UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	**)**	**Docket No. ER13-218-000**

MOTION TO FILE ANSWER, AND ANSWER TO PROTESTS, OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION

The California Independent System Operator Corporation ("ISO")[1] moves for leave to file and files this answer to protests submitted in this proceeding in response to the ISO October 29, 2012 tariff amendment proposing a one-time opportunity to downsize the capacity of projects in the post-interconnection study stage of the interconnection process ("Downsizing Amendment").[2]

Although a number of entities participated in the ISO's stakeholder process leading up to the filing of the Downsizing Amendment, only two filed substantive comments: SCE filed as conditional protest and interconnection customer CSOLAR filed a limited protest. SCE suggests several refinements and clarifications, while CSOLAR raises an issue that is beyond the scope of this proceeding. As indicated below, the ISO agrees with one of the clarifications suggested by SCE and commits to implement the clarification if directed by the

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[1] Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the ISO tariff, as revised by the proposed tariff changes contained in the tariff amendment submitted in this proceeding. Except where otherwise specified, references to section numbers are references to sections of the ISO tariff as revised by the proposals in the tariff amendment. The ISO is sometimes referred to as the CAISO.

[2] The following entities filed motions to intervene in the proceeding: the California Department of Water Resources State Water Project; Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; City of Santa Clara, California, d/b/a Silicon Valley Power, and the M-S-R Public Power Agency; CSOLAR; Electric Power Supply Association; Large Scale Solar Association; Modesto Irrigation District; NRG; Pacific Gas and Electric Company; and Southern California Edison Company ("SCE").

Commission on compliance. Otherwise, the Commission should accept the Downsizing Amendment as filed.[3]

I. Answer

A. The ISO Agrees with SCE that the Downsizing Amendment Should be Clarified to Protect Generators Connecting to the Distribution Utility System from Adverse Cost Impacts Associated with Downsizing

In its conditional protest, SCE states that it supports the concept of downsizing but is concerned that the Downsizing Amendment does not fully implement the ISO's objective of protecting non-downsizing customers from the impacts of downsizing. Specifically, SCE is concerned that the ISO's protections are limited to "Interconnection Customers," which, as defined in the ISO's tariff, would not include generators interconnecting to the distribution system rather than the ISO controlled grid.[4]

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[3] The ISO submits this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. The ISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to make an answer to Calpine's protest. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in the case. *See, e.g.*, *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

[4] SCE at 3-6. To explain, the Downsizing Amendment offers a downsizing opportunity to ISO interconnection customers. The tariff amendment defines those customers who seek to downsize the megawatt generating capacity of their generating facilities as "Downsizing Generators." The tariff amendment defines Interconnection Customers who are not Downsizing Generators but whose interconnection configurations are modified as a result of the Generator Downsizing Study as "Affected Generators." As submitted to the Commission, the ISO's tariff amendment defined Affected Generators only as ISO Interconnection Customers (*i.e.*, customers in the ISO's interconnection queue to connect to the ISO controlled grid, not in a participating transmission owner's wholesale access distribution tariff ("WDAT") interconnection queue to interconnect to the utility distribution system).

The ISO agrees with SCE that the intent of the ISO's downsizing proposal is to protect impacted generators from any adverse cost impacts associated with downsizing, including those generators connecting to the distribution system pursuant to transmission owner tariffs such as SCE's WDAT. The ISO also agrees with SCE that the tariff language in the Downsizing Amendment does not adequately reflect this intent. Therefore, the ISO proposes to make revisions as part of a compliance filing that would clarify that certain terminology used in the Downsizing Amendment, such as the definitions of "Affected Generator" and "Interconnection Agreement," will not limit the "hold harmless" protections to generators that are interconnecting directly to the ISO controlled grid. The ISO plans to work with SCE and any other interested parties to develop the specific tariff modifications to be provided on compliance.

