

I. Motion for Leave to Answer

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,² the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the protests filed in the proceeding. Good cause for the waiver exists because the answer will aid the Commission in understanding the issues in this proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.³

II. Background

On September 27, 2018, the CAISO filed a tariff amendment to implement a number of tariff revisions resulting from the CAISO's IPE stakeholder initiative ("September 27 filing"). Pacific Gas and Electric Company filed comments supporting the CAISO's filing, and EDF filed a protest opposing two aspects of the CAISO's proposal.

First, in its September 27 filing the CAISO proposed to close a loophole currently exploited by interconnection customers to reduce the interconnection financial security postings they provide transmission owners to finance the construction of the network upgrades they trigger.⁴ Depending on when an interconnection customer withdraws from the queue, some of these funds are non-refundable and put toward network upgrades still needed by other projects. In the previous IPE stakeholder initiative, the

² 18 C.F.R. §§ 385.212, 385.213.

³ See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

⁴ See CAISO September 27 filing at 31-35.

CAISO created the commercial viability criteria, which require interconnection customers seeking to extend their commercial operation dates beyond the seven or ten years in queue anticipated by the tariff to demonstrate they have financing, permit applications, site exclusivity, and generator interconnection agreements (“GIA”) in good standing.⁵ If an interconnection customer cannot meet these criteria, it becomes Energy Only, and its deliverability allocation goes back into the pool for more viable interconnection customers.

Once the commercial viability criteria were effective, some interconnection customers purposely failed the criteria so they would be converted to Energy Only very late in the interconnection process. These interconnection customers actually wanted to be converted to Energy Only because they believed it would compel the CAISO to remove their cost responsibility for delivery network upgrades, even though those upgrades had been assigned to them for years after they executed GIAs and they did not intend to proceed as Energy Only. These interconnection customers reasoned that if the CAISO removed their cost assignments, they could reduce their interconnection financial security postings, then withdraw their interconnection requests having lost less money. The transmission owner would bear this loss but would have neither the earlier-queued interconnection customer’s financial security (because it converted to Energy Only, reduced its posting, and withdrew), nor the later-queued interconnection customer’s financial security (because it had not been assigned cost responsibility as the higher-queued customer executed a GIA memorializing its responsibility for the delivery network upgrade). This higher cost ultimately would be passed on to

⁵ Section 6.7.4 of Appendix DD to the CAISO tariff.

ratepayers. Interconnection customers also realized that failing the Transmission Plan Deliverability (“TP Deliverability”) retention criteria could yield the same result and allow them to reduce their interconnection financial security postings very late in the interconnection process before withdrawing from the queue.

The CAISO sought to close these loopholes by including a provision that interconnection customers converted to Energy Only could reduce their financial security only where their assigned delivery network upgrades were no longer needed by other projects. The CAISO also reasoned it could expand this option to voluntary conversions to Energy Only as well. Ergo, the CAISO provided interconnection customers with the new ability to convert to Energy Only well after their studies were complete so long as their delivery network upgrades were no longer needed, thus avoiding inappropriate cost shifts to the transmission owner and ultimately ratepayers.

Second, interconnection customers currently are subject to the commercial viability criteria when they request to extend their commercial operation date beyond the seven years in queue anticipated by the CAISO tariff.⁶ The CAISO also performs a material modification assessment on such customers to ensure that their extensions do not negatively impact the cost or timing of other interconnection customers. If an interconnection customer fails to meet the commercial viability criteria, it loses its deliverability allocation, but it may remain in queue.⁷ In its September 27 filing, the CAISO proposed to subject interconnection customers that have been in queue more

⁶ Section 6.7.4 of Appendix DD. Appendix U—which applies to interconnection customers that submitted interconnection requests before 2008—contemplates ten years in queue.

