

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System) Docket No. ER21-2592-000
Operator Corporation)

**MOTION TO INTERVENE AND COMMENTS OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

The California Independent System Operator Corporation (“CAISO”)¹ submits this motion to intervene and comments to the unexecuted large generator interconnection agreement (“GIA”) filed by Pacific Gas and Electric Company’s (“PG&E”) among CXA La Paloma, LLC (“La Paloma”), the CAISO, and PG&E.² Based on Commission policy, the CAISO believes the interconnection service capacity in the GIA should be 1,062 MW.

I. Comments

The unexecuted GIA in this proceeding is a replacement GIA for the GIA PG&E terminated in Docket No. ER21-2064. The Commission approved that termination under La Paloma’s protest, effective on August 3, 2021.³ The interconnection service capacity of the original GIA was what La Paloma requested 20 years ago, 1,160 MW. However, La Paloma never constructed generating capacity or otherwise operated equal to that value. La Paloma’s maximum net generating capacity at the point of

¹ Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the CAISO tariff. References herein to specific tariff sections are references to sections of the CAISO tariff.

² The CAISO submits these comments pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.214.

³ *Pacific Gas and Electric Co.*, 176 FERC ¶ 61,067 (2021).

interconnection has not exceeded 1,062 MW. Based on Commission precedent, the CAISO believes the Commission should use that value in La Paloma's unexecuted GIA.

In protesting the termination of its original GIA, La Paloma argued that the "right to interconnection service at the quantity contracted for in the interconnection agreement is to last for as long as the generator remains in operation and does not default on its obligations under the interconnection agreement."⁴ La Paloma cited to Order Nos. 2003 and 845 and other Commission precedent to support this argument.⁵ However, La Paloma misunderstands the Commission precedent cited in its protest. La Paloma argues that it should retain the interconnection service capacity it originally "contracted for."⁶ Although frequently that is the case, the Commission has been clear there are exceptions to this rule. Commission precedent holds that the interconnection capacity in a GIA does not confer a property right, and that where an interconnection customer *builds* less generating facility capacity than that for which it requested interconnection service, it does not retain that interconnection capacity indefinitely.⁷ In these cases, transmission providers like the CAISO may subsequently remove interconnection service capacity for generators that did not construct their requested capacity.⁸ This practice is critical in the CAISO because generation developers

⁴ La Paloma Protest at 4.

⁵ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. 31,146 at PP 21-24 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. 31,160 (2004), *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. 131,190 (2005), *affirmed sub nom. Nat'l Ass'n of Regulatory Util. Com'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

⁶ La Paloma Protest at 4.

⁷ *CalWind Resources Inc. v. California Independent System Operator Corp.*, 146 FERC ¶ 61,121, at PP 33 *et seq.* (2014).

⁸ *Id.*

generally up-front finance network upgrades, but ratepayers ultimately pay for them.⁹ It also ensures that existing transmission facilities remain used and useful, and not held in reserve indefinitely. The Commission reiterated this holding in Order No. 845, stating, “where the original interconnection customer, for example, reduces the generating facility capacity of its facility from what was originally proposed for interconnection, it would not retain rights indefinitely to any excess interconnection capacity thus created.”¹⁰

Under this precedent, the CAISO’s established practice in negotiating replacement GIAs includes investigating what the generating facility’s interconnection service capacity has been. This investigation looks at the generating facility’s average and peak operating levels over its history, the original interconnection studies, and can even include PMax testing and site visits.

Here, it is readily apparent La Paloma did not construct as much generating capacity as it originally requested. La Paloma did not dispute this fact during the parties’ negotiations. Data analyzed by the CAISO also demonstrates La Paloma is entitled to 1,062 MW of interconnection service capacity. First, the CAISO’s transmission planning and generator interconnection base case shows 1,062 MW of interconnection service capacity at the site. Second, La Paloma’s Participating Generator Agreement with the CAISO states that La Paloma has 1,022.4 MW of generating capacity. Third, La Paloma has only registered a combined generating

⁹ See Article 11.4.1 of Appendix EE to the CAISO tariff.

¹⁰ Order No. 845 at P 493 (the Commission reiterated this holding in Order No. 845-A at P 164).

capacity at the site of 1,066 MW in the CAISO master file.¹¹ Fourth, the CAISO's analysis of La Paloma's peak output over the last several years does not exceed 1,061.3 MWh in any given hour. Its average peak output since 2018 is 988.95 MW. Based on this data, the CAISO believes the correct interconnection service capacity for the unexecuted GIA is 1,062 MW.

II. Motion to Intervene

The CAISO is a party to the GIA. Because no other party can adequately represent the CAISO's interests in the proceeding, the CAISO's intervention is in the public interest and should be granted.

¹¹ There are four generating units that comprise the La Paloma generating facility. Their combined PMaxes are 1,066 MW.

III. Conclusion

Based on the Commission's holdings in Order No. 845, the Commission should establish an interconnection service capacity for La Paloma equal to the generating capacity it constructed: 1,062 MW.

Respectfully submitted,

/s/ William H. Weaver

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Dated: August 23, 2021

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, pursuant to the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, CA this 23rd day of August, 2021.

/s/ Jacqueline Meredith
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