B. Providing Downsizing Generators with a Cap on Study Costs is Appropriate

The ISO disagrees with SCE's request to eliminate the cap on study costs from the Downsizing Amendment. SCE argues that downsizing generators should be required to pay the full costs of the downsizing study, and should not have the benefit of a "cost cap." SCE contends that the ISO has presented no argument as to why downsizing generators should be offered a cap on study costs in this process as opposed to the normal study process.[5]

In fact, the explanation was provided with the ISO's initial filing, where the ISO's witness, Ms. Le Vine, specifically addressed this issue. Ms. Le Vine first explained that the ISO chose a relatively conservative figure of $100,000 for the

[5] SCE at 6-8.

expected maximum amount of study costs for a downsizing generator, which is double the ISO's $50,000 historical average for study costs in the normal process. Ms. Le Vine also explained that the cost cap of 150 percent of each downsizing generator's equal share of the preliminary estimate of total downsizing study costs was proposed in the stakeholder process to address concerns about cost uncertainty regarding how many generators will choose to utilize the downsizing opportunity, and the number of generators that will be impacted as a result.[6]

Moreover, it is not just the downsizing generators that will benefit from the downsizing opportunity. To the extent that generators use this tariff opportunity to scale their projects to a level that better reflects generating facility viability, all market participants, including transmission owners, will benefit as a result of a more realistically designed plan of transmission service. Further, the "one-time" generator request and single downsizing study features will aid transmission planning because they bring order to downsizing actions (or customer withdrawals) that might otherwise happen in scattershot fashion and require the ISO and participating transmission owners to engage in a series of iterative re-scoping activities while bearing 100% of the study costs.

As a result, it is just and reasonable for the ISO to institute a cap on customer exposure to downsizing study costs not only to protect downsizing generators from cost uncertainty, but also to avoid discouraging generators from availing themselves of the downsizing opportunity.

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[6] Attachment D to Downsizing Amendment (Prepared Direct Testimony of Deborah A. Le Vine) at 6-8.

C. Appendix HH Need Not be Revised to Address SCE's Concerns Regarding Compliance with Commission Regulations

In the Downsizing Amendment, the ISO proposed a new Appendix HH to the ISO's tariff in order to act as a *pro forma* amendment to the ISO's existing generator interconnection agreements for those generators that avail themselves of the downsizing opportunity. SCE states that it understands this amendment will act as a "stand-alone" document, i.e., a separate legal document from the 'original' GIA [generator interconnection agreement], such that the two documents together would constitute the effective service agreement."[7] SCE expresses concern that such an approach is inconsistent with the requirement set forth in the Commission's Order No. 614 that amendments to jurisdictional agreements must be folded into the original agreements and not simply "tacked on" as supplements.[8]

SCE is incorrect to the extent it assumes the ISO intends to simply "tack on" Appendix HH to the original interconnection agreement for filing with the Commission. Where an interconnection agreement is filed with the Commission, the ISO will provide a revised form of interconnection agreement that reflects the modifications set forth in Appendix HH.[9] The purpose of Appendix HH is not to

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[7] SCE at 9.

[8] *Id*.

[9] The ISO's practice is to submit an interconnection agreement filing to the Commission only with respect to non-conforming agreements. When the interconnection agreement is conforming, the ISO reports the execution of the interconnection agreement (and subsequently, the execution of any amendment) in the ISO's Electric Quarterly Report. In contrast, the ISO understands that it is SCE"s business practice to file each interconnection agreement with the Commission.

avoid this step, but rather to provide a *pro forma* contractual vehicle to be effectuated without having to add yet another set of *pro forma* interconnection agreements to its tariff. This approach is just and reasonable because it complies with the Commission's regulations, while avoiding the administrative burden, as well as potential confusion by customers, resulting from creating more baseline *pro forma* interconnection agreements for execution. Avoiding the creation of new *pro forma* agreements is particularly appropriate in light of the one-time nature of this opportunity.

