Generator Project Downsizing

Revised Straw Proposal

June 8, 2012
Market and Infrastructure Development
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1 Executive Summary

The revised straw proposal described in this document is the work product of a stakeholder process launched in April of this year. Since that time the ISO issued a straw proposal on May 7, held a stakeholder meeting on May 14, and received stakeholders’ written comments on May 21. This work product also benefits from input received on the subject of downsizing through two other relevant stakeholder processes: Generator Interconnection Procedures Phase 2 (GIP 2) held in 2011 and Generator Interconnection Procedures Phase 3 (GIP 3) started in early 2012 but later deferred while this downsizing initiative is pursued.

The purpose of this initiative and this proposal is to explore the possible expansion of opportunities for generator interconnection customers in Cluster 4 and earlier to downsize the MW capacity of their proposed generating facilities.

Stakeholders have commented that the ability to downsize is important to the continued viability of generator projects currently under development. Stakeholders cite many reasons beyond the control of interconnection customers such as the inability to obtain permitting and governmental approvals for the full MW capacity of a project as well as the inability to secure a power purchase agreement for the full amount of a project. In either case, interconnection customers may find themselves in a situation where the project size in their original interconnection request may be too large and the financial liabilities associated with the excess capacity may potentially jeopardize the entire project.

Today, any interconnection customer requesting to make a change to a project’s MW capacity can do so between the generator interconnection procedures phase I and phase II studies. However, once the results of the phase II study are complete, the only downsizing opportunity available to an interconnection customer requesting to make a change to a project’s MW capacity is to undergo a “material modification” review. Beyond that, the substantial performance provisions adopted in the GIP 2 initiative provide a means for addressing discrepancies between a generator’s final MW capacity and the interconnection request capacity. These substantial performance provisions, however, are not considered a downsizing opportunity.

In response to stakeholders’ written comments on the May 7 straw proposal, stakeholder comments received this year in the early stages of the GIP 3 initiative, and stakeholder input on the topic of downsizing that the ISO received in the GIP 2 initiative in 2011, the present paper describes the ISO’s revised straw proposal for an approach to provide an additional avenue for project downsizing outside of other means currently available.

In this paper ISO proposes a new one-time downsizing window for active projects in Cluster 4 and earlier in the queue. This new downsizing opportunity will be a one-time opportunity that would be offered shortly after the Federal Energy Regulatory Commission (FERC) issues an order approving this proposal. No further downsizing opportunities will be offered.

At this point the ISO expects it will present a proposal to the ISO Board of Governors at the September 2012 meeting after conducting one more round of stakeholder interaction and feedback beyond the current round. Following a stakeholder web conference and receipt of
stakeholders’ written comments on the present proposal, the ISO will issue a draft final proposal to be followed by a final stakeholder web conference and final stakeholder comments.

2 Introduction

This initiative was launched to specifically explore the possible expansion of opportunities for generator interconnection customers in Cluster 4 and earlier to downsize the MW capacity of proposed generating facilities. The Generator Interconnection Procedures Phase 3 (GIP 3) initiative is being deferred while this initiative is pursued.

Leading up to the GIP 3 initiative, stakeholders had requested that there be an exploration of the possibility of creating a new avenue enabling interconnection customers to request a downsize of generating facility MW capacity even when such requests have been determined to have a material impact on later queued projects. There are times when this need may arise due to circumstances beyond the interconnection customer’s control¹; however, the current generator interconnection procedures prohibit the ability to downsize if a later queued project is adversely affected and the interconnection customer requesting the downsizing is not willing to fund the network upgrades in their generator interconnection agreement², or because of the downsizing an upfront financed cost is no longer upfront financed by the participating transmission owner. The current generator interconnection procedures does not allow an interconnection customer to pay a penalty, compensate the materially affected later queued project, or the ability to remedy the material impact in any way other than to pay for the upgrades in their generator interconnection agreement and forgo cost recovery of some or all of the network upgrades due to not completing all of the originally requested project MWs. The interconnection customer’s only recourse is to withdraw from the queue and re-enter in a later cluster with a downsized MW capacity.

