

154 FERC ¶ 61,169
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

California Independent System Operator Corporation Docket No. ER16-693-000

ORDER ACCEPTING PROPOSED TARIFF REVISIONS
SUBJECT TO CONDITION

(Issued March 7, 2016)

1. On January 7, 2016, the California Independent System Operator Corporation (CAISO) filed proposed tariff amendments pursuant to section 205 of the Federal Power Act (FPA)¹ to modify its generator interconnection process. The proposed amendments represent the second and final set of tariff revisions resulting from CAISO's 2015 interconnection enhancement stakeholder initiative. CAISO proposes 10 categories of revisions designed to improve its interconnection process. In this order, we accept CAISO's proposed tariff amendments, subject to condition, effective March 8, 2016, as requested.

I. Background

2. According to CAISO, California's renewable portfolio standard and the associated evolution in generation development have necessitated that CAISO continuously review and enhance its generator interconnection procedures.² CAISO implemented a series of generator interconnection reforms in 2008, 2010, and 2012, and undertook its first comprehensive Interconnection Process Enhancements (IPE) stakeholder initiative in 2013, resulting in interconnection enhancements to CAISO's tariff, business practice manuals, and procedures in 2013 and 2014.³ Due to the success of its 2013 initiative, CAISO commenced another round of stakeholder meetings in early 2015 to further

¹ 16 U.S.C. § 824d (2012).

² CAISO January 7, 2016 Transmittal Letter at 3-4.

³ *Id.* at 4. *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,231 (2014).

improve its generator interconnection process. The 2015 IPE initiative led to the development of 11 reform proposals, the first of which was filed and accepted by the Commission in November 2015.⁴ The remaining 10 proposals are the subject of the instant filing.

II. CAISO's Tariff Filing

3. CAISO's proposed tariff amendments consist of the following revisions to its generator interconnection process: (1) CAISO, rather than the interconnection customer, will notify affected third-party systems of proposed generator interconnection requests, and the affected system will have 60 days to verify whether they are actually affected and want to be involved in the interconnection study process; (2) commercial viability criteria will be applied to requests by interconnection customers to extend their commercial operation dates beyond the limits currently set forth in the tariff, if the customer wishes to maintain its capacity deliverability status; (3) the timing for when CAISO will tender a generator interconnection agreement (GIA) for negotiation and execution will be tied to the longest lead-time to construct any network upgrades rather than completion of the initial studies; (4) the interconnection deposit will change from \$50,000 plus \$1,000/MW to a flat \$150,000 for both small and large interconnection customers; (5) interconnection customers undertaking self-build of network upgrades will be required to post financial security until the date the GIA is executed; (6) additional flexibility for project changes between the Phase I and Phase II interconnection studies will be granted without loss of queue position;⁵ (7) a clarification that CAISO can update the Phase II study results for changes due to requests for modification from either the interconnection customer or transmission owner; (8) the GIA insurance provisions will be updated to be consistent with current industry standards; (9) a clarification of various financial security requirements; and (10) a clarification that interconnection customers electing transmission plan deliverability Option B (i.e., must-have capacity deliverability) may proceed as energy-only deliverability or withdraw from the queue, if it does not receive the requisite capacity allocation.⁶

⁴ See *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,242 (2015).

⁵ For projects studied in cluster windows, Phase I studies are the equivalent of a system impact study and Phase II studies are the equivalent of a facilities study.

⁶ CAISO January 7, 2016 Transmittal Letter at 1-3.

4. CAISO requests a March 8, 2016 effective date for the proposed tariff changes. CAISO's proposed revisions are set forth in more detail below.

A. Affected Systems

5. In the context of the generator interconnection process, affected systems are electric systems not part of CAISO-controlled grid that may be affected by a proposed generator interconnection to CAISO.⁷ CAISO's currently effective tariff requires it to notify an affected system of any interconnection request that may affect it, to coordinate any studies to determine the potential impact on the affected system, and to include the affected system in all study meetings.⁸ CAISO states that the tariff also requires an interconnection customer to enter into an agreement with the owners of the affected system to study, identify, and mitigate any reliability impacts on the affected system.⁹ However, CAISO asserts that its tariff only requires the affected system to cooperate with CAISO in all matters related to the studies and determination of any system modifications.¹⁰

6. CAISO states that the current framework leaves interconnection customers, transmission owners, and CAISO subject to a great deal of uncertainty with respect to affected systems that are waiting for data, deposits, or agreements from interconnection customers.¹¹ CAISO argues that because there is no definitive timeframe in its tariff in which an affected system must identify itself and begin to determine whether any network upgrade modifications are required to mitigate reliability impacts caused by the proposed generator, an affected system may engage with the interconnection customer or CAISO very late in the process, thereby causing both schedule and cost uncertainty for interconnection customers, CAISO, and transmission owners.¹² CAISO states that interconnection customers themselves can often exacerbate issues in coordinating with affected systems by delaying notifying the affected systems, not entering into study

⁷ *Id.* at 5.

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 6.

¹² *Id.*

agreements, failing to provide additional technical data, or by refusing to mitigate impacts on affected systems.¹³

7. CAISO notes that it worked with stakeholders and potential affected systems to develop its proposed tariff amendments regarding affected systems. CAISO proposes to revise its tariff to formalize the obligation that CAISO, and not the interconnection customer, will notify potentially affected systems within 30 days of when the interconnection customer posts its initial financial security.¹⁴ In addition, CAISO recognizes that under certain circumstances late notification to an affected system may be warranted, so CAISO proposes to provide late notification to a potentially affected system where: (1) CAISO failed to identify the affected system initially for any reason (e.g., due to administrative error); (2) the interconnection customer modifies its project such that an electric system operator becomes a potentially affected system; or (3) the interconnection customer converts from a Wholesale Distribution Access Tariff to the CAISO tariff and the same affected system was not notified previously (or the conversion was due to a system change).

8. CAISO also proposes to give a potentially affected system 60 days to determine whether it is, in fact, an “identified affected system,” and to notify CAISO accordingly.¹⁵ If the potentially affected system does not respond, CAISO will assume that it is not affected by the proposed interconnection. According to CAISO, an affected system’s determination that it is an “identified affected system” conveys that the identified affected system wants to coordinate studies to determine potential reliability impacts and any required mitigation, and be included in any CAISO interconnection study results meetings for that generator.¹⁶ The affected system is not required, however, to conduct any studies during this 60-day period or make any final determinations regarding the reliability impacts of the interconnection.

9. Lastly, CAISO proposes to clarify how it will proceed if an electric system operator fails to identify itself as an identified affected system on a timely basis. CAISO states that if an electric system operator confirms to CAISO that it is an affected system after the 60-day window, CAISO will not delay the synchronization or commercial operation of the proposed generator unless the electric system operator identifies and

¹³ *Id.*

¹⁴ CAISO previously committed in its business practice manuals to be the entity that notified affected systems. *Id.* at 7.