⁷ Assuming that the extension does not negatively affect other customers. If it did, the request would be denied and the interconnection customer would not be subject to the commercial viability criteria.

than seven years to the commercial viability criteria for all new modification requests. This proposal was largely precipitated by interconnection customers' requests to make significant modifications (such as fuel-type modifications) after so many years in queue. The CAISO and its stakeholders concluded that interconnection customers should be able to make such modifications and retain their deliverability after so many years in queue only where they could demonstrate they are commercially viable.⁸ The CAISO proposed to exempt energy storage additions that do not increase capacity at the point of interconnection, certain inverter changes, and "insubstantial changes to the generating facility."⁹ The CAISO provided these exemptions for common, immaterial, and insubstantial changes so it would not be forced to subject simple, insubstantial modification requests to the commercial viability criteria.

III. Answer

A. The CAISO's Energy Only conversion proposal is just and reasonable and closes loopholes being exploited by interconnection customers.

EDF states that the CAISO's proposal regarding Energy Only conversions "would end the limitation on circumstances at which an Interconnection Customer may voluntarily choose to convert to Energy Only status," but argues that "most Interconnection Customers—as a practical matter—will not be able to exercise this expanded right, because the CAISO will not inform them as to whether they can avoid financing the applicable Delivery Network Upgrades (as noted above, the primary

⁸ The interconnection customer still would be allowed to make the modification if it fails the commercial viability test (as long as the modification does not negatively affect other projects), but would forsake its deliverability allocation and become Energy Only.

⁹ See September 27 filing at 31-35; proposed Section 6.7.2.4 of Appendix DD to the CAISO tariff.

motivation for conversion to Energy Only status) until after it performs the next annual Reassessment and, once they learn that information, they cannot revoke the election.”¹⁰ EDF’s claims are accurate. The CAISO never claimed any intent to provide interconnection customers with a menu of possible options and results on which to make a final decision that will impact other interconnection customers. To the contrary, the CAISO stated in its transmittal letter that the purpose of its proposal is to “provide a clear avenue for *legitimate* Energy Only conversions, thus avoiding the need to purposely fail the commercial viability criteria or TP Deliverability retention criteria.”¹¹ In other words, EDF premises its criticism of the CAISO’s proposal on a claim that the CAISO’s only intent was to provide interconnection customers with unlimited flexibility to convert to Energy Only whenever it will reduce their interconnection financial security before withdrawing from the queue. EDF argues that because the CAISO’s proposal does not adequately achieve this purpose, its proposal is not just and reasonable. EDF’s premise is false.

The CAISO explained in its September 27 filing that after the CAISO created the commercial viability criteria in 2016, interconnection customers began to fail the criteria (and the TP Deliverability retention criteria) on purpose merely as a means to lower their interconnection financial security before withdrawal.¹² This gaming caused transmission owners (and ultimately ratepayers) to inherit significant costs for still needed upgrades, but without any interconnection financial security from

¹⁰ EDF Protest at 4.

¹¹ CAISO September 27 filing at 34 (emphasis added).

¹² *Id.* at 33.

interconnection customers.¹³ As the CAISO explained in its September 27 filing, prohibiting this type of gaming was the CAISO primary purpose of the CAISO’s proposal. However, the CAISO reasoned that if projects could involuntarily convert to Energy Only without harming the transmission owner or other interconnection customers, there was no reason not to expand the option to voluntary conversions to Energy Only. Accordingly, the CAISO also provided interconnection customers the ability to convert to Energy Only well after their studies were complete where doing so would not harm others. EDF mischaracterizes the CAISO’s proposal in an attempt to get much more than the CAISO ever intended to provide.

B. EDF’s proposed modifications are infeasible, aid interconnection customer speculation, and should be rejected.

Despite the alleged flaws EDF purports to identify, EDF argues that there is a simple fix that will make the CAISO’s proposal just and reasonable—conditioning the CAISO’s proposal on granting interconnection customers the right to retain their deliverability status if the CAISO’s annual reassessment determines that the delivery network upgrades are still needed. EDF states that “providing interconnection customers this choice will avoid forcing them to pay for upgrades for deliverability service that they will not receive, and will grant them a choice they can realistically exercise.”¹⁴ Alternatively, EDF suggests that the CAISO should provide a non-binding estimate of delivery network upgrades that could be eliminated by converting to Energy

¹³ *Id.* at 34.

