149 FERC ¶ 61,231
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Cheryl A. LaFleur, Chairman;
Philip D. Moeller, Tony Clark,
and Norman C. Bay.

California Independent System Operator Corporation — Docket No. ER15-129-000

ORDER ON TARIFF REVISIONS

(Issued December 18, 2014)

1. On October 17, 2014, pursuant to section 205 of the Federal Power Act (FPA),[1] the California Independent System Operator Corporation (CAISO) submitted proposed tariff revisions to its Generator Interconnection Procedures (GIP), Generator Interconnection and Deliverability Allocation Procedures (GIDAP), Large Generator Interconnection Agreement (LGIA), and Small Generator Interconnection Agreement (SGIA). The proposed tariff revisions are intended to: (1) clarify the timing of reimbursement to interconnection customers for network upgrades they have financed; and (2) modify how CAISO distributes non-refundable interconnection financial security and study funds to apply them directly to reduce transmission rates, either through reductions in the costs of associated interconnection-related network upgrades, or as offsets to the transmission revenue requirements of applicable transmission owners. In this order, we accept CAISO's proposed tariff revisions to become effective December 19, 2014, as requested.

I. CAISO's Filing

A. Timing of reimbursement of interconnection customer funded network upgrades

2. CAISO explains that under its current tariff, the timing of its repaying funds advanced by interconnection customers to build network upgrades differs depending on

[1] 16 U.S.C. § 824d (2012).

whether a project is phased or non-phased.[2] Under the current CAISO tariff, reimbursement for network upgrades associated with a phased project is made by the participating transmission owner to the interconnection customer commencing upon the later of the commercial operation date of each phase of the project or the in-service date of all network upgrades necessary to support the desired level of deliverability for each phase of the project.[3]

3. By contrast, for non-phased projects, CAISO's current tariff provides that cost reimbursement from the participating transmission owner to the interconnection customer for all network upgrades commences upon the commercial operation date of the generating facility, regardless of whether all the needed network upgrades are completed and in service.[4]

4. According to CAISO, stakeholders reached consensus that CAISO's reimbursement policy should be consistent. CAISO states that it and its stakeholders sought to align any revisions with the policies and requirements of Order No. 2003,[5] such that repayment related to transmission assets would begin once those assets are utilized to deliver the output of the interconnection customer's generating facility, whether phased or non-phased.[6]

5. In order to implement this principle of parity, CAISO's proposed tariff revisions provide that reimbursement for required network upgrades already in service will

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[2] A phased project is a generating facility that is intended to be constructed in two or more separate phases, with differing commercial operation dates, but addressed in a single generator interconnection agreement, as opposed to a non-phased facility intended to reach commercial operation at a single commercial operation date. *See* section 12.3.2.2 of Appendix Y of the CAISO tariff.

[3] GIDAP § 14.3.2.2.

[4] GIDAP § 14.3.2.1

[5] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at PP 319-321 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

[6] CAISO Filing at 2-3.

commence upon the commercial operation of either the generating facility or phase of a phased facility that requires the network upgrades.[7]

6. CAISO also proposes to eliminate the requirement, for phased projects, that all of the network upgrades necessary for a specific phase to meet its desired level of deliverability must be in place in order for reimbursement to commence with respect to any network upgrades needed for that phase, even for network upgrades already in service.[8] For required network upgrades that are placed in service after a generating facility or phase of a generating facility has already achieved commercial operation, CAISO proposes that reimbursement will commence no later than the later of (1) the first month of the calendar year, following the year in which the network upgrade was placed in service, or (2) ninety days after the in-service date of the required network upgrade. CAISO notes that each reimbursement period will last no longer than five years, consistent with Order No. 2003.[9]

7. CAISO also proposes to include in several of the repayment provisions language indicating that the repayment amounts will include any tax gross-up or other tax-related payments associated with the network upgrades not refunded to the interconnection customer. CAISO states that this is existing language, and it is simply clarifying that the language is applicable to all network upgrade reimbursement payments.

8. Finally, CAISO proposes to implement the tariff revisions to interconnection customers in the first queue cluster in which no projects have been tendered a generator interconnection agreement prior to the effective date of the revisions. CAISO states that, along with stakeholders, it believes that this strikes the appropriate balance between harmonizing these reimbursement rules and existing customer expectations.[10] CAISO states that this will also have the benefit of avoiding a situation in which interconnection customers in the same cluster, or even in the same study group, could be subject to different repayment rules.[11] CAISO states that based on the timing of this filing, the first cluster that these new reimbursement rules will apply to is queue cluster 6. Further, CAISO adds, these revisions will apply to interconnection customers in the independent

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[7] CAISO Filing at 3, *see* Revised GIDAP § 14.3.2.1.

