

149 FERC ¶ 61,276
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Pacific Gas and Electric Company

Docket Nos. ER15-223-000
ER15-227-000
ER15-227-001
ER15-227-002
ER15-231-000
ER15-231-001

California Independent System
Operator Corporation

Docket No. ER15-322-000

ORDER ON NOTICE OF TERMINATION,
PROPOSED REPLACEMENT AGREEMENTS,
AND RELATED FILINGS

(Issued December 29, 2014)

1. On October 29, 2014, Pacific Gas and Electric Company (PG&E) filed a notice of termination of the Comprehensive Agreement between PG&E and the State of California Department of Water Resources State Water Project (DWR), under which PG&E has provided, among other things, interconnection and firm physical transmission service to DWR since 1983. PG&E also filed a number of replacement agreements to provide for the continued interconnection of DWR's pumping loads and generation to PG&E's transmission system. These agreements include: a load interconnection agreement, six related transmission facilities agreements, a maintenance agreement, and two non-conforming Large Generator Interconnection Agreements (LGIA). In addition, PG&E filed related revisions to two other existing agreements to reflect the termination of the Comprehensive Agreement. Subsequently, California Independent System Operator Corporation (CAISO) filed certificates of concurrence to the two LGIAs. In this order, we accept PG&E's notice of termination effective December 31, 2014, the replacement agreements, the revisions to other agreements, and CAISO's certificates of concurrence effective January 1, 2015, as requested.

I. Background

2. In 1983, DWR and PG&E entered into the Comprehensive Agreement, under which PG&E has provided interconnection of all State Water Project plants and facilities in PG&E's service territory and firm physical transmission service to DWR.¹ PG&E states that, when the Commission authorized CAISO to commence market operations, the Commission permitted existing, bilateral contracts, such as the Comprehensive Agreement, reflecting firm physical transmission rights, to expire in accordance with their terms to preserve the parties' then-existing electric transmission service arrangements.² Upon expiration of these contracts customers will transition to transmission service under the CAISO tariff. PG&E proposes replacement agreements to address rates, terms and conditions for DWR's continued interconnection service to PG&E's transmission system.

3. PG&E states that the Comprehensive Agreement also provides that DWR generation plants and water pumping loads are subject to certain remedial action scheme curtailment arrangements, which will end upon termination of the Comprehensive Agreement. PG&E notes that DWR's participation in the remedial action schemes has supported the daily operating limits of north to south imports through the California-Oregon Intertie, the primary interconnection between Northern California and Oregon.³

¹ The Comprehensive Agreement is on file as PG&E Rate Schedule No. 77. The Comprehensive Agreement was the major focus of a complaint brought by the Transmission Agency of Northern California (TANC) against PG&E in Docket No. EL14-44-000 (Complaint Proceeding). A more thorough description of the Comprehensive Agreement, its background and the relevant parties can be found in the Commission's Order Denying Complaint, *Transmission Agency of Northern California v. Pacific Gas and Electric Company*, 148 FERC ¶ 61,150 (2014), *request for rehearing pending* (Complaint Order).

² These contracts are generally referred to as existing transmission contracts. *See* PG&E, Docket No. ER15-223-000, Transmittal Letter at 2.

³ *Id.* at 5. The California-Oregon Intertie is the northern part of a three-line system, which is comprised of (1) two Pacific AC Intertie lines between Malin Substation in southern Oregon and Round Mountain Substation in northern California, and (2) the California-Oregon Transmission Project between Captain Jack Substation in southern Oregon and the Olinda Substation in Northern California. The California-Oregon Intertie is used in conjunction with intertie facilities in Oregon and Washington to transfer electricity between the Pacific Northwest and central California. The two Pacific AC Intertie lines are owned by PacifiCorp, PG&E and the Western Area Power

(continued...)