¹⁴ EDF Protest at 6.

Only.¹⁵ EDF states that “only with modifications such as these could the CAISO’s proposal become just and reasonable.”¹⁶

The simplicity of EDF’s two possible solutions demonstrate that the CAISO’s proposal already is just and reasonable. As explained herein, EDF’s arguments are merely a pretext for EDF to re-propose ideas that were vetted during the IPE stakeholder process. The CAISO explained during the IPE stakeholder process that EDF’s proposals are infeasible and inconsistent with similar processes:

In response to comments submitted by EDF-R . . . , the CAISO does not have the ability to perform a preliminary assessment of whether the need for DNU’s would remain if a project were to convert to energy only or PCDS. This determination requires a study. The proposal to have the evaluation performed as part of the annual reassessment study is consistent with the requirements that are in place for projects seeking to downsize. This approach has proven effective for the downsizing process and we believe that it is the best approach for this application as well.¹⁷

The CAISO’s interconnection process is unique among ISO/RTOs and frequently praised by national developers because it provides firm cost caps and meets tariff-imposed deadlines for all studies.¹⁸ These advantages are only possible because the CAISO studies interconnection customers in clusters and the CAISO’s annual reassessment evaluates the impacts of all interconnection customer modifications. Beyond the CAISO’s existing study process, the CAISO and its transmission owners cannot perform new and speculative studies, await interconnection customer decisions

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ CAISO 2018 IPE Revised Straw Proposal, available at <http://www.caiso.com/Documents/RevisedStrawProposal-2018InterconnectionProcessEnhancements.pdf>.

¹⁸ See, e.g., American Wind Energy Association, Petition for Rulemaking, Docket No. RM15-21-000 (July 19, 2015) at pp. 24, 30, 34, and 48.

based on those studies, and then determine the impact on all other interconnection customers.

The CAISO's proposal is consistent with all other customer-elected modification requests in that the request itself represents that the interconnection customer is committed to a change. The CAISO and its transmission owners are not consultants that can be hired to perform speculative studies. If a project requests to change to Energy Only, the project is committing to that change, regardless of the result or whether any upgrades are removed or continue to be required for other projects. Providing interconnection customers with a "wait and see" study option would ensure that every interconnection customer contemplating withdrawal from the queue would first request that the CAISO and transmission owner determine whether they can first reduce their financial security postings by converting to Energy Only.

Commission precedent is clear that pursuant to Section 205 of the Federal Power Act, "the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into 'whether the rates proposed by a utility are reasonable—and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.'"¹⁹ As such, "there is no need to consider in any detail the alternative plans proposed by" EDF.²⁰

If the Commission finds fault with the CAISO's proposal, the CAISO would prefer to retain its current *status quo*—that interconnection customers cannot convert to Energy Only after the completion of their studies and allocation process—rather than

¹⁹ *California Independent System Operator Corp.*, 141 FERC ¶ 61,135 at P 44 n. 43 (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)).

²⁰ *Id.*

adopt the significant modifications EDF's proposes. EDF's proposed modifications change the basic scheme proposed by the CAISO, are not minor, and would change the intent and impact of the CAISO's proposal. The CAISO requests that the Commission nevertheless approve the CAISO's proposed language to clarify that interconnection customers retain cost responsibility for delivery network upgrades when they fail the commercial viability criteria or the TP Deliverability retention criteria to close the potential loophole incentivizing interconnection customers to purposely fail those tests to reduce their interconnection financial security before withdrawal.²¹ Doing so unreasonably shifts costs to transmission owners and ratepayers who do not receive the non-refundable portion of financial security the tariff contemplates for withdrawing interconnection customers.

C. It is just and reasonable to require interconnection customers to finance (and be reimbursed) for network upgrades they trigger.