[8] GIDAP § 14.3.2.2. This requirement only applied to phased projects.

[9] CAISO Filing at 11.

[10] Revised GIDAP §§ 14.3.2.1 and 14.3.2.2.

[11] Revised Appendix EE § 11.4.1 and Revised Appendix FF § 5.3.1.

study process or the fast track process that are not tendered a generator interconnection agreement before the effective date of these revisions.[12]

B. Redistribution of Non-Refundable Financial Security or Study Deposit Funds

9. CAISO states that, under its current tariff, certain portions of the study deposits or financial security deposits required from interconnection customers are not refundable in the event an interconnection customer withdraws or is otherwise removed from CAISO's interconnection queue.[13] CAISO explains that these funds generally consist of funds intended to finance or secure interconnection studies or shares of network upgrades that would have been required for interconnection or to support deliverability requirements.[14]

10. CAISO further explains that under its current tariff the non-refundable study deposit or financial security deposit funds are distributed to all scheduling coordinators in proportion to the amount of grid management charges they paid during the year in which the amounts were collected. CAISO states that in 2013 the total amount of funds subject to redistribution in this manner amounted to $16.4 million.[15]

11. CAISO states that, during the course of its stakeholder process, both developers and participating transmission owners agreed that CAISO should revise the mechanism by which non-refundable study and financial security deposits are redistributed. CAISO explains that developers and participating transmission owners expressed a preference that the redistribution of non-refundable deposits be used to directly reduce transmission rates, either by offsets to transmission owner revenue requirements or by reducing the cost of the transmission facilities that are related to the withdrawing interconnection customers.[16] CAISO states that, consistent with these stakeholder suggestions, the proposed tariff revisions in this proceeding incorporate elements of both offsets to transmission owner revenue requirements and reductions to the cost of transmission facilities.

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[12] Revised Appendix EE § 11.4.1 and Revised Appendix FF § 5.3.1.

[13] CAISO Filing at 4 (citing CAISO GIDAP section 3.5.1.1 and GIP section 3.5.1.1).

[14] *Id.* n.4

[15] *See id.*

[16] CAISO Filing at 13.

12. CAISO explains that each year it conducts a reassessment of all projects in each queue cluster as part of its generator interconnection process. According to CAISO, one part of that evaluation is to determine which, if any, previously identified network upgrades can be eliminated or modified as a result of project withdrawals in the prior year. Because the network upgrades for which a withdrawing customer has cost responsibility is itemized in either the phase II study report or the interconnection agreement, CAISO indicates that it is able to identify whether network upgrades are still needed by remaining interconnection customers. CAISO's proposed tariff revisions will apply the portions of withdrawn customers' non-refundable deposits associated with any still-needed upgrades to reduce the cost of the network upgrade.[17] CAISO proposes to provide those funds as a contribution in aid of construction to the participating transmission owner responsible for constructing the still-needed network upgrade.[18]

13. CAISO explains that the reduction in the cost of a still-needed network upgrade will ultimately result in reducing transmission revenue requirements for the participating transmission owner. In addition, CAISO will use the lower upgrade cost that results from this use of the non-refundable security deposit funds in calculating any reallocation of interconnection customer cost shares under the GIDAP reassessment process, thus benefiting interconnection customers that remain in the queue who have cost responsibilities for the still-needed upgrade.

14. CAISO proposes to apply funds to reduce the cost of a specific upgrade only when the total amount of available funds applicable to that upgrade is at least $100,000. CAISO argues that this is a relatively small dollar amount and states that for 2013, the process would have resulted in applying $1.19 million out of the $1.25 million associated with still-needed upgrades.[19]

15. CAISO proposes a separate approach to the redistribution of non-refundable study deposits and any non-refundable financial security postings that are associated with network upgrades that are no longer necessary as a result of the withdrawal of an interconnection customer from the interconnection queue. CAISO proposes to distribute funds falling into this category by initially allocating them, for each withdrawing customer, into three categories: (1) funds associated with a regional transmission

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[17] CAISO Filing at 14 (citing revised GIDAP section 7.6(b) and further explaining that the changes will also apply to the GIP, by virtue of proposed revisions to section 37.9.4 of the CAISO tariff).

[18] Revised GIDAP section 7.6(b).