In the GIP 3 initiative the ISO solicited stakeholder comments on the relative priority of issues that should be considered, on downsizing as well as on a couple other dozen topics. The ISO explained that a limited number of topics would be included in the initial stakeholder effort to ensure timely resolution and implementation. Stakeholders expressed broad support for only one topic, the extent to which an interconnection customer could downsize the MW capacity of proposed generating facilities. As a result of this stakeholder feedback, the ISO is deferring work on the other topics since they did not receive such broad support and focus efforts on project downsizing through this separate stakeholder initiative.

¹ Having said this, the downsizing sometimes arises from an interconnection customer’s decision to consolidate what it considers separate projects into a single interconnection request, so as to pay only one study deposit. This point has been discussed in earlier GIP stakeholder efforts, where some customers have indicated that they follow this practice because they consider the capital outlay for multiple interconnection requests to be cost prohibitive.

² Generator interconnection agreement is a generic term. In fact, a generator signs either a Large Generator Interconnection Agreement (LGIA) or a Small Generator Interconnection Agreement (SGIA), depending on the size of the project. However, for the most part, the term ‘generator interconnection agreement’ is used in this paper for the sake of simplicity.
3 Stakeholder Process and Next Steps

The ISO intends to take this initiative to its Board of Governors for approval at their September 2012 meeting. Accordingly, the ISO proposes the following dates for the remaining steps of the stakeholder process.

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<tr>
<th>Date</th>
<th>Event Description</th>
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<tr>
<td>May 7</td>
<td>ISO posts straw proposal [Completed]</td>
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<tr>
<td>May 14</td>
<td>Hold stakeholder meeting on straw proposal [Completed]</td>
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<td>May 21</td>
<td>Stakeholder comments on straw proposal due [Completed]</td>
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<td>June 8</td>
<td>ISO posts revised straw proposal</td>
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<td>June 22</td>
<td>Hold stakeholder web conference (9:00 a.m. – 12:00 p.m.)</td>
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<td>June 29</td>
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<td>July 13</td>
<td>ISO posts draft final proposal</td>
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<td>Hold stakeholder web conference (9:00 a.m. – 12:00 p.m.)</td>
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<td>Final stakeholder comments due</td>
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<td>Sept 13-14</td>
<td>Present to Board of Governors</td>
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<td>October</td>
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Stakeholders should submit their written comments on the revised straw proposal to GPD@caiso.com by June 29, 2012. A stakeholder comment template will be posted by the June 22 stakeholder web conference.

Additional information in this initiative can be found at: http://www.caiso.com/informed/Pages/StakeholderProcesses/GeneratorProjectDownsizing.aspx

4 Objectives of this initiative

In the previous proposal the ISO identified four key objectives for this initiative. In their written comments stakeholders supported the four objectives; however, some stakeholders suggested that the ISO clarify that material impacts include those to not only cost but also to schedule and that generators not requesting downsizing should likewise not be affected. In assessing the impacts of a downsizing request on later queued projects, impacts on cost will be considered and generators not requesting downsizing should likewise not be affected. However, with regard to adverse effects to schedule, it may not be possible to mitigate such effects in all cases. The ISO also received comments suggesting that an additional objective be added to address the potential for impacts to participating transmission owners due to generator downsizing. As a result of this input, the ISO has retained the original four objectives with some modification and has added a fifth to address the potential for impacts to participating...
transmission owners due to generator downsizing. This initiative is intended to develop an approach to successfully achieve the following objectives:

1. Improve flexibility for active generator projects in interconnection queue cluster 4 and earlier to downsize MW capacity.
2. Mitigate material impacts to later queued generator projects, including those that do not request downsizing, due to generator downsizing.
3. Minimize risk to ratepayers of stranded transmission investment due to generator downsizing.
4. Minimize impacts to participating transmission owners due to generator downsizing.
5. Contribute to the ISO’s queue management efforts of ensuring viable projects reach commercial operation on a timely basis.

5 Scope of initiative

In exploring the possible expansion of opportunities for generator interconnection customers to downsize the MW capacity of proposed generating facilities, the scope of this initiative is limited to active projects in Cluster 4 and earlier. This means active generator projects in the following study processes: pre-Amendment 39, Amendment 39 (Appendix W), Serial LGIP (Appendix U), Transition Cluster (Appendix Y), SGIP (Appendix S), SGIP – Transition Cluster (Appendix Y), Clusters 1 – 2 (Appendix Y).