PG&E states that these remedial action schemes were at issue in the Complaint Proceeding in which TANC alleged an anticipatory breach of PG&E's obligations under the Operation Agreement between the owners of the California-Oregon Intertie. Specifically, TANC alleged that PG&E failed to adequately prepare for the end of DWR's participation in the remedial action schemes when the Comprehensive Agreement expires on December 31, 2014. PG&E states that in the Complaint Order the Commission denied TANC's complaint, finding that the Operation Agreement does not require PG&E to replace the remedial action schemes upon cancellation or termination of the Comprehensive Agreement.⁴

II. Filings

A. Termination of the Comprehensive Agreement

4. In Docket No. ER15-223-000, PG&E filed a notice of termination of the Comprehensive Agreement. PG&E states that section 4.4 of the Comprehensive Agreement provides for it to terminate on December 31, 2014, and that it is filing the notice of termination accordingly.⁵ PG&E states that the replacement and revised agreements for DWR's continued interconnection service do not contain any provisions for DWR's ongoing participation in remedial action schemes.⁶

5. PG&E requests that the notice of termination of the Comprehensive Agreement be made effective on December 31, 2014.⁷

B. Load, Generator Interconnection and Maintenance Agreements

6. In Docket Nos. ER15-227-000, ER15-227-001 and ER15-227-002,⁸ PG&E filed ten agreements with DWR as service agreements under PG&E's Transmission Owner

Administration (Western). The California-Oregon Transmission Project is majority owned by TANC who is the project manager. PG&E, TANC, Western and PacifiCorp are parties to the Owners Coordinated Operation Agreement (Operation Agreement) which governs coordinated operation, maintenance and planning of the California Oregon Intertie.

⁴ *Id.* (citing Complaint Order, 148 FERC ¶ 61,150).

⁵ *Id.* at 1.

⁶ *Id.* at 6.

⁷ *Id.*

Tariff. Specifically, the agreements consist of a Load Interconnection Agreement (Load IA), six related transmission facilities agreements, and a maintenance agreement,⁹ plus two non-conforming LGIAs.¹⁰ PG&E explains that these agreements provide for the continued interconnection of DWR's pumping loads and generation to PG&E's transmission system and replace similar provisions of interconnection service from the Comprehensive Agreement.¹¹

7. PG&E states that the Load IA is a wires-to-wires agreement governing the interrelationship between PG&E's and DWR's systems, under which PG&E agrees to provide interconnection service to DWR's loads at various points of interconnection. PG&E states that under section 11.2.4 of the Load IA, PG&E and DWR acknowledge that DWR is not required to continue to participate in the remedial action schemes upon termination of the Comprehensive Agreement. The parties acknowledge, however that the elimination of DWR's participation in the remedial action schemes has no bearing on obligations that DWR may have to participate in underfrequency load shedding (load shedding) required to maintain reliability of the grid.¹²

8. PG&E explains that under the Load IA, the parties agree to continue sharing load shedding obligations for an interim period and further agree to reduce DWR's participation in the Southern Island Load Tripping Plan (Tripping Plan).¹³ Specifically, PG&E states that DWR will continue its participation in the Tripping Plan at historical levels until August 1, 2015, and after that date, DWR shall reduce its level of participation to a maximum pump load capacity of 619 MW. Under the agreement, PG&E and DWR also agree to develop a plan by July 1, 2015, for reconfiguring,

⁸ PG&E notes that its eTariff system allows only one agreement to be filed in each submission, even if the agreements are under the same tariff database. PG&E explains that in order to keep all of these related agreements in the same docket, PG&E filed one agreement in the initial filing and submitted the others as amendments to the same docket. PG&E, Docket No. ER15-227-001, Transmittal Letter at 1.

⁹ These agreements are reflected in one service agreement, designated as Service Agreement No. 275.

¹⁰ The LGIAs are designated as Service Agreement Nos. 273 and 274.

¹¹ PG&E, Docket No. ER15-227-000, Transmittal Letter at 2.

¹² *Id.* at 3.