EDF argues that "it is not just and reasonable to require an interconnection customer who involuntarily loses its full or partial capacity deliverability status to pay for delivery network upgrades."²² This statement is inaccurate in several ways. First, the word "pay" is misleading. Interconnection customers do not pay for delivery network upgrades in the CAISO. Interconnection customers *finance* their allocated share of the network upgrades they trigger. Upon achieving commercial operation, the transmission owner reimburses the interconnection customer *in cash and with interest* within five years for every dollar the interconnection customer put toward the delivery network

²¹ CAISO September 27 Filing at 35; Proposed Section 4.4.7 of Appendix U; proposed Section 6.9.5 of Appendix Y; proposed Sections 6.7.4; 8.9.3 of Appendix DD to the CAISO tariff.

²² EDF Protest at 6.

upgrades it triggered.²³

Second, interconnection customers only “involuntarily lose” their deliverability allocation when they fail to adhere to tariff requirements, namely, the commercial viability criteria²⁴ and the TP Deliverability retention criteria.²⁵ These Commission-approved tariff requirements are far from onerous. The commercial viability criteria only affects interconnection customers when they have failed to achieve commercial operation after *seven years* in queue.²⁶ Even then, an interconnection customer would only lose its deliverability allocation where it does not have financing, permit applications, site exclusivity, and a GIA in good standing after so long in queue.²⁷ Likewise, the TP Deliverability retention criteria merely require the interconnection customer to remain in good standing with respect to the representations the customer made that merited its TP Deliverability allocation, remain in good standing with its GIA, and maintain its commercial operation date unless an extension is required for reasons beyond the customer’s control or an extension would not materially impact other customers.²⁸ Interconnection customers only fail these requirements when they have remained in queue for a long time without making progress toward commercial operation.

²³ See Article 11.4.1 of Appendix EE to the CAISO tariff.

²⁴ Section 6.7.4 of Appendix DD to the CAISO tariff.

²⁵ Section 8.9.3 of Appendix DD to the CAISO tariff.

²⁶ Section 6.7.4 of Appendix DD to the CAISO tariff.

²⁷ *Id.* Interconnection customers do not lose deliverability status for an additional year if they only lack financing.

²⁸ Section 8.9.3 of Appendix DD. An interconnection customer that attested to being shortlisted for a power purchase agreement also was required to secure a power purchase agreement or attest to balance sheet financing by the following year.

Third, as the CAISO explains above and in its September 27 filing, interconnection customers are not *involuntarily* failing these tariff requirements. To the contrary, interconnection customers are failing these tariff requirements *on purpose* so that they can inappropriately shift costs to the transmission owner and ratepayers, lower their financial security posting to finance their network upgrades, and then withdraw from the queue having saved funds. Although transmission owners and ultimately ratepayers in the CAISO generally backstop financing obligations when interconnection customers withdraw, the transmission owner is supposed to receive the interconnection customer's financial security upon withdrawal to put toward the network upgrades relied upon by later-queued projects.²⁹ Where an interconnection customer purposely fails tariff requirements to lose deliverability and lower its financial security before withdrawal, the transmission owner has neither the earlier-queued interconnection customer's financial security, nor any later-queued interconnection customer's financial security. As a result, the transmission owner and its ratepayers inherit a larger share of the financing costs for network upgrades the interconnection customer triggered. EDF's arguments that the CAISO's proposal is not just and reasonable is an attempt to preserve this loophole. EDF argues that transmission owners "bear this risk as part of a complex set of interconnected tradeoffs," but EDF offers no explanation of this conclusory claim or what this complex set of tradeoffs includes.³⁰

²⁹ See CAISO September 27 filing at 32-34; Section 7.6 of Appendix DD (application of non-refundable financial security for still-needed network upgrades); Section 14.2.2 of Appendix DD (transmission owners are responsible for financing network upgrades for interconnection customers that executed GIAs and withdraw); Section 11.4.2 of Appendix DD (amount of financial security that is non-refundable based upon when an interconnection customer withdraws).

³⁰ EDF Protest at 8.

