153 FERC ¶ 61,242
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. ER15-2752-000

ORDER ON TARIFF REVISIONS

(Issued November 24, 2015)

1. On September 30, 2015, the California Independent System Operator Corporation (CAISO) filed tariff revisions to its generator interconnection process. According to CAISO, the tariff revisions are intended to close a loophole that was inadvertently created when CAISO filed to revise its generator interconnection process in 2014. The proposed revision would prevent interconnection customers from using the annual downsizing process solely to reduce the amount of financial security that an interconnection customer could possibly be required to forfeit upon their eventual withdrawal from the interconnection queue. This order accepts CAISO's proposed tariff revisions, effective October 14, 2015, as requested.

## I. **<u>Background</u>**

2. According to CAISO, the instant filing is the first of four planned tariff revisions resulting from CAISO's 2015 Interconnection Process Enhancements stakeholder initiative.[1] CAISO states it worked with stakeholders to identify and develop what became numerous areas for improvement, including, among other things the forfeiture of funds upon withdrawal after downsizing, which is the topic presented in this filing.[2]

3. CAISO states that the loophole that it proposes to close arose from the interaction of two different tariff amendments. In 2008, CAISO required interconnection customers to post additional financial security for network upgrades; the financial security would be non-refundable unless the interconnection customer could meet one of several criteria, in

[1] CAISO September 30, 2015 Transmittal Letter at 2.

[2] *Id.* at 4

which case the customer would be entitled to a partial refund.[3] Subsequently, in 2012, CAISO permitted interconnection customers a one-time opportunity to decrease the MW size of their generation projects without losing their queue position. According to CAISO, this one-time opportunity for interconnection customers to "right-size" their projects would permit otherwise economically viable generation projects to proceed in the queue because these projects would be able to decrease their originally requested MW size to match the actual capacity financed or awarded a power purchase agreement.[4] CAISO notes that during the 2013 Interconnection Process Enhancements initiative, stakeholders requested that CAISO provide interconnection customers an annual process to right size their projects, which CAISO filed and the Commission accepted in 2014.[5]

4. CAISO contends that in the most recent downsizing process, a significant number of interconnection customers used the process in a manner other than CAISO intended. CAISO asserts that these interconnection customers used the downsizing process only as a means to reduce their non-refundable interconnection security. According to CAISO, these interconnection customers appear to have already decided to withdraw from the interconnection queue, but are waiting for the annual downsizing process to conclude before withdrawing from the queue. CAISO explains how these customers benefit from this loophole by way of an example. Assuming that an interconnection customer had a financial security posting of $1 million for a generating facility of 50 MW, if that interconnection request was withdrawn and the developer was reimbursed for that posting according to the approved 50 MW capacity of its project at the time of withdrawal, the interconnection customer would be reimbursed $500,000.[6] However, if this same

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[3] *Id.* (citing *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at PP 133-161 (2008)).

[4] *Id.* at 5.

[5] *Id.* (citing *Cal. Indep. Sys. Operator Corp.*, 148 FERC ¶ 61,077 (2014)).

[6] According to CAISO, section 11.4.2(b)(ii) of Appendix DD of its tariff provides that an interconnection customer that withdraws its interconnection request under certain circumstances will receive a refund of the lesser of (a) the security posted minus any costs incurred for network upgrades, or (b) the security posted minus the lesser of (i) 50 percent of the security posted for network upgrades or (ii) $10,000 to $20,000 per requested and approved MW of capacity at the time of withdrawal.

interconnection customer downsized to 0.1 MW prior to withdrawal, it would receive a refund of $999,000.[7]

5. CAISO states that the degree to which interconnection customers have downsized their projects supports its belief that many interconnection customers are taking advantage of this loophole to reduce the amount of their non-refundable financial security.[8] CAISO notes that all but one interconnection customer reduced the size of their projects by more than 90 percent, with the vast majority of the interconnection customers reducing the size of their projects by more than 99 percent.[9] CAISO asserts that this result is not what CAISO or the Commission intended in authorizing the annual downsizing process. CAISO maintains that, if the loophole is not eliminated, the improvements to the interconnection queue that began with the 2008 financial security amendment will be undermined, thereby encouraging poorly planned and speculative projects to once again clog the interconnection queue.

## II. CAISO's Tariff Filing

6. CAISO states that it worked with stakeholders to close the loophole that was created with implementation of the annual downsizing process while still permitting viable projects to downsize to achieve commercial operation.[10] CAISO notes that the current tariff already provides that if an interconnection customer withdraws from the queue during the downsizing/reassessment process, the interconnection customer's downsizing request will be withdrawn and it will revert to its pre-downsized capacity amount. CAISO proposes to expand this reversion process so that if an interconnection customer withdraws during or after downsizing, the calculation for determining the refundable portion of the interconnection financial security will be based upon the project capacity prior to its downsizing request.[11] According to CAISO, the proposed tariff change will prevent interconnection customers from using the downsizing process merely as a means of reducing their non-refundable interconnection financial security, and any

[7] *Id.* at n.19 (pointing out that the remainder of the financial security not returned to the interconnection customer would go to incurred and/or still needed costs for any remaining network upgrades the interconnection customer originally triggered, or to offset transmission revenue requirements).