¹⁵ *Id.* at 8.

¹⁶ *Id.*

CAISO confirms a reliability issue.¹⁷ Moreover, CAISO explains that if an electric system operator fails to timely identify itself as an “identified affected system” and if that operator subsequently determines that mitigation is necessary, such mitigation will be the responsibility of the electric system operator and not CAISO, the transmission owner, or the interconnection customer.¹⁸

B. Limitations on Time in the Interconnection Queue

10. CAISO’s existing tariff provides that the in-service date for generator interconnection projects that are studied in the serial study process should not exceed 10 years from the date CAISO receives the interconnection request, while the in-service date for projects studied in the cluster study process should not exceed seven years.¹⁹ CAISO notes that both study processes allow for extensions beyond those limits under certain circumstances, and that as of December 2015, CAISO had 44 projects in its queue (approximately 17 percent of all projects) with commercial operation dates that are more than seven years from their interconnection requests and 19 projects with commercial operation dates of more than 10 years from their interconnection requests.²⁰ CAISO argues that the existing tariff provisions are problematic because they fail to deter projects from lingering in the interconnection queue well beyond the respective seven- and 10-year timeframes. CAISO asserts that those lingering projects undermine its ability to administer the interconnection process efficiently, and have significant cascading effects for newer projects that are likely to be more viable.²¹

11. To address these concerns, CAISO proposes a new tariff subsection to require projects that are holding deliverability capacity to meet and maintain commercial viability criteria before extending their commercial operation dates beyond the seven- or 10-year timeframes.²² CAISO states that it will not withdraw a customer from the queue if it fails to meet the viability criteria; however, if a customer fails to meet the viability criteria but wishes to remain in the queue, it will lose its deliverability capacity

¹⁷ *Id.* at 9.

¹⁸ *Id.*

¹⁹ *Id.* at 9-10 (citing section 3.5.1 of Appendix U and section 3.5.1 of Appendices Y and DD of CAISO’s tariff, respectively).

²⁰ *Id.* at 11.

²¹ *Id.* at 10.

²² *Id.* at 11-12.

allocation.²³ CAISO further states that the customer may remain in the queue as an energy-only project, or it may pursue deliverability status through CAISO's annual capacity deliverability option process.²⁴

12. To improve queue efficiency, CAISO proposes new tariff provisions that it asserts are just and reasonable standards for demonstrating that a project is commercially viable.²⁵ For an interconnection customer to maintain its deliverability capacity allocation beyond the seven- or 10-year timeframe, CAISO proposes that it must first: (1) attest to having, at a minimum, applied for the necessary governmental permits or authorizations, and that the permitting authority has deemed such documentation "as data adequate" for the authority to initiate its review process; (2) have an executed, regulator-approved power purchase agreement, attesting that the project will be balance-sheet financed, or otherwise receive a binding commitment of project financing; (3) demonstrate site exclusivity for 100 percent of the property (in lieu of a site exclusivity deposit); (4) execute a GIA; and (5) be "in good standing with the GIA" such that neither the transmission owner nor CAISO has provided the interconnection customer with a notice of breach of the GIA (where the breach has not been cured or the interconnection customer has not commenced sufficient curative actions).²⁶ CAISO states that it will perform an annual review to ensure that the interconnection customer maintains its commercial viability.²⁷

13. CAISO also proposes limited exceptions to the commercial viability criteria. For instance, in the event an interconnection customer can satisfy all the commercial viability criteria except criterion (2), CAISO proposes to postpone converting the project to energy-only deliverability status for one year from the day the interconnection customer submits the modification request, or eight years from the day it submits its interconnection request, whichever occurs later.²⁸ According to CAISO, the one-year safe harbor will allow projects that have demonstrated clear progress an additional year to procure a power purchase agreement or financing.

²³ *Id.* at 12-13.

²⁴ *Id.* at 13.

²⁵ *Id.* at 14.

²⁶ *Id.* at 13.

²⁷ *Id.* at 14.

²⁸ *Id.*

14. In addition, CAISO proposes a new provision that grants extensions beyond the seven- or 10-year timeframes to interconnection customers that have an executed, regulator-approved power purchase agreement with a commencement/delivery date that does not align with their proposed commercial operation date in the GIA.²⁹

According to CAISO, interconnection customers requesting alignment will be required to: (1) provide a copy of the power purchase agreement and evidence of regulatory approval; and (2) confirm the power purchase agreement's standing and details in the annual transmission provider deliverability affidavit process. CAISO states that customers seeking extensions to align their queue timeframe with commercial operation dates in power purchase agreements will not be exempt from the other commercial viability criteria (e.g., permitting, site exclusivity).³⁰

C. Negotiation of Generator Interconnection Agreements

15. CAISO proposes to change the timeline for when it will tender a GIA to an interconnection customer, as well as the time period for the parties to negotiate the GIA. According to CAISO, the current tariff requires CAISO and the transmission owner to tender draft GIAs to an interconnection customer within 30 days of issuing the updated Phase II study report, and the parties then have 120 days to negotiate the GIA, unless CAISO and the transmission owner agree to an extension.³¹ CAISO argues that because the timing of the tender of the GIA is driven by the date that the customer submits its interconnection request rather than the expected commercial operation date of the project, which may be years away, an interconnection customer with a long lead time would have little motivation to negotiate and execute the GIA.³² CAISO notes that it and the transmission owners routinely extend the negotiation period beyond the 120 days set forth in the tariff if requested to do so by the interconnection customer.

16. In this filing, CAISO proposes to revise the start of the negotiation timeline by tendering the draft GIA based on the generating facility's proposed in-service date for the project, plus the longest lead-time to construct all required and dependent facilities, plus sufficient time to negotiate and execute the GIA.³³ CAISO also proposes to add provisions requiring interconnection customers to maintain feasible in-service dates

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 15.

³² *Id.*

³³ *Id.* at 16.

based on the construction timelines provided in their study results. CAISO recognizes that some interconnection customers may want to execute GIAs on an expedited basis; therefore, it proposes to add provisions allowing interconnection customers to receive the draft GIA and begin negotiations earlier when desired.³⁴ CAISO also proposes to add tariff language that would make the negotiation timeline the rule rather than the exception and allow CAISO and the transmission owner to declare an impasse in the negotiations after the negotiation period lapses, whereby the transmission owner would then file an unexecuted GIA with the Commission within 21 days.

D. Deposits

17. CAISO's current tariff provisions require that interconnection customers must submit a deposit of \$50,000 plus \$1,000 per MW of requested capacity.³⁵ According to CAISO, these deposit levels have been insufficient to meet actual study costs, especially for small projects, thereby causing CAISO and the transmission owners to frequently invoice interconnection customers for the actual costs incurred beyond the deposit level. CAISO argues that the process is an administrative burden for all parties involved, as it diminishes the interconnection customers' reliance on the deposit amounts to be a reasonable estimate of their study costs. In addition, CAISO states that many customers withdraw from the queue without paying their invoice and dissolve the limited liability company, forcing the transmission owner to absorb the losses.³⁶ CAISO also notes that the tariff allows interconnection customers to request a variety of studies that the customer is responsible for funding, but there is no mechanism for either CAISO or the transmission owner to secure a deposit for those studies.