The interconnection financial security that an interconnection customer loses when it withdraws is disbursed to the transmission owner as a contribution in aid of construction of the still-needed network upgrade the interconnection financial security was intended to fund.³¹ This reduces the cost of the network upgrade, which in turn reduces the cost placed into the transmission owner's revenue requirement. Ratepayers will have higher costs if developers can continue to exploit the Energy Only conversion process.

The CAISO's proposal simply seeks to close this loophole such that interconnection customers are not incentivized to fail tariff requirements and lower their interconnection financial security before withdrawal. In other words, the CAISO seeks to treat interconnection customers that meet tariff requirements and withdraw no worse off than interconnection customers that fail to meet tariff requirements and withdraw (which is happening today). Doing so protects transmission owners and ratepayers from inheriting costs without the generators' typical share of financial security for those costs. Only if the network upgrades are no longer needed should an interconnection customer avoid financial responsibility for them, as the CAISO has proposed.

Fourth, EDF's focus on interconnection customers that lose deliverability status but retain their responsibility to finance the network upgrades they triggered is a red herring.³² Experience has demonstrated that the majority of these interconnection customers will withdraw even if they already had not intended to do so. As explained above, if such an Energy Only interconnection customer achieves commercial

³¹ Section 7.6(b) of Appendix DD to the CAISO tariff.

³² EDF Protest at 6-8.

operation, it will be reimbursed in cash with interest for all of the delivery network upgrades it financed.

The reality of the interconnection process is that interconnection customers must put some money at risk to develop their potential projects. There are myriad examples in the CAISO and all ISO/RTOs where interconnection customers must risk some funds to develop a project, especially where the interconnection customers ultimately abandon the project. Interconnection customers often do not benefit from these forsaken funds, nor is there any requirement that they do so. The CAISO's proposal is just and reasonable because it closes a loophole exploited by withdrawing interconnection customers that inappropriately shifts costs to transmission owners and ratepayers. If the interconnection customer does not withdraw, it is reimbursed in cash with interest.

D. The CAISO's expansion of the commercial viability criteria is just and reasonable.

Currently, interconnection customers are subject to the commercial viability criteria only when they request to extend their commercial operation date beyond the seven years in queue anticipated by the CAISO tariff.³³ The CAISO also performs a material modification assessment on such customers to ensure that their extensions do not negatively impact the cost or timing of other interconnection customers. If the interconnection customer fails to meet the commercial viability criteria, it loses its deliverability allocation but may remain in queue.³⁴ In its September 27 filing, the

³³ Section 6.7.4 of Appendix DD. Appendix U—which applies to interconnection customers that submitted interconnection requests before 2008—contemplates ten years in queue.

³⁴ Assuming that the extension does not negatively affect other customers. If it did, the request would be denied and the interconnection customer would not be subject to the commercial viability criteria.

CAISO proposed to subject all new modification requests from interconnection customers that have been in queue more than seven years to the commercial viability criteria.³⁵ This proposal largely was precipitated by the outcry from developers—led by EDF itself³⁶—who objected when an interconnection customer that had been in queue more than ten years altered its fuel type from natural gas to photovoltaic solar and was not subject to the commercial viability criteria for the modification (having already satisfied the criteria when it extended its commercial operation date previously). EDF said at the time: “CAISO’s agreement to roll-forward [deliverability] without requiring any immediate demonstration by [the interconnection customer] that the reinvented solar facility meets the CVC is unjust and unreasonable and unduly discriminatory in its own right. CAISO’s action contradicts all the reasons why it (with stakeholder support) adopted the CVC in the first place.”³⁷ The CAISO was bound by its tariff at the time, but agreed that the commercial viability criteria would better achieve its goals if the criteria applied more broadly. The CAISO therefore included this proposal in its IPE 2018 stakeholder initiative.

EDF now argues that this expansion is not just and reasonable because “there is little need” to impose the criteria on these late sets of modifications that “usually improve a project’s chances to succeed.”³⁸ The CAISO agrees with the premise that modifications improve a project’s chances to succeed, but disagrees with the conclusion that such modifications should not be subject to the commercial viability criteria. The

³⁵ CAISO September 27 filing at 17-19.