[19] CAISO Filing at 14-15.

revenue requirement; (2) funds associated with a local transmission revenue requirement of the participating transmission owner with which the interconnection customer had proposed to interconnect; and (3) local transmission revenue requirements of any other participating transmission owner on whose system the withdrawing interconnection customer was responsible for funding network upgrades recoverable through a local transmission revenue requirement.[20]

16. CAISO argues that the proposed allocation will ensure that non-refundable study and financial security deposits will result in a redistribution that aligns with the way network upgrades would have been accounted for in the participating transmission owners' revenue requirements. CAISO proposes to distribute the funds by disbursing them through the participating transmission owners' transmission revenue balancing accounts. CAISO proposes to distribute funds to each participating transmission owner before the end of the third quarter of each year. According to CAISO, this timing is intended to enable each participating transmission owner to reflect the funds in its annual filing with the Commission of the participating transmission owner's transmission revenue balancing account for reflection in CAISO's transmission access charges for the following year.[21]

C. Additional Proposed Tariff Revisions

17. CAISO states that its current tariff does not explicitly delineate the obligations for CAISO and participating transmission owners relating to the collection and receiving of non-refundable interconnection funds and study deposits. Therefore, CAISO proposes to add subsection 7.6(d) to its GIDAP to clarify that CAISO will only disburse those funds that it holds or has otherwise received. Additionally, CAISO proposes to clarify that the applicable participating transmission owner has the exclusive responsibility to administer financial security where the participating transmission owner is identified as the beneficiary in the financial security instrument. CAISO also proposes that the participating transmission owner will have responsibility to transmit to CAISO any non-refundable amounts in cash or equivalent within 75 days of CAISO submitting to the participating transmission owner the financial security liquidation form unless the 75-day period is extended by mutual agreement.[22]

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[20] CAISO Filing at 15. *See* Revised GIDAP section 7.6(c).

[21] CAISO Filing at 16.

[22] Revised GIDAP § 7.6(d).

18. CAISO further proposes to add subsection 7.6(e) to its GIDAP to clarify the treatment of non-refundable amounts as relates to interest. CAISO states that upon receipt of the funds, it will deposit them in an interest-bearing account and allocate any actual interest earned in the same manner as the principal. CAISO states that this proposal is consistent with CAISO's current tariff requirement to hold these funds in an interest bearing account and to include interest at the earned rate in the disbursement.[23]

19. Finally, CAISO proposes that the initial period for calculation of non-refundable interconnection financial security and study deposit amounts for treatment under the revised tariff provisions shall be from January 1, 2013 through the last day CAISO is able to incorporate withdrawals into the 2015 annual reassessment. CAISO argues that this calculation period will allow it to disburse under the revised tariff provisions all non-refundable interconnection financial security and study deposits that it has collected and are associated with projects withdrawing or terminated since January 1, 2013.[24] Subsequent calculation periods will be the approximate twelve-month period between the last day CAISO is able to incorporate withdrawals into an annual reassessment and the last day CAISO is able to incorporate withdrawals into the subsequent year's reassessment.

II. Notice of Filing and Responsive Pleadings

20. Notice of CAISO's filing was published in the *Federal Register*, 79 Fed. Reg. 64,377 (2014), with interventions and protests due on or before November 7, 2014. Southern California Edison Company; the City of Santa Clara, California; the Northern California Power Agency; the California Department of Water Resources State Water Project; the Modesto Irrigation District; and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California filed timely motions to intervene in the proceeding. Pacific Gas and Electric Company filed a timely motion to intervene and comments in support of CAISO's filing.

III. Discussion

A. Procedural Matters

21. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

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[23] GIDAP §§ 3.5.1.1 and 3.5.1.3.

[24] CAISO Filing at 17.

B. Substantive Matters

22. As discussed below, we accept CAISO's proposed tariff revisions to become effective December 19, 2014, as requested.

1. Timing of Reimbursement of Interconnection Customer-Funded Network Upgrades

23. The Commission previously addressed CAISO's current tariff treatment of repaying interconnection customer funding for network upgrades to phased projects.[25] The January 2012 Order recognized the appropriateness of placing the interconnection customer initially at risk for the full cost of network upgrades.[26] The January 2012 Order further rejected the arguments that achieving commercial operation should be the sole condition required before an interconnection customer is eligible for repayment, and that an interconnection customer should be eligible to receive repayment for just taking any transmission service at all.[27] Thus, the January 2012 Order found that it is just and reasonable to withhold repayment of the cost of network upgrades for a phase of a phased project until such time as all network upgrades necessary for the completed phase to meet its desired level of deliverability are in service.[28]

24. The Commission agrees with CAISO that its reimbursement policy should be consistent for both phased and non-phased projects.[29] We find that CAISO's proposed tariff revisions strike an appropriate balance between requiring interconnection customers to initially fund necessary network upgrades and the timing of reimbursement.[30] We

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[25] *Cal. Indep. Sys. Operator Corp.*, 138 FERC ¶ 61,060 (2012), *clarified*, 140 FERC ¶ 61,168 (2012) (January 2012 Order).