18. CAISO proposes to replace the existing variable interconnection study deposit with a flat deposit of \$150,000 for all projects, both large and small. CAISO contends that the \$150,000 deposit will provide interconnection customers a more realistic estimate of study costs, and should be enough to cover all study costs in most cases, resulting in refunds to customers rather than invoices.³⁷ CAISO states that it worked with stakeholders to settle on the \$150,000 deposit because it would be sufficient to cover reasonably expected costs without creating a barrier to entry for small projects, which CAISO argues could occur if it set the deposit high enough to eliminate the need to invoice any customer.

³⁴ *Id.*

³⁵ *Id.* at 16-17 (citing section 3.5.1 of Appendix DD of CAISO's tariff).

³⁶ *Id.* at 17.

³⁷ *Id.* at 18.

19. In addition, to cover the cost of the various studies that interconnection customers can request, which currently do not have a deposit requirement, CAISO proposes a new tariff provision that adds an initial deposit requirement of \$10,000 for those studies. CAISO states that historical study costs demonstrate that this figure should be sufficient to avoid invoices in excess of the deposit in most cases, and it aligns with existing optional study deposit requirements.³⁸

E. Self-building Stand-alone Network Upgrades

20. CAISO proposes new tariff provisions modifying its financial security requirements to better account for the instance when an interconnection customer wishes to self-build network upgrades.³⁹ CAISO explains that when an interconnection customer's studies identify a network upgrade that only that interconnection customer needs, the studies assign 100 percent of the cost responsibility for that upgrade to that interconnection customer.⁴⁰ According to CAISO, if the interconnection customer can construct the upgrade without affecting the day-to-day operations of the participating transmission owner's system, the CAISO controlled grid, or any affected system, the upgrade qualifies as a Stand Alone Network Upgrade (SANU) under CAISO's tariff and the interconnection customer may elect to build the SANU in place of the transmission owner, provided that the transmission owner and CAISO agree.⁴¹

21. CAISO notes that under its existing tariff, an interconnection customer is not required to post financial security for the SANU because the interconnection customer builds the upgrade and not the transmission owner. CAISO argues that this practice has resulted in problems particularly when other interconnection customers come to rely on the SANU and the original customer wants to delay construction or withdraws from the queue.⁴² In the case of withdrawal, if later-queued interconnection customers' studies relied on that SANU, the construction costs of the SANU will revert to the transmission owner because the withdrawing interconnection customer's financial security does not include funds for the SANU. CAISO contends that the problem compounds when the interconnection customer withdraws well after the time it should have begun design, procurement, or construction of the SANU, thereby forcing the transmission owner to

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 18-19.

⁴² *Id.* at 19.

incur additional expenses to expedite construction of the project. CAISO notes that it has experienced several instances where the SANU is a switchyard that a later-queued project selects as its point of interconnection, but the interconnection customer building the SANU fails to meet the anticipated construction timeline, thereby delaying the later-queued interconnection customer's commercial operation date.⁴³

22. CAISO proposes to revise its tariff to require that an interconnection customer electing to self-build SANUs will have two estimates for maximum cost responsibility in their GIA: (1) the interconnection customer's "original" maximum cost responsibility, which would include the SANU; and (2) its "revised" maximum cost responsibility, which would not include the SANU.⁴⁴ Under CAISO's proposal, an interconnection customer will not be allowed to lower their financial security postings for SANUs until they have executed a GIA that requires the interconnection customer to submit a milestone schedule for the design, procurement, and construction of the SANU. If at any time the SANU reverts to the transmission owner, the interconnection customer's maximum cost responsibility will revert to the original figure, and the interconnection customer will have to revise its interconnection financial security posting within 30 days.⁴⁵

F. Modifications Allowed between Phase I and Phase II Study Results

23. CAISO's tariff currently allows an interconnection customer to modify the scope of their project between the Phase I and Phase II study results without triggering a material modification analysis provided that the modification is limited to: (1) decreasing the electrical output of the proposed project; (2) modifying the technical parameters associated with the generating facility technology or the generating facility step-up transformer impedance characteristics; and/or (3) modifying the interconnection configuration.⁴⁶ CAISO proposes to amend its tariff to allow an interconnection customer to revise its commercial operation date (and attendant in-service, synchronization, and trial operation dates, etc.) as an additional automatic modification that would not require a material modification analysis if the interconnection customer requests the modification shortly after the Phase I results meeting.⁴⁷

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.* at 20-21.

⁴⁷ *Id.* at 21.

G. Conditions for Issuing Addenda to Study Reports

24. CAISO's tariff currently contemplates revising final interconnection study reports only when a report includes substantial errors or omissions, or where updates to the report are needed due to system condition changes brought to light by CAISO's annual reassessment.⁴⁸ CAISO and stakeholders examined whether the tariff should provide study report revisions in other circumstances, such as when an interconnection customer modifies its project, and how those revisions may affect the interconnection customer's maximum cost responsibility. CAISO proposes to add tariff language clarifying that where an interconnection customer makes a modification request after the Phase II study that would change the scope, schedule, or cost of the interconnection facilities or network upgrades, CAISO will issue a report to the interconnection customer within 90 days of the request.⁴⁹ According to CAISO, this tariff change will help to clarify the circumstances that can trigger study report revisions or other reports.

H. Insurance Required in GIAs

25. CAISO proposes to modernize the *pro forma* Large Generator Interconnection Agreement's (LGIA) insurance provisions, which will be incorporated in an interconnection customer's GIA. According to CAISO, the proposed revisions are generally non-substantive and are consistent with the Order No. 2003 standards.⁵⁰ CAISO notes that based on discussions with interconnection customers and industry insurance brokers and underwriters, some of the existing insurance coverage provisions of the current LGIA are anachronistic or no longer available as described in the LGIA. CAISO believes that the tariff revisions will facilitate an interconnection customer's ability to obtain commercially reasonable insurance for a new generator project.

I. Interconnection Financial Security

26. CAISO proposes to amend its tariff to provide greater certainty with respect to the timing of when an interconnection customer must post financial security. In transmission constrained areas of CAISO's system, CAISO allocates deliverability capacity to interconnection projects based upon a project's likelihood of proceeding to commercial operation.⁵¹ According to CAISO, it assesses a project's commercial

⁴⁸ *Id.* at 21-22

⁴⁹ *Id.* at 22.

⁵⁰ *Id.* at 23.