Extensions of commercial operation date are not within the scope of this initiative. Although the ISO received stakeholder comments suggesting that this and a limited number of other topics from the deferred GIP 3 stakeholder initiative be added to the scope of the present initiative, the ISO declines to expand the scope of the present initiative with one exception as discussed in the following paragraph. As was previously announced to stakeholders, the ISO intends to resume the GIP 3 initiative and its issue topics at some point in the future. Issue topics such as extensions of commercial operation date will be considered at that time.

Through the now completed Generator Interconnection Procedures Phase 2 (GIP 2) initiative, substantial performance provisions were adopted regarding a “safe harbor” for generator capacity reductions by up to 5 percent and the ability to request size reductions greater than 5 percent upon demonstration of circumstances driving the megawatt reduction that are beyond the interconnection customer’s control (both of these are discussed further in section 6 and section 8 of this paper). These provisions were incorporated into Appendix Y and therefore only apply to cluster projects. Stakeholders’ written comments on the previous proposal in this initiative request that the ISO extend these provisions to Serial Group and small projects. The ISO does not have an objection to this suggestion and proposes to make this the one exception.

3 For purposes of this proposal, the term “active” is used to refer to projects in good standing and does not include those projects in breach of their generator interconnection agreement. Projects must cure the breach prior to submitting a downsizing request.
4 The ISO’s TPP-GIP Integration initiative, which was approved by the ISO Board on March 23 and filed at FERC in May, includes several new provisions to allow interconnection customers in Cluster 5 and beyond to downsize their projects. The present initiative is therefore limited to Cluster 4 and earlier.
to its disinclination to expand the scope of the present initiative. Consequently, the ISO proposes to make the appropriate tariff changes to extend these tariff provisions to Serial Group projects and small projects, as a part of the present initiative. Specifically, this involves making the appropriate tariff changes to Appendix U and Appendix S, respectively.

6 Current downsizing opportunities

Today, any interconnection customer requesting to make a change to a project’s MW capacity can do so between the generator interconnection procedures phase I and phase II studies. However, once the results of the phase II study are complete, the only downsizing opportunity available to an interconnection customer requesting to make a change to a project’s MW capacity is to undergo a “material modification” review. When such an interconnection customer submits a request to modify its interconnection request, the ISO evaluates its impact on projects with a later queue priority date. If there is no impact, and the ISO and participating transmission owner agree that the capacity can be downsized, then the downsizing can be approved. However, if there is an impact (which may often be the case), then the request is determined to be a material modification and denied. This leaves some projects with withdrawal from the interconnection process as their only option. Hence, the first objective in this initiative to improve flexibility for active generator projects in interconnection queue cluster 4 and earlier to downsize MW capacity.

Although not to be considered downsizing opportunities, the substantial performance provisions adopted in the GIP 2 initiative provide a means for addressing discrepancies between a generator’s final MW capacity and the interconnection request capacity. These are briefly described below.

Completion capacity is within 5% of the interconnection request: During the GIP 2 process, stakeholders raised concerns and the ISO agreed that the final tested capacity of a unit may not be exactly equal to the interconnection requested capacity. The FERC accepted the ISO’s 5% “safe harbor” for projects whose final output capability is within 5% of the interconnection request capacity. This provision applies to cluster projects only.

Extenuating circumstances beyond the interconnection customer’s control: Also in the GIP 2 process stakeholders raised concern that a project may need to be downsized by more than 5% due to land, permitting and other issues, without triggering a breach of the generator interconnection agreement as such issues were outside the interconnection customer’s control provided that the interconnection customer is still responsible for all other terms and conditions in the executed generator interconnection agreement, including funding of network upgrades. This provision also applies to cluster projects only.

The relationship between the substantial performance provisions adopted in GIP 2 and the new downsizing opportunity presented in this paper is addressed in Section 8.
7 Revised Straw proposal

7.1 Eligibility requirements

In the previous proposal the ISO did not propose stringent eligibility requirements that interconnection customers must meet in order to submit a request to downsize (other than to be an active project as described earlier in section 5). Under such an approach the proposed new downsizing opportunity presented here would be open to any project in Cluster 4 or earlier that wants to downsize for any reason. This approach received broad stakeholder support. The ISO proposes to retain this approach in the present proposal.