¹³ *Id.* at 3-4 (citing Load IA, Appendix C, section C.2).

relocating or decommissioning the intermediary communication equipment associated with participation in the Tripping Plan located at DWR's San Luis pumping-generating plant which will be implemented by March 31, 2016.¹⁴

9. PG&E states that the six transmission facilities agreements describe the parties' interconnection facilities at each of DWR's load-only points of interconnection. These agreements, among other things, reflect charges DWR must pay for PG&E's ongoing cost of owning, operating and maintaining direct assignment facilities that are used for the sole purpose of interconnecting DWR's pumping plants to PG&E's system.¹⁵ PG&E explains that all of the pumping plants have been interconnected to PG&E's system for decades. PG&E states that none of the physical facilities are being rearranged or otherwise modified; accordingly, the terms and conditions related to the interconnection service have been carried forward from the Comprehensive Agreement with updates to reflect the currently effective cost-of-ownership rates as needed.¹⁶

10. PG&E states that the proposed maintenance agreement provides for PG&E to perform maintenance on communication equipment installed at DWR's San Luis pumping-generating plant that is related to DWR's participation in the Tripping Plan.¹⁷ PG&E states that the parties have agreed to use the cost-of-ownership charge calculation for direct assignment facilities as a reasonable proxy for calculating the maintenance support charge although the communications equipment is not considered direct assignment facilities. PG&E states that the maintenance charge will continue in effect until 60 days after either party provides written notice to discontinue the maintenance services, or upon the decommissioning and removal of the Tripping Plan-related communications equipment, whichever occurs first.

11. PG&E states that it has also filed two non-conforming three-party LGIAs including PG&E DWR and CAISO¹⁸ to govern the interconnection of DWR's Oroville

¹⁴ *Id.* at 4.

¹⁵ *Id.*

¹⁶ PG&E states that the monthly cost-of-ownership charges reflected in the proposed agreements are equal to the installed costs of the direct assignment facilities multiplied by PG&E's applicable cost-of-ownership rate.

¹⁷ *Id.* at 5.

¹⁸ The three-party LGIA is based on the *pro forma* LGIA in the CAISO Tariff.

and San Luis pumping-generating plants.¹⁹ PG&E explains that because CAISO's *pro forma* LGIA does not contain provisions that meet the unique requirements of DWR as a California state agency, the proposed LGIAs contain minor non-conforming provisions requested by DWR.²⁰ Specifically, DWR requires parties to comply with certain State of California general terms and conditions and state contractor certification clauses which are reflected in Appendix I to each of the LGIAs. PG&E also states that the proposed effective date reflected in each LGIA has been revised so that the LGIAs become effective concurrent with the termination of the Comprehensive Agreement (or such other date as may be specified by the Commission), rather than upon execution. In addition, PG&E also notes the physical interconnection facilities at Oroville and San Luis have not been modified; therefore, the terms and conditions of interconnection service have been carried forward from the Comprehensive Agreement with updates to reflect the currently effective cost-of-ownership rates.²¹

12. PG&E requests an effective date for the replacement agreements of January 1, 2015.²²

C. Revisions to Existing Agreements

13. In Docket Nos. ER15-231-000 and ER15-231-001, PG&E filed revisions to an existing Letter Agreement with DWR for DWR's Pine Flat Project (Pine Flat Agreement)²³ and the existing Contract for Sale and Interest In and Operation of the Midway-Wheeler Ridge Transmission System (Midway-Wheeler Ridge Agreement).

14. PG&E explains that, because the Pine Flat Agreement is a stand-alone agreement that does not terminate until August 31, 2029, it was not necessary to seek early

¹⁹ The Oroville plant consists of the Thermalito and Hyatt power plants, located in Oroville, California. The San Luis plant consists of eight hydro turbine pumping-generating units, located in Gustine, California.

²⁰ PG&E, Docket No. ER15-227-000, Transmittal Letter at 6.

²¹ *Id.*

²² *Id.* at 7.

²³ PG&E states that the Pine Flat Agreement describes the additions to PG&E's transmission facilities that were needed to interconnect DWR's Pine Flat Project to PG&E's system, and reflected the costs associated with those additions. PG&E, Docket No. ER15-231-000, Transmittal Letter at 3.

termination of the agreement. Rather, PG&E states, the parties negotiated revisions to the Pine Flat Agreement to: (1) remove references to the Comprehensive Agreement that will become moot after its termination; (2) include references to the CAISO Tariff under which DWR will obtain transmission service; (3) update the cost-of-ownership rate; and (4) add a single line diagram of the interconnection that describes and defines the point of interconnection and point of change of ownership.²⁴

15. With respect to the Midway-Wheeler Ridge Agreement,²⁵ PG&E explains that the agreement is incorporated as Attachment VI to the Comprehensive Agreement. PG&E explains that the Parties wish to retain the Midway-Wheeler Ridge Agreement; therefore, PG&E proposes to move the agreement in its entirety, with no changes, to a new rate schedule designation, Rate Schedule No. 245.²⁶

16. PG&E requests an effective date for the revised Pine Flat Agreement and revised Midway-Wheeler Ridge Agreement of January 1, 2015.