⁵¹ *Id.* at 23.

viability based upon a number of factors, which project sponsors must attest to through affidavits. The attestations cover financing status (including whether it has secured a purchase power agreement), permitting status, and land acquisition.⁵² CAISO notes that it has observed in recent years that projects that attest to be progressing to commercial viability later withdraw from the queue claiming that the project was unable to secure a power purchase agreement, which then allows that customer to claim, per the terms of CAISO's tariff, a greater refund of financial security upon withdrawal of the project. CAISO believes that interconnection customers are being inconsistent in attesting to the commercial viability of their projects and, to remedy that inconsistency, CAISO proposes to add a provision to the tariff stating that any interconnection customer that declares it (1) has secured financing and a power purchase agreement, or (2) will proceed to commercial operation without a power purchase agreement, will be precluded from exercising its rights to receive partial recovery of its financial security for failure to secure a power purchase agreement.⁵³ Thus, CAISO explains, interconnection customers will have an incentive to make accurate attestations for securing deliverability capacity in transmission-constrained areas.

27. CAISO also proposes to allow an interconnection customer to post-interconnection financial security early, before the deadline, but not before the study report triggering the posting. In effect, an interconnection customer will be able to post interconnection financial security anytime within the 90-day window after the issuance of the study report. CAISO also proposes to state explicitly in the tariff that if the interconnection customer has already posted its interconnection financial security and then receives a revision to that study report, the tariff language regarding delayed postings for substantial errors or omissions does not apply. Finally, CAISO proposes to adopt stakeholders' request that an interconnection customer will not be required to adjust its financial security instruments downward due to issuance of a revised report or reassessment unless it requests to do so. According to CAISO, this tariff change will give interconnection customers greater flexibility over their financial security postings.⁵⁴

J. Transmission Plan Deliverability Option B

28. CAISO's current tariff requires that interconnection customers requesting deliverability capacity allocations must elect to be either "Option A" or "Option B"

⁵² *Id.* (citing section 8.9.2 of Appendix DD of CAISO's tariff).

⁵³ *Id.* at 25. These interconnection customers still will be able to receive partial recovery of their security if they meet any of the other criteria for doing so.

⁵⁴ *Id.*

customers after their Phase I study results.⁵⁵ Option A customers attest that they will proceed to commercial operation only if they receive a deliverability capacity allocation. Option B customers, on the other hand, attest that they must have deliverability capacity and therefore will assume cost responsibility for their network upgrades required for deliverability without cash repayment even if they do not receive their requested deliverability allocation. CAISO states that if an Option A customer does not receive its deliverability allocation, it has the option to convert to energy-only status (i.e., without deliverability capacity), “park” for one year to try and receive a better deliverability capacity allocation in the subsequent cycle, or withdraw.⁵⁶ An Option B customer only has two choices: proceed and build its own delivery network upgrades, or withdraw from the queue.

29. CAISO notes that several interconnection customers recently elected Option B even though there were no delivery network upgrades required for their projects. CAISO contends that selecting Option B in such a case may be misleading, because the selection will not provide value to the interconnection customer as there is no delivery network upgrade for it to finance or build, and actually limits its ability to move forward if it does not qualify to receive a deliverability allocation.

30. CAISO proposes to clarify that if an interconnection customer selects Option B and does not receive its requested deliverability capacity allocation, it has the option to change its deliverability status to energy-only, just like Option A customers. CAISO also proposes to clarify that all interconnection customers must still meet the minimum criteria identified in the tariff to be eligible to receive a deliverability allocation in the first place. According to CAISO, these revisions will provide greater clarity and will ensure that interconnection customers cannot unnecessarily limit their own options.⁵⁷

III. Notice of Filing and Responsive Pleadings

31. Notice of CAISO’s filing was published in the *Federal Register*, 81 Fed. Reg. 1624 (2016), with interventions and protests due on or before January 28, 2016. Timely motions to intervene were filed by E.ON Climate & Renewables North America, LLC, the City of Los Angeles Department of Water & Power (LADWP), Sacramento Municipal Utility District, California Department of Water Resources State Water Project, Northern California Power Agency, the City of Santa Clara, California and the M-S-R Public Power Agency, Large-Scale Solar Association, and the American Wind

⁵⁵ *Id.* at 26 (citing section 7.2 of Appendix DD of CAISO’s tariff).

⁵⁶ *Id.* (citing section 8.9.4 of Appendix DD of CAISO’s tariff).

⁵⁷ *Id.* at 28.

Energy Association. Timely motions to intervene and comments were filed by Pacific Gas and Electric Company (PG&E) and Modesto Irrigation District (Modesto). A timely motion to intervene and comments, or in the alternative, protest was filed by Imperial Irrigation District (Imperial). Timely comments were jointly filed by the American Wind Energy Association, California Wind Energy Association and Large-Scale Solar Association (collectively, Generation Associations). Motions to intervene out-of-time were filed by the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (collectively, Six Cities) and Salt River Project Agricultural Improvement and Power District (Salt River). On February 4, 2016, CAISO filed an answer to the comments. On February 12, 2016, LADWP and Imperial (jointly, Neighboring Systems) and Modesto filed answers to the comments of Generation Associations. On February 17, 2016, Generation Associations filed an answer to the answers filed by CAISO, Modesto and Neighboring Systems. On March 3, 2016, Modesto filed an answer to the answer filed by Generation Associations' February 17, 2016 answer.

A. Comments and Protests

32. PG&E supports the 10 revisions proposed by CAISO to its interconnection process as a welcomed improvement to the status quo. In particular, PG&E notes that CAISO's proposal to give potentially affected systems a 60-day period to determine whether or not those systems are in fact affected and to notify CAISO accordingly will provide greater certainty for interconnection customers and other participants in the interconnection process.⁵⁸

33. Modesto requests that the Commission accept CAISO's proposed tariff revisions on affected systems without alteration.⁵⁹ Modesto notes that CAISO's proposed affected system tariff provisions may not be the ideal proposal for all parties involved in the interconnection process, but it does provide assurances requested by interconnection customers to identify the universe of affected systems with whom the interconnection customer will need to potentially negotiate and provide or compensate for mitigation.⁶⁰ Modesto argues that CAISO's proposed tariff language does not affect remedies that affected systems may have available outside of CAISO's tariff regarding mitigation and that the proposed tariff language properly recognizes the limits of CAISO's legal and jurisdictional reach.⁶¹ Lastly, Modesto asserts that CAISO's proposal properly balances

⁵⁸ PG&E Motion to Intervene and Comments at 2.

⁵⁹ Modesto Motion to Intervene and Comments at 6.

⁶⁰ *Id.* at 7.