7.2 Number of downsizing requests

In the prior proposal the ISO proposed for stakeholder consideration two new downsizing opportunities but specified that interconnection customers would be limited to one downsizing request. Although some stakeholders agreed that only one downsizing request should be allowed, others did not see any reason to place a limit on the number of downsizing requests. As is further described in section 7.6 below, the ISO is now proposing to move forward with only one of the new downsizing opportunities presented in the prior proposal: the one-time downsizing window. Thus, the number of downsizing requests will in effect be limited to one under this proposal.

7.3 MW amount of downsizing

The ISO previously proposed limiting the amount of a downsizing request to a percentage amount of the total MW size specified in the generator interconnection agreement or, if there is no generator interconnection agreement, of the project MW size as studied in the phase II study for cluster projects or the facilities study for pre-cluster projects. In the prior proposal, the ISO proposed a limit of 75% for the one-time downsizing window and a limit of 50% for the future option to downsize. Many stakeholders did not see any reason to limit the amount of downsizing. Based on this stakeholder input, the ISO has concluded to not limit the amount of downsizing permitted under this proposal.

7.4 General guideline of “no worse off”

The previous proposal included the general guideline that an interconnection customer’s cost responsibilities for network upgrades after downsizing should be no greater than the network upgrade costs the customer would already be responsible for based on the governing study report or the generation interconnection agreement, apart from the potential loss of any participating transmission owner up-front funding. In cases where a network upgrade is still needed and cannot be downsized or cancelled, the interconnection customer originally assigned the cost of the network upgrade will have no reduction in network upgrade cost responsibility (i.e., the interconnection customer is “no worse off,” except for potential loss of participating transmission owner upfront funding—if as a result of the requested downsize the upfront funding of the network upgrades is revoked by the participating transmission owner the project would be responsible for those costs). In such cases the interconnection customer must continue to pay...
for the network upgrade(s) per the schedule and terms of its phase II studies or its generator interconnection agreement. If restudies determine that the network upgrade(s) can be downsized, the interconnection customer’s cost responsibility may be reduced. If restudies determine that the network upgrade(s) can be cancelled, the interconnection customer’s cost responsibility for the cancelled network upgrade(s) will be removed.

This general guideline received broad stakeholder support and is retained in the present proposal.

However, it is important to emphasize that for purposes of this proposal, the concept of “no worse off” is stated as a general guideline and a general expectation, rather than a requirement that will be guaranteed in all cases. It would simply not be feasible for the ISO and the participating transmission owners to make an absolute contractual commitment to guarantee that an interconnection customer’s cost responsibility would always, in every case, and under every scenario, not increase. That said, the basis for this guideline is derived from the experience of the ISO and the participating transmission owners that in most, if not the vast majority of cases, the collective downsizing of a large number of generator projects in a particular electrical area of the grid will tend to result in a general de-scoping of the overall network upgrades with a corresponding reduction of cost. Although this may generally be the case, there may be specific instances where this outcome is not achieved. In such rare instances, there may be a potential increase in costs, and the generator(s) requesting the downsizing would be required to cover any increased costs. The ISO proposes that any such additional costs would be reimbursable back to the interconnection customer.

In the previous proposal the ISO presented an example to solicit stakeholder comments on the applicability of the “no worse off” guideline in the case of serial group projects. That example is repeated here. Assume three projects in the serial study process -- project A (500 MW), project B (250 MW), and project C (250 MW), where A is the earliest queued project and B is next and then C. Assume all three serial projects are in a study area that could support 500 MW of deliverability without triggering network upgrades; hence, project A has no network upgrade cost responsibility. Assume project B has a $200 million network upgrade cost responsibility because its interconnection request triggered the need for a 500 MW network upgrade (assume that due to the “lumpiness” of transmission, a precisely-sized 250 MW network upgrade was not feasible). Project C benefits as this network upgrade creates the transmission capacity it needs. Now assume that project A takes advantage of the new downsizing opportunity presented here and submits a request to downsize to 250 MW. Further assume that restudies determine that this would free up 250 MW of network transmission capacity (previously reserved for project A) that could now be used by project B and project B would no longer trigger the 500 MW ($200 million) network upgrade (in other words, project B could benefit from project A’s downsizing). The 500 MW network upgrade is now, in effect, triggered by project C.

