Memorandum

To: ISO Board of Governors

From: Keith Casey, Vice President, Market and Infrastructure Development

Date: October 31, 2013

Re: **Decision on interconnection process enhancements for downsizing and risk of disconnection**

This memorandum requires Board action.

EXECUTIVE SUMMARY

California's renewable portfolio standards and environmental goals have resulted in significant development of new renewable solar and wind generation projects in recent years. The design of these projects is often scalable, and generator interconnection customers may find themselves in a situation where the project size listed in their original interconnection request may no longer be viable, for siting, commercial or other reasons, thereby impeding their ability to perform in accordance with their generator interconnection agreement.

When the one-time generator downsizing proposal was approved by the Board on September 13, 2012, stakeholders expressed both a need for future downsizing opportunities and a concern that the ISO might attempt to terminate their interconnection agreements for failure to build their full project size. At that meeting, Management responded by committing to address these two topics in the next interconnection enhancements initiative. The interconnection process enhancements initiative conducted this year resulted in proposals relating to both of these issues.

To address the first issue, Management is proposing an annual downsizing opportunity beginning in 2014, open to any active projects in the interconnection queue. The availability of an annual downsizing opportunity also helps address the second issue by providing interconnection customers with recurring opportunities to reduce their project size and thus avoid the risk of breach and termination of their interconnection agreements due to completing less than a project's full specified capacity. To further address the risk of disconnection, Management is proposing to clarify that the ISO will not seek to terminate a customer's interconnection agreement solely due to the customer's failure to complete the full megawatt size of its project, provided the customer participates in the next available annual downsizing opportunity.

Management recommends the following motion:

> ***Moved, that the ISO Board of Governors approves the proposal for generator project downsizing and risk of disconnection, as described in the memorandum dated October 31, 2013; and***
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> ***Moved, that the ISO Board of Governors authorizes Management to make all necessary and appropriate filings with the Federal Energy Regulatory Commission to implement the proposed tariff change.***

DISCUSSION AND ANALYSIS

Generator project downsizing: Management proposes an annual downsizing window with no specified sunset date. The proposed window will allow all downsizing requests each year to be studied together within the existing interconnection study process. The ISO intends this annual downsizing opportunity to be the primary means for a customer to reduce the megawatt size of its project. The design of the proposed annual downsizing opportunity follows closely the design of the one-time downsizing opportunity approved in 2012. The key elements of the generator project downsizing proposal are:

1. Request window: Each annual process begins with a one-month request window that opens in mid-October. The first window will open in October 2014.
2. Eligibility: The annual window will be open to any active project that wants to downsize for any reason, thus maximizing customer flexibility.
3. Number of downsizing requests: There is no limit on the number of annual downsizing processes a project can participate in. This does not allow a project to automatically extend its maximum time in queue, however, as the existing limits will remain in effect (10 years from the interconnection request to the in-service date for serial projects and seven years for cluster projects).
4. Downsizing projects with existing interconnection agreements will be required to amend their agreements to reflect the outcome of the downsizing study.
5. Downsizing study: The combined impacts of each year's downsizing requests will be studied in the annual reassessment study process under the generator interconnection and deliverability allocation procedures. This approach efficiently leverages existing study processes, in contrast to the special downsizing study required for the one-time downsizing opportunity held this year.
6. Commitment to downsizing: A downsizing customer will be allowed to withdraw its downsizing request only up to the close of the downsizing window, but not after that. Thus, the customer will be committed to downsizing if its request is deemed complete, valid and ready to be studied. This commitment will prevent

later withdrawals of downsizing requests from harming other customers by delaying or requiring restarts of the reassessment studies.

7. Protection for affected non-downsizing customers: Each downsizing customer will be obligated to finance the costs of the network upgrades that its project triggered at full size, or alternatives to those upgrades, if needed by projects in the same or later queue cluster, up to the limit of the customer's cost cap.
8. Downsizing deposit: Customers will be obligated to pay the actual costs of downsizing studies and amending their interconnection agreements. Each downsizing generator will provide a $60,000 deposit to be applied toward actual costs incurred by the ISO and the participating transmission owners. The deposit consists of two portions: $50,000 toward study costs and $10,000 for amending the downsizing customer's interconnection agreement.
9. Material modification requests: Currently serial interconnection customers may request downsizing by submitting a modification request. Management proposes to specify that once the first annual downsizing window opens, serial customers will no longer be permitted to request capacity reductions through material modification requests.

Risk of disconnection: During the stakeholder initiative, two situations were identified in which, under current tariff provisions, an interconnection customer could potentially be found to be in breach and at risk of termination of its interconnection agreement due to failure to develop the full megawatt capacity of its project, even though a portion of the project was proceeding to or had already come online: (1) the interconnection customer completes a phase or a partial amount of the full megawatt capacity of the project and decides to cancel the rest of the project; or (2) the final megawatt capacity of the completed project falls short of 95 percent of its studied capacity, which is the "substantial performance" requirement under the ISO's interconnection agreement.