⁶¹ *Id.*

the needs of interconnection customers with those of affected systems, which in some instances may be small to medium size utilities, without imposing regimented processes on the affected system that could be burdensome and difficult to administer.⁶²

34. Imperial largely supports CAISO's proposal, but seeks clarification on the proposed revisions regarding affected systems. Of particular concern to Imperial is the second to last sentence of proposed section 3.7.1 of Appendix DD of CAISO's tariff, which states that "[a]ny mitigation the electric system operator that failed to timely identify as an Identified Affected System determines is necessary will be the responsibility of the electric system operator and not of the CAISO, the Participating Transmission Owner(s), or the Interconnection Customer."⁶³ Imperial contends that it is unclear how CAISO intends to interpret and implement this particular language in practice, and it is concerned that CAISO has gone far beyond coordination and cooperation with its neighbors by unilaterally dictating a statute of limitations for affected systems' cost recovery.⁶⁴ Imperial argues that if CAISO intends to impose a statute of limitations for cost recovery, such language should be rejected by the Commission and CAISO should be directed to remove the language in a compliance filing.

35. Imperial states that depending upon CAISO's interpretation, there are four fundamental problems with CAISO's proposed sentence.⁶⁵ First, Imperial asserts that CAISO cannot, via an amendment solely to its own tariff, relieve itself, a participating transmission owner, or an interconnection customer of the responsibility to comply with mandatory Reliability Standards.⁶⁶ Second, Imperial argues that neither CAISO nor the Commission has jurisdiction under section 205 of the FPA to dictate what mitigation costs a governmental utility, such as Imperial, can or cannot collect in its rates. Third, Imperial states that the proposed 60-day statute of limitations is contrary to law in that Congress provided a four-year statute of limitations for claims under federal law.⁶⁷

⁶² *Id.* at 7-8.

⁶³ Imperial Comments or Alternative Protest at 2.

⁶⁴ *Id.* at 6.

⁶⁵ *Id.* at 7.

⁶⁶ Imperial questions whether CAISO interprets the sentence to mean that CAISO will not take any action nor require a participating transmission owner or interconnection customer to take any action to upgrade facilities located in CAISO's system or to limit their operations to prevent or stop harm to the reliability of a neighboring system, even if such inaction would result in a violation of mandatory Reliability Standards. *Id.*

⁶⁷ *Id.* at 8 (citing 28 U.S.C. § 1658 (2012)).

Fourth, Imperial argues that CAISO's application of a 60-day statute of limitations to a neighboring system is arbitrary and capricious and would result in a "penalty" that is unduly harsh.

36. Imperial notes that while CAISO proposes several exceptions to its own obligation to notify a potentially affected system within 30 days, it would require a 60-day statute of limitations for potentially affected systems to respond to its notice, with no exceptions. Imperial argues that affected systems should be accorded a reciprocal exception.⁶⁸ In addition, Imperial asserts that there are there other circumstances where an exception is warranted.⁶⁹ For instance, Imperial contends that it would be unfair to impose a 60-day requirement in the circumstance when a neighboring system operator did not identify itself originally as an affected system because CAISO's study initially provided no indication that it would be adversely affected by the interconnection but subsequent actions by CAISO indicate otherwise.

37. Generation Associations support the tariff revisions but assert that CAISO's affected systems proposal falls short of what is needed and does not provide a meaningful solution to the problem.⁷⁰ Generation Associations highlight shortfalls in CAISO's proposal. For instance, Generation Associations contend that while affected systems must notify CAISO that they are affected by the interconnection request, there is no requirement that an affected system explain why or how it might be impacted or provide even preliminary evidence or demonstration of potential impacts.⁷¹ Thus, according to Generation Associations, there is no reason why an affected system would not identify itself to ensure that it could recover any potential mitigation costs.

38. Generation Associations argue that CAISO's proposal does nothing to carry out CAISO's explicit tariff responsibilities to coordinate and perform studies that include affected system information.⁷² Generation Associations state that there is no obligation for when the affected system must complete any necessary studies or to identify the cost of any network upgrades and timing to install them.⁷³ Generation Associations also state that there is no obligation for when CAISO must include such information in its studies,

⁶⁸ *Id.* at 8.

⁶⁹ *Id.*

⁷⁰ Generation Associations Comments at 2.

⁷¹ *Id.* at 7.

⁷² *Id.* at 8.

⁷³ *Id.*

as CAISO's current tariff requires. Generation Associations contend that CAISO's proposal puts them in the untenable position of knowing that there is a potential affected system, but no means to bring resolution to problems that the affected system may raise at any time in the interconnection process.

39. According to Generation Associations, the lack of certainty in CAISO's proposal manifests itself in that affected systems may identify themselves late in the interconnection process and prevent synchronization of the generation project if the affected system identifies, and CAISO confirms, a reliability issue.⁷⁴ In addition, the affected system may still demand mitigation payments under remedies available outside of CAISO's tariff. Generation Associations argue that interconnection customers would never know when it has a complete list of network upgrade costs, which adds significant risk to the generation development process.⁷⁵

40. Moreover, Generation Associations argue that CAISO's proposal wrongly shifts responsibilities from CAISO to the interconnection customer.⁷⁶ While CAISO facilitates gathering the identity of potential affected systems, Generation Associations assert that the interconnection customer must effectuate affected system studies and coordinate the results with CAISO studies, without the expertise, means, or resources to do so. Generation Associations state that it is unjust and unreasonable to relegate this responsibility to the interconnection customer and the tariff needs clear provisions addressing how CAISO will coordinate affected system studies after such systems are identified.⁷⁷ In addition, Generation Associations note that CAISO's business practice manuals require that interconnection customers obtain affected system approval to operate, which does not make that requirement just and reasonable and is significant enough that CAISO should take an active role to address.⁷⁸

41. Generation Associations also allege that CAISO's proposal allows for inconsistent study results because there is no requirement for an affected system to use CAISO's assumptions or methodologies in its studies.⁷⁹ Generation Associations contend that without any coordination and oversight from CAISO, study results can and will vary

⁷⁴ *Id.* at 9.

⁷⁵ *Id.* at 9-10.

⁷⁶ *Id.* at 11.

⁷⁷ *Id.*

⁷⁸ *Id.* at 11-12.

⁷⁹ *Id.* at 12.

considerably, which is inefficient, and could possibly result in unjust and unreasonable mitigation results. In addition, Generation Associations state that CAISO's proposal provides no method to address disputes between interconnection customers and affected systems.⁸⁰ According to Generation Associations, CAISO should have a process to ensure that disputes regarding impacts and mitigation on affected systems are addressed, and a responsibility to resolve any disputes so interconnection service can be provided under its tariff.

42. To address the highlighted deficiencies, Generation Associations propose that the Commission order the following changes to CAISO's proposal on affected systems:

- a. Require a clear standard that CAISO will ensure that the impact of a proposed interconnection request on all applicable affected systems is included in the studies that CAISO performs and the results that CAISO provides to the interconnection customer, including the timing and cost of mitigation and network upgrades;⁸¹ if an affected system refuses to coordinate with CAISO's studies, it should not be entitled to mitigation payments or be able to prevent operation of an interconnection project;
- b. Direct CAISO to amend its tariff to ensure affected system information is included in CAISO study results, or at least include the timing of affected system studies such that interconnection customers are fully informed about potential impacts and costs by the time that significant commitments must be made in the CAISO interconnection process (e.g., the earlier of six months after the Phase II Study or execution of the GIA);⁸²
- c. Require CAISO to amend its tariff to require joint studies with affected systems using the Western Electricity Coordinating Council Path Rating Process as a model;⁸³ and

⁸⁰ *Id.*

⁸¹ *Id.* at 13. In addition, Generation Associations request that, at a minimum, the Commission should direct CAISO to remove from its business practice manual the requirement that an interconnection customer must provide documentation to CAISO that affected system reliability impacts have been addressed to the satisfaction of the affected system six months before synchronization of the interconnection project.