As a part of the example, the ISO suggested three possible ways to address this situation and asked stakeholders to comment on these. The three possible approaches are repeated here:

1. Project A would pay the $200 million as the cost to downsize project A; but, only if project C is ever built (i.e., project A’s funding obligation goes up by $200 million);
2. Project B’s cost responsibility would not be reduced and project C’s would not increase; therefore, project B would still have to pay for the major upgrade, but only if project C is ever built (i.e., all projects’ funding obligations remain unchanged);
3. Allow the cost to be passed on to project C and project B could receive the benefit by no longer having to pay the $200 million (i.e., project B’s obligation goes down by $200 million and project C’s obligation goes up by $200 million).

Although this solicited many varied points of view from stakeholders, the majority of stakeholders selected outcome #2 as the most equitable outcome and the one most consistent with the guideline of “no worse off.” In other words, requiring project B to continue to be responsible for funding the network upgrade needed by project C after project A downsizes is the only outcome that leaves none of the projects worse off. Accordingly, the ISO proposes that under the new downsizing opportunity presented in this paper, the ISO would apply the “no worse off” guideline to try to keep all affected projects no worse off, including projects that did not request to downsize. The concept illustrated by this example is expanded in the next section.

The guideline of “no worse off” is also relevant to participating transmission owners. The election to downsize is an affirmative decision by the interconnection customer in the interest of its project. The example discussed above recognizes the general point that other parties should not be expected to pick up cost consequences of the election by the downsizing project. Accordingly, the proposal does not endorse an expectation that the participating transmission owner, and ultimately the ratepayers, should “pick up” the cost difference.

7.5 Impacts on later queued projects

In the previous proposal the ISO proposed that as a result of a downsizing request, a later queued project should not be adversely affected. Stakeholders broadly supported this approach. However, some stakeholders requested that the ISO clarify that the potential adverse effects include those not only to cost but also to schedule and that generators not requesting downsizing should also not be affected. In assessing the impacts of a downsizing request on later queued projects, impacts on cost will be considered and generators not requesting downsizing should likewise not be affected. However, with regard to adverse effects to schedule, it may not be possible to mitigate such effects in all cases unless a downsizing request causing such impacts is rejected. The ISO is interested in stakeholder comments on how to address this issue.

Although not a point raised by stakeholders, it is important to also clarify which later queued projects will be assessed for adverse impacts. The ISO proposes that a project at a minimum must be in possession of a phase II study report to be assessed for impacts.

In addition, some stakeholders suggested that the potential for impacts to participating transmission owners due to generator downsizing should also be addressed. As indicated by the new objective added in the present proposal, the intent of this initiative is to minimize such impacts. As stated in section 7.4, in instances where a downsizing request would result in increased costs that make it impossible to maintain the “no worse off” guideline, the intent is for
the generator(s) requesting the downsizing to cover any additional costs due to downsizing rather than requiring the participating transmission owner to cover such costs.

The ISO has also identified another potential issue not raised by stakeholders – the potential for adverse impacts due to downsizing on projects interconnecting under a participating transmission owner’s wholesale distribution access tariff. Using the serial queue project A-B-C example discussed earlier in section 7.4, assume instead that project A and project C are seeking interconnection under the ISO’s GIP and project B is requesting interconnection under a participating transmission owner wholesale distribution access tariff. Recall that in the prior example, project A’s downsizing frees up network transmission capacity that can be used by project B and, as a result, project B no longer triggers a network upgrade. The ISO’s proposal is that if all three projects are requesting interconnection under the GIP, then the general guideline of “no worse off” would dictate that project B’s cost responsibility would not be reduced thereby ensuring that project C’s responsibility does not increase. However, if project B is interconnecting under a wholesale distribution access tariff, the ISO cannot apply the guideline to require project B to fund a network upgrade its interconnection request no longer triggers. As a consequence, the costs would be passed on to project C and project C would be “worse off.” The ISO is soliciting stakeholder comments on how to address this situation.

7.6 New downsizing opportunity

In the previous proposal the ISO proposed two new downsizing opportunities for projects in cluster 4 or earlier in the queue. The first new downsizing opportunity presented was a one-time downsizing window that would be offered shortly after FERC issues an order approving this proposal. In written comments stakeholders broadly supported the one-time downsizing window. Some stakeholders supported only the one-time downsizing window. However, others believed that offering it only once would limit its usefulness and deter interconnection customers from using it; and, some of these same stakeholders suggested that it either be offered annually or combined with a future option to downsize. The second new downsizing opportunity presented in the prior proposal was a future option to downsize in which two variations were presented. Although many stakeholders supported a future option to downsize in concept, some were concerned that it may prove to be contentious and difficult to develop and implement. Overall, there was broad support for moving forward on one or more of these proposed downsizing opportunities.