³⁶ *Southern California Edison Co.*, Protest of EDF Renewables, Docket No. ER18-156-000 (Nov. 15, 2017).

³⁷ *Id.* at 9.

³⁸ EDF Protest at 10.

commercial viability criteria are designed to ensure that interconnection customers cannot continue to hoard their valuable deliverability allocations unless they can demonstrate that they are commercially viable and therefore likely to proceed toward commercial operation. Such interconnection customers have been in queue for seven years and will have already had at least 2,555 days to make modifications that improve their chances to succeed.

E. The CAISO adequately vetted this proposal with stakeholders.

EDF also claims that “the CAISO’s stakeholder process did not adequately cover this additional requirement,” “the proposal for this new requirement consisted of a couple of sentences under the fuel-change prohibition heading in the CAISO’s proposal documents,” and did not have a specific, separate topic in the comments template.³⁹ EDF’s claim that the proposal had “a couple of sentences” is inaccurate. The second claim—that the proposal did not have a separate break-out in the comments template—is immaterial. The CAISO considers all stakeholder comments, and offers both written and verbal opportunities to submit comments and feedback. Stakeholders have never been restrained by a lack of headers. Although the CAISO provides a template, it does not require stakeholders to use it, and the template even includes a header for “Additional Comments.”

More importantly, the expansion of the commercial viability criteria was fully vetted with stakeholders. The CAISO and its discussion focused on fuel-type changes because they are the largest and most fundamental type of change, especially late in

³⁹ *Id.*

the development process.⁴⁰ But EDF cannot claim that the CAISO failed to expressly discuss the problem with the commercial viability criteria and the CAISO's proposed solution.

The CAISO' straw proposal stated:

the CAISO does not review a project's time-in-queue or commercial viability status for technology/fuel type changes. Commercial viability reviews are only performed for extensions of commercial operation date beyond the 7/10 year threshold. . . .

The CAISO proposes to create an absolute prohibition on technology changes that change the project fuel type for interconnection customers that have (or are requesting) a commercial operation date beyond the 7/10 year threshold anticipated by the CAISO tariff. Additionally, if stakeholders are supportive, the CAISO is also willing to consider changing the MMA process to evaluate commercial viability criteria for every MMA requested by a project where the project milestones are beyond the 7/10 year threshold.⁴¹

The CAISO's revised straw proposal stated:

Because the CAISO provides a fairly open-ended ability to modify projects, current tariff provisions do not provide detailed limitations on the timing or types of technology and fuel type changes that an interconnection customer may request. Interconnection customers may request changes to the technology and fuel type of projects between the Phase I and Phase II process, and after the Phase II results. Moreover, the CAISO does not review a project's time-in-queue or commercial viability status for technology/fuel type changes. Commercial viability reviews are only performed for extensions of commercial operation date beyond the 7/10 year threshold.

Due to increased overall system reliability associated with transmission upgrades and topology changes, if the CAISO retains its current evaluation framework, the CAISO anticipates approving more technology and fuel change requests later in the project development cycle. Interconnection customers have reported that observing the highest-

⁴⁰ The CAISO also had a separate topic on power purchase agreement transparency within the commercial viability criteria requirements.

⁴¹ CAISO 2018 IPE Straw Proposal at 60-61, available at <http://www.caiso.com/Documents/Straw-Proposal-2018InterconnectionProcessEnhancements.pdf>.

queued projects receive approval for changes in technology after being in the queue for over 10 years seems unfair.

In the 2018 IPE Straw Proposal the CAISO proposed to create an absolute prohibition on technology changes that change the project fuel type for interconnection customers that have (or are requesting) a commercial operation date beyond the 7/10 year threshold anticipated by the CAISO tariff. The proposal also outlined that fairly and effectively implementing a moratorium requires the following attributes:

- Interconnection customers with projects that have not yet declared commercial operation may request technology to the best available (e.g., a change to the number, type, or manufacturer for project inverters) provided the change does not alter the technology fuel type;
- The moratorium must apply to both requests to change technology as well as requests for additive technology; and
- Interconnection customers requesting technology changes, regardless of time in queue, will need to demonstrate that they are able to construct the project with the proposed new technology/fuel configuration within the 7/10 year threshold.