⁸² *Id.* at 13-14.

⁸³ *Id.* at 14.

- d. Add a provision to the CAISO tariff that provides, “Should an Affected System not comply with CAISO’s timing and requirements for joint studies to address Interconnection Requests, such Affected System may be denied mitigation payments under the CAISO Tariff and cannot prevent operation of a new generation project pursuant to the FERC’s reciprocity principle.”⁸⁴

Generation Associates request that the Commission direct CAISO to submit the tariff revisions in this docket or another docket established through the exercise of the Commission’s authority under section 206 of the FPA, if needed.

B. Answers

43. In its answer, CAISO notes that of the three parties that filed substantive comments addressing the affected system issue, two of the parties are considered affected systems under CAISO’s currently effective tariff, and they either support the proposal in its entirety (Modesto) or support the bulk of the tariff revisions, only seeking clarification regarding two discrete provisions (Imperial).⁸⁵ Both CAISO and Modesto argue that the comments submitted by Generation Associations are an attempt to present a complaint pursuant to section 206 of the FPA in the form of comments on a section 205 filing.⁸⁶ CAISO also states that the comments of Generation Associations ignore the jurisdictional boundaries of CAISO’s tariff and the FPA and mischaracterize the existing CAISO tariff and the affected system process.⁸⁷ Both CAISO and Modesto request that the Commission find that CAISO’s proposed affected system enhancements are a just and reasonable solution to a complex jurisdictional issue.

44. Regarding late notices, whether from CAISO or the affected system, CAISO confirms that if it provides late notification to the potentially affected system, the affected system’s 60-day clock only begins to run once it receives notification from CAISO.⁸⁸ With respect to granting reciprocal treatment for allowing late notices from the affected system due to an administrative error by the affected system, CAISO is sympathetic to Imperial’s concern. However, CAISO contends that allowing affected systems to provide such notification would be an exception that swallows the rule and defeats the purpose of

⁸⁴ *Id.* at 15.

⁸⁵ CAISO February 4, 2016 Answer to Comments at 3.

⁸⁶ *Id.* at 4 and Modesto February 12, 2016 Answer at 3-4.

⁸⁷ CAISO February 4, 2016 Answer to Comments at 4.

⁸⁸ *Id.* at 28.

the proposal, which is to provide some degree of clarity for interconnection customers.⁸⁹ CAISO states that its proposal offers a straightforward process for responses from affected systems. In addition, CAISO clarifies that in the case where an interconnection customer modifies or converts their projects, that change would result in new (or renewed) notifications from CAISO, and the affected system would be afforded all rights to mitigation and payment under the CAISO tariff.⁹⁰

45. CAISO also clarifies that the sentence called into question by Imperial⁹¹ is not intended to relieve any party, especially CAISO, of their responsibility to maintain the reliability of the grid.⁹² CAISO states that it will not energize a generator that will cause a confirmed reliability impact until the impact can be resolved, and, if need be, CAISO will mitigate the impact for the affected system through CAISO operational procedures without the need for infrastructure improvement on either system.

46. In addition, with respect to the aforementioned sentence, CAISO agrees with Imperial that CAISO lacks the authority to dictate what mitigation costs a governmental utility can or cannot collect in its rates and that CAISO cannot restrict the affected system's legal rights through the terms and conditions of the CAISO tariff. However, CAISO states that for this reason, it proposed a provision explicitly stating that "[a]n Affected System's mitigation remedies that may be available outside the CAISO tariff are unaffected by these provisions."⁹³ CAISO argues that the intent of the provision is simple: where an affected system fails to timely identify as such, then later requires mitigation, it must seek compensation for that mitigation from the interconnection customer through those other remedies. CAISO states that it worked with stakeholders, including affected systems, and concluded that putting the responsibility for mitigation on the electric system operator that failed to timely identify itself as an affected systems was a just and reasonable enforcement mechanism to ensure that affected systems were incentivized to meet the "low threshold" of identification.⁹⁴ CAISO asserts that it was

⁸⁹ *Id.* at 29.

⁹⁰ *Id.*

⁹¹ "Any mitigation the electric system operator that failed to timely identify as an Identified Affected System determines is necessary will be the responsibility of the electric system operator and not of the CAISO, the Participating Transmission Owner(s), or the Interconnection Customer."

⁹² CAISO February 4, 2016 Answer to Comments at 30.

⁹³ *Id.* at 31.

⁹⁴ *Id.*

never its intent to deny Imperial or other potentially affected systems the ability to recover their costs; rather, CAISO sought to set forth a process covering what CAISO will do under specific circumstances, thereby helping to mitigate the timing and financial risks posed to interconnection customers.

47. CAISO argues that it is impractical and counterproductive to require potentially affected systems to identify the specific impacts on their system during the 60-day response period as requested by Generation Associations.⁹⁵ CAISO notes that potentially affected systems will have neither the requisite time nor access to the requisite data and studies to make that determination within 60 days. Moreover, CAISO notes that requiring potential affected systems to conduct any type of preliminary analysis during the 60-day period would necessitate study agreements and deposits from the interconnection customer, thus supplanting the opportunity to avoid those very things. According to CAISO, Generation Associations' proposal would "sacrifice all flexibility on the altar of hasty, unnecessarily costly, and elusive affected system certainty."⁹⁶

48. CAISO also asserts that Generation Associations mischaracterize CAISO's existing tariff and Order No. 2003's⁹⁷ requirement to coordinate with affected systems. CAISO notes that under Order No. 2003 and Order No. 888,⁹⁸ CAISO is only required to assist the customer in coordinating with affected systems and not to conduct the studies

⁹⁵ *Id.* at 5.

⁹⁶ *Id.* at 7.

⁹⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 118 (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).

⁹⁸ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048, *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

for the affected systems.⁹⁹ CAISO states that the Commission adopted this approach for three key reasons: (1) transmission providers only have sufficient data and visibility to conduct studies on their own systems, and not affected systems; (2) transmission providers have no jurisdiction to impose requirements on affected systems; and (3) purely intrastate and governmental utilities, which comprise nearly all of CAISO's affected systems, are specifically exempted from the Commission's jurisdiction under section 201 of the FPA.¹⁰⁰ CAISO argues that it does not have the requisite data, the tariff authority, or the FPA jurisdiction to dictate the study requirements of affected systems or their internal deadlines for conducting such studies, as suggested by Generation Associations.