Based on this stakeholder input and further consideration by the ISO, the ISO believes that the simpler approach of offering only a one-time downsizing window may prove to be the most pragmatic. Rather than committing to an ongoing downsizing process for the pre-cluster 5 interconnection queue at this point, the ISO believes it would be more prudent to move forward on the basis of making a one-time downsizing window available to projects, rather than to develop a pre-cluster 5 continuing downsizing design feature that must converge with processes for cluster 5 and subsequent clusters. This scope will simplify the completion of the proposal and its timely filing at FERC, to maximize the likelihood of receiving FERC approval and opening the window for downsizing requests before the end of 2012.
Under the proposed approach, interconnection customers would submit their downsizing request into the one-time downsizing window, specify the downsizing MW amount (again as discussed earlier in section 7.3 there would not be a limit on the downsizing MW amount allowed), and include a “downsizing deposit.” This window would be open for 30 days and would occur as soon as practical following receipt of an order from FERC approving this proposal. Assuming a FERC order is received in November of this year, the window would be open during the month of December.

The ISO proposes that projects submitting a request to downsize be required to provide as part of the downsizing application a “downsizing deposit.” The interconnection customer making the downsizing request would be responsible for the actual cost of the interconnection restudy and associated study report for the downsizing project as well as restudy and reporting costs associated with any projects that did not request to downsize, but are affected by the downsizing of the project submitting the downsizing request. Furthermore, the ISO proposes that the interconnection customer making the downsizing request be responsible for the ISO and participating transmission owner costs for amending the generator interconnection agreement of the project submitting a downsizing request, if applicable, as well as the cost for amending the generator interconnection agreements of projects that did not request to downsize, but require amended generator interconnection agreements as a result of the downsizing request. The proposed amount of the downsizing deposit is $200,000.

Once an interconnection customer submits a request to downsize under this approach, the ISO considers the customer to be committed to downsizing even though the interconnection customer won’t yet know the actual cost impact of the downsizing decision until after restudies have been performed. This is a key point in the proposal, as absent this commitment the restudy results would no longer be valid, which could adversely affect interconnection customer, participating transmission owner, and ISO resources, cost and schedule. However, in general the customer’s cost responsibilities for network upgrades after downsizing will be no greater than the network upgrade costs the customer would already be responsible for based on the governing study report, or the generator interconnection agreement apart from the potential loss of any participating transmission owner up-front funding, and the downsizing customer’s

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5 Once the interconnection customer has made the affirmative decision to downsize its project by submitting the downsizing deposit and request, an interconnection customer’s only recourse is withdrawal from the interconnection process. To do otherwise could result in never ending iterations of restudies as various customers decide that they do not want to downsize after all.

6 An important exception relates to the situation where an interconnection customer’s current project and generator interconnection agreement includes provisions for participating transmission owner upfront funding of network upgrades. SCE is the only participating transmission owner that has extended upfront funding, and only relating to certain interconnection requests related to certain transmission projects. SCE’s upfront funding includes various milestone conditions which the interconnection customer must fulfill with respect to the generating facility. Under these provisions, an election by the interconnection customer to downsize the generating facility may entitle SCE to revisit and possibly withdraw its up front funding commitment. If participating transmission owner upfront funding commitments were withdrawn or reduced because of customer project downsizing, then it is possible that the interconnection customer’s interconnection financial posting requirements could increase from the cost responsibility set out in the original generator interconnection agreement.
cost responsibilities may even be reduced. If the participating transmission owner has provided upfront funding and, as a result of the requested downsize, decides to revoke the upfront funding of the network upgrades, then the project would be responsible for those costs.

The ISO believes that it is appropriate for interconnection customers to be asked to accept some reduced optionality in return for exercising the new downsizing opportunity under this proposal to reduce their project size to maximize their commercial business case. Specifically, the ISO proposes that for downsizing interconnection customers, there shall be no further generation interconnection agreement suspension rights, and that any further generating facility commercial operation date extensions will be limited only to force majeure events. It should be emphasized that an interconnection customer who submits a request to downsize under this proposal should not expect that “all bets are off” with respect to timing of milestone obligations under the customer's generator interconnection agreement. A primary underpinning of this initiative is that the option to downsize will facilitate the project’s successful and timely commercial operation, and therefore that “time is of the essence” with respect to obligations of the interconnection requests within the scope of this proposal.