D. CAISO Certificates of Concurrence

17. On November 4, 2014, in Docket No. ER15-322-000, CAISO filed certificates of concurrence to the two non-conforming LGIAs among DWR, PG&E and CAISO filed by PG&E in Docket Nos. ER15-227-000, *et al.* CAISO states that, rather than filing a duplicate version of the two LGIAs under the CAISO Tariff, it is submitting the certificates of concurrence and tariff records incorporating by reference the LGIAs.²⁷ CAISO requests an effective date of January 1, 2015.

III. Notices of Filings and Pleadings

18. Notices of PG&E's filings²⁸ were published in the *Federal Register*, 79 Fed. Reg. 65,648 and 67,430 (2014), with interventions and protests due on or before

²⁴ *Id.*

²⁵ This agreement defines the terms and conditions of the sale of PG&E's Midway-Wheeler Ridge 230 kV transmission system to DWR, and is an outcome of a settlement of various disputes between the Parties.

²⁶ PG&E, Docket No. ER15-231-000, Transmittal Letter at 3.

²⁷ CAISO, Docket No. ER15-322-000, Transmittal Letter at 1. The tariff records are designated as Service Agreement Nos. 3213 and 3214 under the CAISO Tariff.

²⁸ These notices referenced Docket Nos. ER15-223-000, ER15-227-000, ER15-227-001, ER15-227-002 ER15-231-000, and ER15-231-001.

November 19, 2014.²⁹ Timely motions to intervene were filed by the Balancing Authority of Northern California (BANC), Bonneville Power Administration (BPA), CAISO,³⁰ DWR, Modesto Irrigation District (Modesto), Cities of Santa Clara and Redding, California and the M-S-R Public Power Agency, Six Cities (Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California), State Water Contractors, TANC, Turlock Irrigation District (Turlock), and Western.

19. Modesto, BANC, Turlock and Western filed timely protests. Portland General Electric Company (Portland General) filed an untimely to intervene. Powerex Corp. (Powerex) submitted an untimely motion to intervene and comment. The City of Redding, California and the M-S-R Public Power Agency (Redding/M-S-R) and TANC filed untimely protests, requests for suspension, hearing and settlement procedures and motions for consolidation. CAISO and DWR filed comments in support of the filings.

20. Notice of CAISO's filing in Docket No. ER15-322-000 was published in the *Federal Register*, 79 Fed. Reg. 67,460 (2014), with interventions and protests due on or before November 25, 2014. Timely motions to intervene were filed by PG&E, BPA, Cities of Santa Clara and Redding, California and the M-S-R Public Power Agency, and DWR. Timely motions to intervene and protests were filed by TANC, Western, BANC, Modesto, Redding/M-S-R and Six Cities. DWR filed comments in support of the filings.

21. On December 4, 2014, DWR filed a motion for leave to answer and an answer to a number of pleadings filed by various parties. On December 5, 2014, CAISO and PG&E filed motions for leave to answer and answers to TANC's protest. On December 9, 2014, TANC filed an answer in response to DWR's December 4, 2014 answer and CAISO and PG&E's December 5, 2014 answers. On December 10, 2014, PG&E submitted a limited reply to TANC's answer. On December 16, 2014, DWR filed an answer to Powerex's motion to intervene out of time and comment.

IV. Discussion

A. Procedural Matters

22. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motions to intervene serve to make

²⁹ On November 18, 2014, the Commission denied a motion to extend the comment period.

³⁰ On November 25, 2014, CAISO filed a motion to intervene out of time in Docket No. ER15-227-000.

the entities that filed them parties to this proceeding. In addition, we grant the unopposed, late-filed interventions submitted by Redding/M-S-R, TANC, CAISO, Powerex and Portland General, given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

23. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2014), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We will accept the answers of TANC, CAISO, DWR and PG&E because they have provided information that assisted us in our decision-making process.