49. CAISO contends that its proposal to provide late notice (post 30 days) to potentially affected systems under limited circumstances is just and reasonable, contrary to the arguments raised by Generation Associations that CAISO's identified circumstances will create tremendous risk for generation developers.¹⁰¹ CAISO argues that Generation Associations offer no substantive critique of the three exceptions listed by CAISO and that they miss the point of why CAISO may provide late notice to an affected system, i.e., to ensure the reliability of the grid. CAISO argues that Generation Associations fail to articulate how interconnection customers cannot develop generation facilities due to CAISO's proposed affected system tariff changes, when Generation Associations admit that CAISO's proposal is an improvement over the status quo, which has facilitated enough pending interconnection requests to meet a large portion of the 2015 peak load.¹⁰² In addition, CAISO notes that two of the three circumstances for late notice are caused by interconnection customers through modifications to their project. CAISO argues that it would be inequitable and subject to gaming to allow developers to change their projects and not provide notice to potentially affected systems.¹⁰³

⁹⁹ CAISO February 4, 2016 Answer to Comments at 8 (citing Order No. 2003 FERC Stats. & Regs. ¶ 31,146 at P 118 (citing to section 21.1 of Order No. 888's *pro forma* Open Access Transmission Tariff)).

¹⁰⁰ *Id.* at 8-9.

¹⁰¹ *Id.* at 13.

¹⁰² *Id.* at 14.

¹⁰³ *Id.* at 15.

50. CAISO states that it takes exception to Generation Associations' claim that CAISO's affected system proposal shifts CAISO's tariff responsibility to the interconnection customer.¹⁰⁴ CAISO notes that the interconnection customer's role in effectuating the affected system study process is simple - sign an affected study agreement, deposit the requisite funds for the studies, and provide the project data, which has already been prepared for its interconnection request to CAISO. CAISO also disagrees with the claim levied by Generation Associations that CAISO's business practice manual – requiring that an interconnection customer certify no later than six months prior to its synchronization that it has addressed all affected system reliability impacts – is inconsistent with CAISO's tariff and therefore unjust and unreasonable.¹⁰⁵ CAISO states that the business practice manual is not part of CAISO's section 205 filing, and thus another example of Generation Associations' attempt to make a section 206 complaint under the guise of comments to a section 205 filing.¹⁰⁶ In addition, CAISO asserts that this requirement is the means by which CAISO ensures that all affected system issues have been resolved because it has no independent means to verify that all outstanding reliability issues have been resolved.¹⁰⁷

51. Neighboring Systems also oppose the request by Generation Associations that the Commission direct CAISO to strike from its business practice manual the aforementioned certification process.¹⁰⁸ Neighboring Systems note that prior to CAISO's certification requirement, it was difficult to obtain, on a timely basis, executed affected system study agreements from all relevant generators.¹⁰⁹ As a result, Neighboring Systems contend that the certification process has significantly improved coordination between interconnection customers and affected systems and to strike that process, as requested by Generation Associations, would result in more delays to the interconnection process, rather than less.

¹⁰⁴ *Id.* at 17.

¹⁰⁵ *Id.* at 18-19.

¹⁰⁶ *Id.* at 19.

¹⁰⁷ *Id.* (citing Order No. 2003 FERC Stats. & Regs. ¶ 31,146 at PP 118-120; NERC Reliability Standard IRO-001-1.1).

¹⁰⁸ Neighboring Systems February 12, 2016 Answer at 5-7.

¹⁰⁹ *Id.* at 6.

52. CAISO also disagrees with Generation Associations' claim that CAISO's tariff is lacking because it does not require affected systems to use CAISO's studies or assumptions in their studies, which could lead to inconsistent results. CAISO contends that it has not included such a provision because it does not have day-to-day expertise with affected systems' grids, nor the authority or jurisdiction under its tariff to dictate how affected systems must study the potential impact of new generation on their systems.¹¹⁰ CAISO argues that even if it proposed such a tariff provision, it would be unenforceable, and the affected systems could ignore it because virtually all of CAISO's affected systems are governmental entities specifically excluded from the Commission's jurisdiction under section 201 of the FPA.

53. Neighboring Systems raise a similar concern with Generation Associations' proposal that CAISO should amend its tariff to require joint studies with affected systems using the Western Electricity Coordinating Council Path Rating Process as a model. Neighboring Systems argue that the Western Electricity Coordinating Council Path Rating Process serves a different and limited purpose, which is to quantify transmission capability on selected transmission paths that are rated by the Western Electricity Coordinating Council.¹¹¹ Neighboring Systems state that the Western Electricity Coordinating Council Path Rating Process cannot replace an affected system operator's ability to study any potential reliability impacts to its system from a generator interconnection to CAISO's system nor can it replace the affected system operator's determination of any necessary network upgrades needed to remedy any potential reliability impacts.¹¹²

54. CAISO does concede that its affected system proposal does not offer a method to address disputes with affected systems as alleged by Generation Associations, but only because CAISO and Order No. 2003 already provide the means to address those disputes.¹¹³ CAISO argues that if Generation Associations are requesting that the Commission impose affected system dispute resolution tariff provisions in this proceeding, that request goes beyond the scope of this proceeding. CAISO notes that if infrastructure improvements are required, but the affected system is not moving forward in resolving such impacts, CAISO and the relevant CAISO transmission owner(s) will develop and construct the necessary upgrades on the CAISO controlled grid to mitigate the impact on the affected system, subject to reimbursement by the interconnection

¹¹⁰ CAISO February 4, 2016 Answer to Comments at 20.

¹¹¹ Neighboring Systems February 12, 2016 Answer at 4.

¹¹² *Id.*

¹¹³ CAISO February 4, 2016 Answer to Comments at 21-22.

customer.¹¹⁴ In addition, CAISO states that if the affected system is working with the interconnection customer, but the interconnection customer believes that the affected system is requiring unreasonable mitigation measures, or there is not a real impact to reliability, CAISO will review the reasonableness of the studies conducted and study results issued by the identified affected system operator. If CAISO has concerns, it states that it may review whether the identified affected system used the information that CAISO provided and may make suggestions to the identified affected system.¹¹⁵ Thus, CAISO asserts that it already has the means to work with interconnection customers and affected systems to resolve any issues.

55. In response to Generation Associations' proposed solutions, CAISO answers that those solutions, like much of Generation Associations' comments, are either a poorly disguised complaint under section 206 of the FPA or a request for the Commission to institute action against individual affected systems, and as such, should not be considered by the Commission.¹¹⁶ Moreover, CAISO notes that Generation Associations fail to understand that CAISO and the Commission lack the ability to force affected systems into a regimented system, unless action can be justified under FPA sections 210, 211A, or 212 after notice and review, which must be done in separate proceedings pertaining to the affected systems and not in a section 205 proceeding.¹¹⁷ Lastly, CAISO argues that using the Western Electricity Coordinating Council Path Rating Process as a model for requiring joint studies with affected systems as requested by Generation Associations, would be extremely burdensome for all parties. CAISO contends that using such a process for every interconnection request early in the interconnection process, where so many interconnection customers ultimately withdraw from the queue, would slow the interconnection request process to a crawl.¹¹⁸

IV. Procedural Matters

56. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. In addition, pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2015), we

¹¹⁴ *Id.* at 23.