Additionally, the CAISO also proposed to change the MMA process to evaluate CVC for every MMA requested by a project where the project milestones are beyond the 7/10 year threshold. For example, a 50 MW solar PV interconnection request that has been in the queue for 11 years would be required to reconfirm it meets CVC in the event it wants to alter its gen-tie route, add project phasing, or change its project site.⁴²

These quotes demonstrate that the CAISO not only explained the issue, but expressly laid out the solutions: a prohibition on late fuel-type changes and the expansion of the commercial viability criteria to all modification requests after seven years in queue. In the CAISO's revised straw proposal it even provided an example of how this would work. If EDF considers this discussion brief, the brevity was only due to stakeholder disinterest, which the CAISO is left to consider as acquiescence.

⁴² CAISO 2018 IPE Revised Straw Proposal at 51.

F. EDF’s proposed modification would provide exceptions that swallow the rule.

EDF also argues that “the proposed changes to the applicability of the commercial viability criteria are ambiguous, and therefore not just and reasonable.”⁴³ The CAISO’s proposal was to subject modification requests beyond seven years in queue to the commercial viability criteria, but to exempt the most common and insubstantial changes, namely, energy storage additions (that do not increase the output of the facility at the point of interconnection), certain inverter changes, and “insubstantial changes to the Generating Facility.”⁴⁴ Although EDF “agrees in concept that it is just and reasonable to exempt ‘insubstantial changes,’” it argues that the CAISO must define this language such that it should include, for example, “modifications providing benefits to other Interconnection Customers, reducing project costs, complying with permitting or other requirements, complying with power purchase agreement requirements, and similar such modifications.”⁴⁵

The CAISO agrees with EDF that the term “insubstantial changes” is a standard and not a rule. It provides the CAISO with necessary flexibility to make case-by-case determinations that minor changes should not subject an interconnection customer to the commercial viability criteria. The CAISO did not select this language simply to retain “broad authority,” as EDF alleges.⁴⁶ As the CAISO explained on its draft tariff language stakeholder call, the CAISO wanted to avoid a long list of exempted modifications

⁴³ EDF Protest at 10.

⁴⁴ Proposed Section 6.7.2.4 of Appendix DD to the CAISO tariff.

⁴⁵ EDF Protest at 12-13.

⁴⁶ EDF Protest at 12.

because it would be impossible to capture every example of insubstantial changes, thus subjecting some interconnection customers to the commercial viability criteria merely because the CAISO's list of examples was not sufficiently exhaustive.⁴⁷ Additionally, examples are not rates, terms, and conditions, and are therefore more appropriate for business practice manuals than the tariff.

In any case, if the Commission agrees with EDF that "insubstantial changes" is too vague and gives the CAISO too much authority to make case-by-case determinations, the solution is for the Commission to make a minor change and direct the CAISO to strike that clause. The Commission should not, however, adopt EDF's suggestion to include a large set of even broader, more vague, and substantial changes. EDF's proposed exceptions would swallow the rule and no modification request would be subject to the commercial viability criteria. EDF's proposal would constitute a major change to the CAISO's proposal, adopting a new scheme not intended by the CAISO.

⁴⁷ The CAISO's stakeholder call is *available at* <https://www.youtube.com/watch?v=VUfXmkV3djA&feature=youtu.be>. The relevant discussion begins at the 11:00 minute mark.

IV. Conclusion

For the reasons explained above and in the CAISO's September 27, 2017 filing, the CAISO respectfully requests that the Commission should accept the proposed tariff revisions as filed and without condition.

Respectfully submitted,

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Dated: October 29, 2018

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 above-referenced 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 Folsom, CA this 29th day of October, 2018.

Isl Grace Clark

Grace Clark