[26] January 2012 Order, 138 FERC ¶ 61,060 at P 49 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 613).

[27] *Id.* P 53.

[28] *Id.* P 52.

[29] We note that CAISO states that stakeholders also agreed with this view and further acknowledge that there have been no protests or negative comments filed respecting CAISO's proposed tariff revisions in this docket.

[30] CAISO previously contended that under its current tariff, refunds for non-phased projects were only triggered by the completion of all necessary upgrades.

(continued...)

further find that CAISO's proposed tariff revisions provide a consistent policy that treats phased and non-phased projects appropriately. Thus, we find CAISO's proposed tariff revisions just and reasonable and accept them.

2. Redistribution of Non-Refundable Financial Security or Study Deposits

25. CAISO's current tariff provides that non-refundable interconnection financial security or study deposits are allocated to all scheduling coordinators in proportion to the amount of grid management charges paid during the relevant year. As CAISO states, this process was implemented in connection with tariff revisions accepted by the Commission in 2008.[31] The Commission recognized that distribution to scheduling coordinators and their market participants was not an ideal solution, but found the procedure to be just and reasonable and not unduly discriminatory.[32]

26. CAISO explains that, since issuance of the September 2008 Order, it has worked with stakeholders to identify and implement improvements to the CAISO generator interconnection process to better meet the needs of developers, transmission owners, CAISO and ratepayers in what CAISO describes as California's rapidly evolving generation marketplace.[33] The Commission finds that CAISO's proposed revisions to the process of redistributing non-refundable financial security and study deposit funds is just and reasonable and not unduly discriminatory, as discussed below, and we therefore accept these tariff revisions.

27. We find that the first step in CAISO's proposed procedure for allocating and disbursing non-refundable financial security deposits appropriately identifies still-needed network upgrades. We further find that defraying the cost of those still-needed upgrades is an appropriate use of the non-refundable financial security deposits that exist as a result

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However, the Commission found in our order clarifying the January 2012 Order that CAISO's interpretation was contrary to the plain language of its tariff and stated that if CAISO sought a different interpretation it should file revised tariff language. CAISO's filing in this proceeding will revise the trigger for non-phased projects. *See Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168, at P 7 (2012).

[31] *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at PP 151-161 (2008) (September 2008 Order).

[32] *Id.* P 160.

[33] CAISO Filing at 2.

of the withdrawal of the projects that initially necessitated the network upgrades, in whole or in part. We also accept CAISO's proposal to apply funds to reduce the cost of a specific upgrade only when the total amount of available funds applicable to that upgrade is at least $100,000. We find that this proposed cut-off balances the goal of ensuring that non-refundable deposits are allocated in an appropriate manner with the goal of administrative efficiency. As CAISO notes, had these tariff revisions been in place in 2013, the vast majority of funds would have been redistributed.[34]

28. We further find that CAISO's proposed second step of identifying non-refundable study deposits and financial security deposits associated with network upgrades that are no longer needed[35] is just and reasonable. Moreover, we find that allocating the identified non-refundable financial security and study deposits and reimbursing them to reduce transmission revenue requirements as described herein is just and reasonable and not unduly discriminatory. We agree with CAISO that the proposed process will align the application of these non-refundable funds "with the transmission costs of the participating transmission owner – and the corresponding impacts on transmission ratepayers – associated with each interconnection customer that withdraws."[36]

29. We will also accept CAISO's proposed tariff revisions describing CAISO and participating transmission owner responsibilities, the interest treatment of such non-refundable financial security and study deposit amounts, and the timing and effectiveness of the proposed tariff revisions. We find that these proposed tariff revisions will add clarity to CAISO's tariff and will help generation developers, participating transmission owners, and other stakeholders better understand CAISO's generator interconnection process.

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[34] *Id.* at 15 (stating that "approximately $1.19 million of the $1.25 million associated with still-needed upgrades would be applied under the proposed new methodology to reduce the costs of four of the nine still-needed upgrades if this rule had been in effect.").

[35] Non-refundable amounts under this second step include amounts less than $100,000 that are attributable to still-needed network upgrades.

[36] CAISO Filing at 16.

<u>The Commission orders</u>:

CAISO's proposed tariff revisions are hereby accepted, effective December 19, 2014, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.