[8] *Id.* at 6.

[9] *Id.*

[10] *Id.* at 7.

[11] *Id.* at 8.

customer that has decided to withdraw will not benefit by lingering in the queue and waiting for the annual downsizing window.

7. CAISO states that the timing of the instant filing is driven by the fact that the next generator downsizing window opens on October 15, 2015 and that CAISO wants to put market participants on notice of the proposed revisions prior to that date. Accordingly, CAISO requests waiver of the Commission's 60-day notice requirement so the proposed tariff revisions can become effective on October 14, 2015.

## III. Notice of Filing and Responsive Pleadings

8. Notice of CAISO's filing was published in the *Federal Register*, 80 Fed. Reg. 60,666-67 (2015), with interventions and protests due on or before October 21, 2015.

9. A motion to intervene was jointly filed by NRG Power Marketing, LLC and GenOn Energy Management, LLC. A timely motion to intervene with comments was filed by Pacific Gas and Electric Company (PG&E).

## IV. Discussion

### A. Procedural Matters

10. 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.

### B. PG&E's Comments

11. PG&E supports CAISO's proposed amendment, but with qualifications. PG&E states that as a result of the 2014 downsizing, the subsequent transmission grid reassessment process resulted in the cancellation of several proposed transmission projects that were to be constructed in the Fresno, California, area. According to PG&E, it incurred engineering and pre-construction costs associated with these transmission projects, which had been determined to be needed prior to the interconnection customers downsizing their projects.[12] PG&E requests that the Commission hold these customers that have downsized their projects for the purpose of reducing their non-refundable financial security accountable for their actions "to game the downsizing process" by obligating these customers to cover, from their financial securities, all irrevocably incurred costs associated with the cancelled transmission projects, such as shared Deliverability Network Upgrades. PG&E requests that, to the extent the financial

[12] PG&E October 21, 2015 Comments at 5-6.

security posted and forfeited by these customers is not adequate to cover the costs incurred by PG&E, the Commission should not allow the burden of such cancellation to fall upon Participating Transmission Owner shareholders, but should permit Participating Transmission Owners to recover these irrevocably incurred costs in their transmission revenue requirements.[13]

### C. Commission Determination

12. CAISO's proposed tariff revisions appear to be just and reasonable, and have not been shown to be unjust, unreasonable, or unduly discriminatory or preferential. Additionally, we find that good cause exists to grant waiver of the Commission's 60-day prior notice period and permit CAISO's proposed tariff language to go into effect on October 14, 2015, as requested.

13. PG&E requests that the Commission require the downsizing customers to cover all irrevocably incurred costs by PG&E for the shared Deliverability Network Upgrades, which were determined to be needed before these customers downsized their projects. We reject PG&E's requested relief as it is beyond the scope of this proceeding. CAISO's tariff currently provides that, upon notice of withdrawal from the interconnection queue by the interconnection customer, the applicable transmission owner has the ability to retain from the interconnection customer's posted financial security, all costs and expenses incurred or irrevocably committed to finance pre-construction activities for network upgrades on behalf of that customer.[14] CAISO is not proposing to change this provision of its tariff, and PG&E has not demonstrated that the existing provision is unjust or unreasonable.

14. Further, PG&E has not demonstrated that its actual pre-construction costs associated with these cancelled network upgrades exceeds the amount of posted financial security that it holds for these downsizing customers. The Commission will assess the reasonableness of PG&E's transmission revenue requirement and the costs contained therein when PG&E submits its revenue requirement to the Commission.

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[13] *Id.* at 2.

[14] Both sections 11.4.2.1(a) and 11.4.2.2(a) of Appendix DD of CAISO's tariff provide in pertinent part that the applicable Participating TO(s) shall liquidate the Interconnection Financial Security for the applicable Network Upgrades and reimburse the Interconnection Customer the lesser of the Interconnection Financial Security plus (any other provided security plus any separately provided capital) less (all costs and expenses incurred or irrevocably committed to finance Pre-Construction Activities for Network Upgrades on behalf of the Interconnection Customer). *See* CAISO Fifth Replacement FERC Electric Tariff, Appendix DD (GIDAP), sections 11.4.2.1(a) and 11.4.2.2(a).

The Commission orders:

CAISO's proposed tariff revisions are hereby accepted, effective October 14, 2015, as requested, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,
Deputy Secretary.