After having received the requests to downsize from interconnection customers in the one-time downsizing window, the necessary restudies would commence. The ISO in consultation with the applicable participating transmission owner(s) would perform the restudies during the first half of 2013 (assuming that a FERC order on this proposal is received in November 2012 and the one-time downsizing window is held in December 2012). The restudy consists of a technical reassessment (consisting of reliability and deliverability assessments) followed by an engineering review. Both the reliability assessment and the deliverability assessment will be performed for the projects in the queue up to and including later queued projects in possession of phase II study report, in a manner which reflects the downsizing requests. The technical reassessment will also review the interconnection plan of service. By mid-April, the technical assessment will identify any required network upgrades, as a whole for all projects up to and including later queued projects in possession of phase II study report (i.e., up to and including those projects in cluster 4). Then the estimated cost of and time to construct the network upgrades and participating transmission owner’s interconnection facilities will be updated based on their engineering review.

The purpose of the restudies is to make a determination of the material impact of each downsizing request on projects of later queue priority. Determination will be made whether a project’s network upgrades, as specified in its phase II studies for cluster projects or facilities study for serial projects, or its generator interconnection agreement, are still needed by the downsized project and by later queued projects or whether the network upgrades can be downsized or cancelled without adversely affecting other projects.

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7 The reliability assessment includes power flow studies, post-transient voltage stability analysis, transient stability analysis and short circuit duty evaluation.
8 Relationship between proposal and Substantial Performance Provisions

The ISO clarifies here that the new downsizing opportunity described in this revised straw proposal does not impact the provisions adopted in the GIP 2 initiative, including the provisions submitted to FERC in the February 29, 2012 compliance filing, which (1) allow a project, for any reason, to be completed with a final MW capacity that is below the MW size specified in its generator interconnection agreement by 5 percent or less without resulting in a breach of its generator interconnection agreement, and (2) allow a project, under certain limited circumstances summarized below, to be completed with a final MW capacity that is below the MW size specified in its generator interconnection agreement by more than 5 percent, subject to ISO verification of the specific circumstances of the project. In the later instance, the generator interconnection agreement would be amended to the lower MW capacity value once it is known. Under the new downsizing approach described here, these same provisions would apply to the downsized MW capacity of the project (i.e., its MW capacity after it has downsized by taking advantage of the one-time downsizing window) as reflected in its appropriately revised generator interconnection agreement.

The eligibility requirements for a size reduction greater than 5% were specified in the ISO’s February 29, 2012, compliance filing in FERC Docket ER12-502. The interconnection customer reasonably demonstrates that the reduction is warranted due to reasons beyond the control of the interconnection customer consisting of one or more of the following:

1. Failure to secure required permits and other governmental approvals to construct the generating facility at its total MW generating capacity specified in interconnection request after making diligent efforts;
2. Written statement from the permitting or approval authority indicating that construction of facility at total MW size specified in interconnection request will likely result in disapproval due to a significant environmental or other impact which cannot be mitigated;
3. 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 diligent attempts 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 (as defined in Appendix A of the ISO tariff) prior to invoking this subsection as a reason for downsizing.

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8 In the ISO’s compliance filing, the ISO modified Article 5.19.4 of the LGIA to set forth the following objective reasons justifying a proposed reduction in MW capacity by more than five percent due to reasons beyond the interconnection customer’s control:
(i) the Interconnection Customer’s failure to secure required permits and other governmental approvals to construct the generating facility at its full 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 which 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 (as defined in Appendix A of the ISO tariff) prior to invoking this subsection as a reason for downsizing.

result in disapproval due to significant environmental or other impact that cannot be mitigated;

3. Failure to obtain legal right to use of the full site acreage necessary to construct/operate the total MW generating capacity size for the entire generating facility after making diligent efforts (only applies where an interconnection customer previously demonstrated and maintained its demonstration of site exclusivity);

If relying on item (1) or (2) above, the interconnection customer must also demonstrate to the ISO that the requested downsizing will likely overcome the objections of the permitting/approving authority. If relying on item (3), the interconnection customer must also reasonably demonstrate to the ISO that the downsized generating facility can be constructed on the site over which legal right to use has been obtained.