B. Comments and Protests

1. Comments in Support of Filings

24. CAISO states that the Comprehensive Agreement should not be extended because PG&E has filed replacement agreements to provide continued services to DWR, and CAISO has filed certain certificates of concurrence. CAISO explains that, as an existing transmission contract, the Comprehensive Agreement constitutes an encumbrance on PG&E's transmission system, and as such cannot be extended without CAISO's prior consent. CAISO also states that the termination of the Comprehensive Agreement is consistent with Commission policy to allow existing transmission contracts to terminate pursuant to expressed terms and thereby transition service to competitive electricity markets. Finally, CAISO avers that there are no significant disputes regarding the termination of the Comprehensive Agreement or the approval of the replacement agreements that have not already been resolved in the Complaint Proceeding.³¹ For these reasons, CAISO requests that the Commission accept PG&E's notice of termination of the Comprehensive Agreement, effective December 31, 2014.

25. DWR states that it supports PG&E's filing related to the termination and replacement of the Comprehensive Agreement, and supports CAISO's certificates of concurrence with respect to the LGIAs between DWR, PG&E and CAISO. DWR states that these filings collectively allow DWR to transition from taking service under an existing transmission contract to a taking service under a series of contractual relationships integrated within the CAISO framework. DWR asserts that the proposed agreements filed herein do not deviate significantly from DWR's operation of its projects. Specifically, DWR explains that there are no new delivery or receipt points, no changes in generator capacity, and no changes in load delivery capability.³² Therefore,

³¹ CAISO Comments at 4.

³² DWR Comments at 2.

DWR requests that the Commission accept PG&E's filings in order to facilitate a smooth and uninterrupted transmission of interconnection service.

26. DWR rejects any notion that it has any obligation to continue to provide remedial action scheme service once the Comprehensive Agreement terminates. DWR argues that the Comprehensive Agreement was signed under different system conditions and a different regulatory construct, and contends that there is no basis for which to assert that DWR must continue to provide this service in light of the expiring agreement.³³

2. Loss of Remedial Action

27. TANC³⁴ asserts that the termination of the Comprehensive Agreement will result in PG&E's loss of remedial action by DWR that supports the import capability of the California-Oregon Intertie. Western states that PG&E and DWR must take action to ensure they appropriately upgrade their systems to accommodate the termination of the remedial action scheme. TANC, Western and BANC contend that termination of the Comprehensive Agreement, without further action by PG&E, will cause the import capability on the California-Oregon Intertie to be reduced, particularly during the spring and summer seasons, causing harm to TANC and its Members, BANC, Turlock and potentially the broader California and Pacific Northwest regions.

28. TANC states that it studied the impact of PG&E's decision to forego replacement of DWR remedial action schemes, and the impact of PG&E's interconnection of DWR generation without DWR's participation in remedial action schemes, based upon the major assumptions used by CAISO as path operator for the California-Oregon Intertie in developing operating procedures for the facility. TANC states that its analysis shows significant reductions in California-Oregon import capability, and a corresponding decrease in California Oregon Transmission Project import capability since, according to TANC, the overall decrease will be allocated *pro rata* among the three lines that comprise the California-Oregon Intertie (the two Pacific AC Intertie Lines and the California Oregon Transmission Project).³⁵

³³ *Id.* at 3.

³⁴ TANC submitted two protests (including testimony and exhibits): one regarding the termination of PG&E's Comprehensive Agreement in Docket No. ER15-223-000 (TANC termination protest), and one addressing PG&E's proposed agreements in Docket No. ER15-227-000, *et al.* (TANC LGIA protest).

³⁵ TANC LGIA Protest at 10.