In its discussion of this issue, SCE contends that another problem with Appendix HH is that the *pro forma* amendment "assumes that the CAISO is a party to the Affected Generator GIA that may need to be amended" even though such a generator could be a distribution-level customer with an interconnection agreement to which the ISO is not a party.[10] Although, as stated above, the ISO agrees that the concept of an "Affected Generator" should be broadened to include distribution-level customers, the ISO does not agree that this necessitates any modification to Appendix HH to insert a WDAT interconnection agreement amendment into the ISO tariff.

Although interconnection agreements under distribution-level tariffs may need to be amended as a result of generators in the ISO's queue electing the new downsizing option, it is not appropriate for the ISO to mandate the process or substance of such amendments in its own tariff. Rather, such issues should

[10] SCE at 10.

be addressed by SCE and the other investor-owned utilities in their distribution-level interconnection tariffs, including any amendments thereto.

D. CSOLAR's Request for the Commission to Mandate the Scope of Relief for Potential Violations of the GIA is Beyond the Scope of this Proceeding and Not Ripe for Review in Any Case

CSOLAR asks the Commission to effectively determine that an interconnection customer may parse an interconnection request into two or more pieces when the customer has decided to turn discrete phases of the generating facility into discrete ownership components. It asks the Commission to mandate that the ISO may not terminate "the entirety" of a customer's interconnection agreement for a phased project if all of the following four circumstances have arisen: (1) an earlier project phase is already under construction or in operation; (2) one or more other phases of the project has "missed its development milestones"; (3) the phased project customer agrees to pay for the full cost of upgrades identified for customers in the same cluster; and (4) the customer agrees to forego refunds for costs "reasonably attributable to the uncompleted phase(s)."[11]

Even if the Commission were inclined to entertain this hypothetical issue, it would be inappropriate to do so in the context of this proceeding as it is beyond the scope of the ISO's Downsizing Amendment. The merits of CSOLAR's argument regarding the scope of the ISO's termination authority have no bearing on whether the ISO's proposed amendment is just and reasonable.

[11] CSOLAR at 9.

The only argument that CSOLAR advances potentially linking its "limited protest" issue to the ISO's proposed Downsizing Amendment is its contention that, should the Commission not take action in this proceeding, CSOLAR may be "forced" to utilize the downsizing opportunity provided in the amendment. This contention is specious, however, because it relies on the false premise that a customer could somehow be "forced" to use the new, voluntary downsizing opportunity, when in fact the newly created opportunity gives the customer *greater* flexibility than it has absent the downsizing opportunity. CSOLAR does not challenge the Downsizing Amendment itself; rather, it effectively seeks a declaratory judgment from the Commission *that it has an alternate mechanism for downsizing* under the GIA if the four circumstances described were to arise, where the customer "misses" one or more milestones (*i.e.*, fails to perform certain contract conditions) but offers certain mitigation for such non-performance.

Turning this proceeding on the Downsizing Amendment into an adjudication for a declaratory order on the ISO and participating transmission owner's enforcement and termination rights under hypothetical conditions would also raise notice and comment and due process concerns. Making determinations that CSOLAR invites the Commission to make based solely on a single pleading in this docket would effectively deprive ISO participants and other interested parties of the opportunity to provide input on the merits of CSOLAR's argument. Likewise, because it is within the Commission's discretion whether to allow answers to protests, even the ISO itself could be deprived of any right to respond to CSOLAR's request. If this issue is indeed as critical as CSOLAR

contends, then there is all the more reason for the Commission to decline to use this proceeding as the vehicle to resolve it. For all of these reasons, the Commission should reject CSOLAR's request.

II. Conclusion

For the reasons explained above and in the Downsizing Amendment, the Commission should accept the tariff amendment as just and reasonable, with the limited modifications agreed to herein by the ISO.

Respectfully submitted,

/s/ Michael Kunselman

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Dated: November 30, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 30th day of November 2012.

/s/ Bradley R. Miliauskas
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