Given the availability of the annual downsizing window proposed above, Management believes that these situations should rarely if ever occur, because in most cases the customer should be able to anticipate the need to downsize and use the annual window to reduce the project size specified in its interconnection agreement. Nevertheless, if a customer's final commercial operation date is imminent and the customer is in situation (1) or (2) and has not reduced its project size through either the annual downsizing process or the exercise of partial termination provisions, Management proposes that:

> The ISO will not consider the customer to be in breach nor seek to terminate the interconnection agreement solely due to the failure to complete the full megawatt size required under the interconnection agreement, provided that the customer enters the next available downsizing window and complies with all applicable costs and requirements as approved for the new annual downsizing opportunity.

As noted above, under current tariff provisions, if a customer completes 95 percent of the megawatt capacity specified in its interconnection agreement, the project is deemed to have “substantially performed” with respect to the project size required under the agreement. This is often referred to as a five percent “safe harbor” with respect to the size requirement. As an additional element to address the risk of disconnection issue for smaller projects, Management is proposing to modify the safe harbor language to read “the greater of 5 percent of the project capacity or 10 megawatts, but not greater than 25 percent of the project capacity.” This will make the safe harbor more accommodating, especially with respect to smaller projects.

POSITIONS OF THE PARTIES

All stakeholders either fully support, or support with qualifications, the annual downsizing proposal. The main qualifications expressed and Management’s responses are as follows.

Management’s proposal states that the first window would open in October 2014. The Independent Energy Producers expressed concern that projects with a commercial operation date prior to this date would not have an opportunity to downsize and could be in breach of their interconnection agreements for failure to build the full megawatt capacity of their projects. Management believes that the proposal to allow a customer to avoid breach by entering the next available downsizing window, as explained above in connection with the risk of disconnection issue, addresses this concern.

Some stakeholders expressed concerns regarding a provision in the proposal whereby a customer would lose eligibility for reimbursement of network upgrade costs in proportion to the megawatt project capacity that was not completed, if the customer proceeded all the way to its final commercial operation date without using the available downsizing opportunities. These stakeholders argued that this provision was punitive, particularly in instances where the associated transmission capacity was either not built because it was not needed, or was built and used by subsequent interconnection customers. In response, Management issued an addendum to the proposal on October 21, removing the loss of reimbursement provision and instead requiring the customer to participate in the next available downsizing window.

Some stakeholders raised issues that go beyond the scope of this initiative. The ISO recently issued the results of the first annual reassessment study performed under the generator interconnection and deliverability allocation procedures. For some projects the reassessment results removed network upgrades that were no longer needed due to other projects withdrawing from the queue. As a result, these customers may have expected immediate reductions in their interconnection financial security posting requirements. However, Management had planned to make such adjustments only later, at the time of the third and final posting of financial security. In the context of the proposed annual downsizing opportunity, to be consistent with the approach for other projects affected by the reassessment study, Management proposed that any adjustment in posting requirements for downsizing generators would occur at the next posting. In their comments, several stakeholders opposed this approach, not just for downsizing projects, but for all projects affected by the reassessment study. Their concern emphasized the cost a customer could incur to maintain, potentially for years, their previously posted financial security that these stakeholders maintain would be excessive in view of the reduced network upgrade requirements.

Although Management recognizes the importance of this stakeholder concern, it is beyond the scope of the annual downsizing proposal because it concerns all projects affected by the reassessment study process, which was implemented as part of the generator interconnection and deliverability allocation procedures initiative. For customers participating in the first annual downsizing window in late 2014, the reassessment study will be completed in 2015 and the potential need for reducing security postings for these customers will not arise before that time. Therefore, Management proposes to open a new initiative in 2014 to consider more broadly the matter of adjustments to security posting requirements resulting from the reassessment studies, including the posting requirements for customers participating in the annual downsizing opportunities. The policy outcome from this initiative would be made available going forward to projects that just completed the recent reassessment study process. In the near term, Management proposes to adopt the proposal made by the Large-scale Solar Association to allow, as quickly as possible, a reduction in the interconnection financial security posting in cases where a customer’s total cost responsibility, as indicated by the recent reassessment results, is less than the amount of security already posted by the customer.

CONCLUSION

Management recommends that the Board approve the proposal described in this memorandum to address both the need for future downsizing opportunities and the risk of disconnection issue. This proposal is broadly supported by stakeholders and was refined to address their major comments and concerns. Management believes that its proposal will provide interconnection customers with significantly more flexibility to modify their projects to match the commercial realities they face, improve their ability to comply with the requirements of their generator interconnection agreements, and improve the ISO’s ability to administer the interconnection queue more efficiently.