29. TANC contends that PG&E's notice of termination raises issues TANC did not address previously in the Complaint Proceeding. TANC states that in the Complaint Proceeding, the Commission considered whether PG&E's termination of the Comprehensive Agreement would violate PG&E's requirements and obligations under the Operation Agreement and did not ask the Commission to consider whether PG&E's termination of the Comprehensive Agreement would be just and reasonable due to the harm caused by such termination or to consider remedies to limit such harm. Accordingly, TANC argues that the findings in the Complaint Order are not controlling here. TANC further contends that the impacts on the California-Oregon Intertie may be worse than estimated at the time TANC originally filed its complaint.³⁶ Specifically, TANC asserts that its studies demonstrate that California-Oregon Intertie import capability could be reduced from as much as 630 MW in 2015 to up to 1,560 MW in 2023, with a corresponding loss of California-Oregon Transmission Project import capability of as much as 210 MW in 2015 to up to 520 MW in 2023.³⁷

3. Replacement Agreements

30. TANC argues that by entering into the proposed LGIAs PG&E will violate section 8.7.2.2 of the Operation Agreement which, according to TANC, required PG&E to "...avoid imposing undue burdens on the interconnected Electric Systems of other Parties."³⁸ TANC, Western and BANC contend that the loss of significant California-Oregon Transmission Project capability constitutes an undue burden on TANC and the other California-Oregon Transmission Project Participants, and that the Commission should condition any acceptance of the LGIAs on PG&E's avoiding the undue burden it will impose on the California-Oregon Transmission Project, or in the alternative, providing compensation to the affected owners of the California-Oregon Transmission Project for the burden the LGIAs will impose.³⁹

31. TANC also alleges that PG&E will violate the requirement to avoid adverse impacts from "Modifications"⁴⁰ in accordance with section 12.1 of the Operation

³⁶ *Id.* at 17-23.

³⁷ TANC Termination Protest at 16-17.

³⁸ TANC LGIA protest at 21 (citing Participation Agreement, section 8.7.2.2).

³⁹ *Id.*

⁴⁰ The Operation Agreement defines Modification as the connection of generating facilities, loads, substation equipment or transmission lines to, or modifications of, any portion of the System or a Party's Electric System, which may include improvements,

(continued...)

Agreement. TANC asserts that the interconnection of DWR generation through the LGIAs is properly considered a Modification under the Operation Agreement. TANC contends that section 12.1 therefore requires PG&E to avoid adverse impacts or to fully compensate affected Parties and that the Commission should condition any acceptance of the LGIAs accordingly.⁴¹

32. TANC further argues that PG&E and CAISO are required to perform system impact studies for the proposed LGIAs and that DWR failed to enter into agreements with affected systems that are adversely affected, in violation of the CAISO Tariff.⁴² TANC states that the LGIA for the Oroville facilities lists a total maximum output of 942 MW, however, according to TANC, all four units at Thermalito are out of service due to damage caused by a fire at that facility, and one unit at Hyatt has been out of service for maintenance.⁴³ TANC asserts that, as a result, DWR's existing generation that will be covered by the Oroville LGIA is not capable of generating more than 560 MW.⁴⁴

33. TANC argues that interconnection studies are required under section 25.1(c) of the CAISO Tariff for any existing generation "that will be modified without increasing the total capability of the power plant but has changed the electrical characteristics of the power plant such that its re-energization may violate Applicable Reliability Criteria." TANC states that nearly 200 MW of the 942 MW reflected in the Oroville LGIA for DWR generation at Thermalito will have to be completely rebuilt, in order to produce energy. TANC contends that replacing nearly 50 year-old generation with modern components will necessarily change the electrical characteristics of the power plant, which must be studied to ensure the reliable interconnection of the facility.⁴⁵

additions, extensions, expansions, replacements, substitutions or removals. *See* Operation Agreement, section 4.27.

⁴¹ *Id.* at 22-23.

⁴² *Id.* at 24.

⁴³ TANC LGIA protest, Ex. TNC-1, Larsen Affidavit at 13.

⁴⁴ TANC LGIA protest at 25-26.

⁴⁵ *Id.* at 27.

34. TANC and Western contend that the Commission should exercise its authority under section 206 of the Federal Power Act⁴⁶ to condition any acceptance of the proposed interconnection agreements on the completion of system impact studies, and require the adoption of mitigation measures necessary to avoid adverse impacts to the California-Oregon Transmission Project. TANC adds that the results of that study and the proposed mitigation measures should be filed with the Commission.