¹¹⁵ *Id.* (citing CAISO, Business Practice Manual for GIDAP, Section 6.1.4.3).

¹¹⁶ *Id.* at 24.

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 25.

grant Six Cities' and Salt River's late filed motions to intervene, given their interest in the proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay.

57. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answers filed by CAISO, Modesto and Neighboring Systems on February 12, 2016 because they provided information that assisted us in our decision-making process. We are not persuaded to accept the answer to the answers filed by Generation Associations on February 17, 2016 and by Modesto on March 3, 2016, and will, therefore, reject them.

V. Commission Determination

58. As discussed herein, we accept CAISO's filing, subject to condition.¹¹⁹ We find CAISO's proposed tariff revisions as they relate to (1) limitations on time in the queue, (2) negotiation of generator interconnection agreements, (3) deposits, (4) self-building stand-alone network upgrades, (5) modifications allowed between Phase I and Phase II study results, (6) conditions for issuing addenda to study reports, (7) insurance required in GIAs, (8) interconnection financial security requirements, and (9) transmission plan deliverability Option B to be just and reasonable and not unduly discriminatory or preferential. CAISO's proposed changes to these areas of its tariff are well supported by CAISO, and should enable CAISO to manage its queue more efficiently, as well as foster generation development in California. Accordingly, we accept these tariff changes without modification or condition.

59. With respect to CAISO's proposed tariff changes regarding affected systems, except as discussed below, we find that CAISO has demonstrated that the proposed tariff revisions are also just and reasonable and not unduly discriminatory or preferential pursuant to section 205 of the FPA. Refining the procedures for notifying and collaborating with potentially affected systems will promote efficiency in the interconnection process and provide all parties with greater certainty regarding interconnection timeframes.

60. Moreover, we find the proposed 60-day window for electric systems to respond to CAISO's notification that they may be potentially affected by an interconnection to be reasonable, and therefore reject Imperial's protest. We agree with CAISO that to permit

¹¹⁹ The Commission can revise a proposal filed under section 205 of the FPA as long as the filing utility accepts the change. *See City of Winnfield v. FERC*, 744 F.2d 871, 875-77 (D.C. Cir. 1984). The filing utility is free to indicate that it is unwilling to accede to the Commission's conditions by withdrawing its filing.

a post-60-day response by a potentially affected system, even in the instance of administrative error, would result in uncertainty about which systems the interconnection customer must work with to develop its project, undercutting the primary purpose of CAISO's proposal. The benefit of timely resolutions for CAISO and interconnection customers outweighs the burden that a potentially affected system must bear in responding to CAISO's notification within 60 days. CAISO's proposal does not require that the potentially affected system perform any studies to determine whether it agrees or disagrees with CAISO's initial notice that it could be affected. Furthermore, as CAISO notes, it only notifies those affected systems within such proximity to the proposed generator that CAISO reasonably believes there may be an impact.¹²⁰ Thus, it would be imprudent for the affected system to not respond in the affirmative to CAISO's notice.

61. However, our acceptance of CAISO's filing is subject to the condition that CAISO remove the following sentence from its proposed section 3.7.1 of Appendix DD of its tariff: "Any mitigation the electric system operator that failed to timely identify as an Identified Affected System determines is necessary will be the responsibility of the electric system operator and not of the CAISO, the Participating Transmission Owner(s), or the Interconnection Customer." We find that CAISO has not supported this proposed revision, despite its efforts to answer Imperial's request for clarification. On its face, this sentence inappropriately imposes sole responsibility for mitigating the impacts of a customer's interconnection on an entity that is not governed by CAISO's tariff. In addition, this sentence conflicts with the proposed tariff provision that states that affected systems' mitigation remedies available outside the CAISO tariff are unaffected. Accordingly, we direct CAISO to submit a compliance filing removing the proposed sentence from section 3.7.1 of Appendix DD of its tariff.

62. We also disagree with Generation Associations' comments regarding potential shortfalls in CAISO's proposal. As an initial matter, we note that Generation Associations state that they "support in concept" the revisions proposed by CAISO, and note that the tariff amendments are "a step in the right direction."¹²¹ While Generation Associations believe that CAISO's proposal could have gone further, we have found that CAISO's affected system proposal, subject to the condition discussed above, is just and

¹²⁰ CAISO February 4, 2016 Answer to Comments at 6.

¹²¹ Generation Associations Comments at 2.

reasonable and not unduly discriminatory.¹²² We encourage CAISO, however, to continue to work with its stakeholders to identify opportunities to further improve and clarify the process for coordinating with affected systems.

63. We also find that Generation Associations' other arguments are without merit. First, we reject Generation Associations' assertion that CAISO has impermissibly shifted its tariff responsibilities to interconnection customers. Instead, we agree with CAISO that an interconnection customer's responsibilities are limited and clearly defined, and that the proposal actually codifies CAISO's involvement in this process. Second, we reject Generation Associations' argument concerning the potential mismatch between the tariff and the business practice manuals. The business practice manuals are not before the Commission in this proceeding and, in any event, where there is a conflict with the terms of CAISO's tariff, the tariff will govern.¹²³ Third, we find that Generation Associations' argument concerning the lack of a tariff requirement that affected systems use CAISO assumptions or methodologies in its studies is, in essence, a challenge to CAISO's existing tariff. As Generation Associations acknowledge, CAISO's current tariff does not include such a requirement, and CAISO is not proposing to change that in the instant filing.¹²⁴ As such, we view Generation Associations' argument as beyond the scope of this proceeding. Fourth, we find that CAISO's existing tariff already includes a dispute resolution process as part of its generator interconnection procedures, and we therefore reject Generation Associations' arguments concerning the lack of an adequate mechanism for addressing disputes among CAISO, affected systems, and interconnection customers.

¹²² Pursuant to section 205 of the FPA, 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." *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984). The proposed revisions "need not be the only reasonable methodology." *Oxy USA v. FERC*, 64 F.3d 679, 692 (D.C. Cir. 1995). For the same reason, we need not entertain Generation Association's alternative proposals.

¹²³ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 117 FERC ¶ 61,113, at P 47 (2006) ("the filed and accepted tariff is the governing document and not the Business Practice Manuals – the former has precedence over the later and not the other way around.").

¹²⁴ Generation Associations Comments at 12.

The Commission orders:

(A) CAISO's proposed tariff revisions are hereby accepted, subject to condition, effective March 8, 2016, as requested, as discussed in the body of this order.

(B) CAISO is hereby directed to submit a compliance filing within thirty (30) days of the date of the order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.