery Network Upgrades and based upon short circuit duty or megawatt (MW) capacity in the case of Reliability Network Upgrades, in accordance with Section 6 of Appendix Y.

\* \* \*

## Section 13 Reflecting Plan of Service Changes in Generator Interconnection Agreements

Within thirty (30) calendar days after the CAISO provides the Generator Downsizing Study Report to the Downsizing Generator or Affected Generator, the applicable Participating TO(s) and the CAISO shall, if necessary, tender a draft amendment to the executed GIA, together with draft amended appendices. Any such amendment shall be in the form of CAISO Tariff Appendix HH. Concurrent with this, the Participating TOs will tender draft amendments to Affected Generators who are wholesale distribution interconnection customers pursuant to the terms of the applicable wholesale distribution tariffs. If the Downsizing Generator or Affected Generator has not yet executed a GIA, then the applicable Participating TO(s) and the CAISO shall, if necessary, tender a revised draft GIA with draft appendices within thirty (30) calendar days after the CAISO provides the Generator Downsizing Study Report. The process for providing comments, negotiation, and execution and filing of a revised GIA, or an amendment to an executed GIA, including all timeframes, shall be identical to the process set forth in Section 11 of Appendix Y, or as agreed to by the Downsizing Generator or Affected Generator, CAISO, and Participating TO(s).

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### Appendix HH

#### Generation Interconnection Agreement Amendment

#### Re: Generator Downsizing

*This Appendix HH is to be used to implement amendments to Generation Interconnection Agreements pursuant to CAISO Tariff Appendix GG for Interconnection Customers who are either Downsizing Generators or Affected Generators*

\* \* \*

#### AMENDMENT

\* \* \*

- [This Amendment Section 4 shall apply only to a Large Generator Interconnection Customer who was a Downsizing Generator whose Generator Downsizing Request was included in the Generator Downsizing Study]

This Amendment Section 4 adds the following Article XX to the GIA:

**XX Permitted Reductions in output capacity (MW generating capacity) of the Generating Facility.** An Interconnection Customer may reduce the MW capacity of the Generating Facility by up to five percent (5%) for any reason, during the time period between the Effective Date of this GIA and the Commercial Operation Date. The five percent (5%) value shall be established by reference to the MW generating capacity as set forth in this GIA as amended pursuant to Appendix GG.

The CAISO (in consultation with the applicable Participating TO(s)) will consider an Interconnection Customer's request for a reduction in the MW generating capacity greater than five percent (5%) under limited conditions where the Interconnection Customer reasonably demonstrates to the Participating TO and CAISO that the MW generation capacity reduction is warranted due to reasons beyond the control of the

Interconnection Customer. Reasons beyond the control of the Interconnection Customer shall consist of any one or more of the following:

- (i) the Interconnection Customer's failure to secure required permits and other governmental approvals to construct the Generating Facility at its total MW generating capacity as specified in its Interconnection Request after the Interconnection Customer has made diligent effort to secure such permits or approvals;
- (ii) the Interconnection Customer's receipt of a written statement from the permitting or approval authority (such as a draft environmental impact report) indicating that construction of a Generating Facility of the total MW generating capacity size specified in the Interconnection Request will likely result in disapproval due to a significant environmental or other impact that cannot be mitigated;
- (iii) failure to obtain the legal right of use of the full site acreage necessary to construct and/or operate the total MW generating capacity size for the entire Generating Facility, after the Interconnection Customer has made a diligent attempt to secure such legal right of use. This subsection (iii) applies only where an Interconnection Customer has previously demonstrated and maintained its demonstration of Site Exclusivity prior to invoking this subsection as a reason for downsizing.

If relying on subsections (i) or (ii) above, in order to be eligible for a capacity reduction greater than five percent (5%), the Interconnection Customer must also demonstrate to the CAISO that a reduction of MW generating capacity of the Generating Facility to the reduced size that the Interconnection Customer proposes will likely overcome the objections of the permitting/approving authority or otherwise cause the permitting/approving authority to grant the permit or approval. The Interconnection Customer may satisfy this demonstration requirement by submitting to the CAISO either a writing from the permitting/approving authority to this effect or other evidence of a commitment by the permitting/approving authority that the MW capacity reduction will remove the objections of the authority to the permit/approval application.

If relying on subsection (iii) above, the Interconnection Customer must also reasonably demonstrate to the CAISO that the proposed reduced-capacity Generating Facility can be constructed on the site over which the Interconnection Customer has been able to obtain legal rights of use.

Upon such demonstration to the reasonable satisfaction of the CAISO (after consultation with the applicable Participating TO) the CAISO will permit such reduction. No permitted reduction of MW generation capacity under this Article shall operate to diminish the Interconnection Customer's cost responsibility for Network Upgrades or to diminish the Interconnection Customer's right to repayment for financing of Network Upgrades under this generator interconnection agreement.

\* \* \*