4. Request for Suspension, Consolidation and Hearing and Settlement Procedures

35. Based on the foregoing, TANC requests that the Commission suspend PG&E's proposed notice of termination of the Comprehensive Agreement and proposed replacement agreements, establish hearing procedures, and hold the hearing in abeyance pending the resolution of settlement procedures.⁴⁷ TANC also states that there are common issues of law and fact presented, and the Commission should consolidate the proceedings.⁴⁸

36. Modesto, Redding/M-S-R,⁴⁹ Powerex, Turlock and BANC support TANC's protest, and request that the Commission grant the relief requested, including the request for suspension, hearing and settlement procedures, and motion for consolidation as it applies to: (1) PG&E's notice of termination and; (2) PG&E's filing of a load interconnection agreement and LGIAs with DWR. BANC and Turlock request that the Commission institute further proceedings to develop the necessary record upon which any actions regarding the termination of PG&E's Comprehensive Agreement may be based. Powerex similarly supports TANC's request that the Commission direct further study of the interconnection of the Oroville and San Luis Facilities.

37. Turlock and Modesto contend that the termination of the Comprehensive Agreement triggers contractual provisions and obligations that extend beyond the scope of this proceeding. Specifically, Turlock and Modesto state that they each have separate interconnection agreements with PG&E that will be implicated by eliminating the

⁴⁶ 16 U.S.C. § 824e (2006).

⁴⁷ TANC Termination Protest at 28-31, TANC LGIA protest at 30-32.

⁴⁸ TANC Termination Protest at 31-32, TANC LGIA protest at 32-33.

⁴⁹ Modesto and Redding/M-S-R submitted two protests each: one regarding the termination of PG&E's Comprehensive Agreement, and one addressing PG&E's proposed agreements.

provision for remedial action schemes. Turlock and Modesto argue that disarming or materially altering a remedial action scheme is a “Long-Term Change To Operations” under these interconnection agreements, and, if such action may reasonably result in an adverse impact, PG&E must take certain actions to protect Turlock’s and Modesto’s systems.⁵⁰ Turlock and Modesto state they are pursuing these issues with PG&E outside of this proceeding.⁵¹

5. Western’s Comments

38. Western states that it does not have sufficient information to determine the impacts which result from PG&E’s termination of the Comprehensive Agreement and the DWR remedial action schemes. Western states that it is working with PG&E, TANC, BPA and other parties to examine these impacts, if any. Western requests the Commission develop a full record on this issue and require PG&E and DWR to provide evidence, including a system impact study, demonstrating that they have taken appropriate measures to upgrade their transmission systems to accommodate DWR’s generation.⁵²

39. Finally, Western states that there is ambiguity contained in Appendix B of the Load IA, as it relates to certain interconnection points owned by the United States but identified in Appendix B.⁵³ Western states that footnotes 2 and 4 incorrectly state the capacity is jointly owned by the U.S. Bureau of Reclamation and DWR. Western notes that the Department of Energy Organization Act transferred the power marketing functions of the U.S. Bureau of Reclamation to Western.⁵⁴ Western states that the United

⁵⁰ Turlock Protest at 5, Modesto Protests at 5.

⁵¹ Turlock states that this dispute should be not be considered in this proceeding.

⁵² Western Protest at 10-11. Western suggests that the Commission hold a technical conference after Western, PG&E, TANC, BPA and other parties finish their studies. Western states that these studies may provide important information to assist the Commission and the parties in their examination of the impacts of the termination of the remedial action schemes.

⁵³ We note that Western misidentified the relevant agreement as “the LGIA,” but the footnotes that Western references are actually contained in Appendix B of the Load IA.

⁵⁴ Western Protest at 11 (citing 42 U.S.C. § 7152(a)(1)(D)).

States through Western – not DWR – owns the interconnection facilities at these points and DWR has a right to the use of the joint capacity.⁵⁵

6. TANC's Protest of CAISO Certificates of Concurrence

40. TANC filed a protest in response to CAISO's submittal of certificates of concurrence to PG&E's two LGIA's.⁵⁶ TANC reiterates its arguments challenging the proposed LGIAs, summarized above.

41. TANC requests that the Commission suspend the effective date of the LGIAs and that any relief the Commission grants can be effective as of the commencement date of service under the LGIAs.⁵⁷

C. Answers

42. In its answer, DWR urges the Commission to deny the protests and accept the PG&E and CAISO filings with the requested effective date of January 1, 2015, without additional proceedings. DWR states that it takes no position regarding the resolution of the contractual dispute at issue in the Complaint Proceeding. Nevertheless, if the Commission were to conclude that PG&E does have some form of contractual obligation to TANC or its fellow California-Oregon Transmission Project Participants, DWR contends that such a determination would not be an appropriate basis for delaying or denying the transition of DWR's interconnection arrangements from the Comprehensive Agreement to the new agreements, nor cause for imposing additional obligations or conditions on DWR.⁵⁸

43. DWR further states that both PG&E and CAISO have stated that DWR's participation in PG&E remedial action scheme is no longer necessary to support the rating of the Pacific AC Intertie or for other reliability purposes, and that neither PG&E nor CAISO is interested in compensating DWR for continued participation after the Comprehensive Agreement terminates. DWR states that it remains willing to enter into negotiations outside of the Commission process with any entities desiring to contract and compensate for the remedial action service which some assert is necessary.

⁵⁵ *Id.*

⁵⁶ Western, BANC, Modesto, Redding/M-S-R and Six Cities also filed protests supporting TANC's arguments.

⁵⁷ TANC Certificates of Concurrence Protest at 17.

⁵⁸ DWR Answer at 4-7.

44. DWR indicates that the Commission allowed existing transmission contracts such as the Comprehensive Agreement to continue, in accordance with their terms, until they reached their expiration dates, as encumbrances on the CAISO system, but indicated that as those contracts expired over time, that they should not be renewed.⁵⁹ DWR states that several such contracts have expired since that time, and those transmission customers that remained in the CAISO Balancing Authority Area have transitioned to service consistent with the CAISO tariff.⁶⁰ DWR emphasizes that none of those customers transitioning to CAISO tariff service were required to go through the CAISO interconnection queue or have their projects restudied for interconnection impacts simply because their existing contracts expired.⁶¹

45. DWR also argues that Western and TANC have ignored load growth, new generation and changes in the CAISO Balancing Authority Area that support CAISO and PG&E's contention that DWR's participation in the PG&E remedial action scheme is no longer necessary to support the California-Oregon Intertie path rating.⁶²

46. DWR, CAISO and PG&E assert that CAISO's generator interconnection procedures do not require system impact studies for existing generators, like the Oroville and San Luis facilities, that remain substantially unchanged. The answering parties note that, if a generation customer is transitioning from an interconnection agreement that pre-dates the Commission's Order No. 2003⁶³ (or even pre-dates CAISO) it is not treated as

⁵⁹ *Id.* at 16 (citing *Pac. Gas & Elec. Co.*, 81 FERC ¶ 61,122, at 61,470-71 (1997)).

⁶⁰ *Id.* at 16 (citing *Pac. Gas & Elec. Co.*, 100 FERC ¶ 61,233 (2002) (Northern California Power Agency and Silicon Valley Power 2002 transition); *Pac. Gas & Elec. Co.*, 109 FERC ¶ 61,255, P 95 (2004), *reh'g denied*, 111 FERC ¶ 61,175 (2005), *review denied sub nom. Sacramento Mun. Util. Dist. v. FERC*, 474 F.3d 797 (D.C. Cir. 2007) (Western 2005 transition); *id.* PP 58, 70 (Sacramento Municipal Utility District EHV Agreement and the CDWR EHV Agreement 2005 termination); *Pac. Gas & Elec. Co.*, 120 FERC ¶ 61,163 (2007) (Trinity Public Utilities District 2007 transition); *Pac. Gas & Elec. Co.*, 129 FERC ¶ 61,129 (2009) (Turlock Irrigation District 2009 transition)).

⁶¹ *Id.* at 16-17.

⁶² *Id.* at 18 (citing PG&E's June 17, 2014 Answer in the Complaint Proceeding at 13-14).

⁶³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (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.

(continued...)

marginal, and is not required to pay for upgrades to rectify conditions post-dating the original interconnection.⁶⁴

47. DWR states that it submitted the required affidavits to CAISO and PG&E pursuant to section 25.1.2 of the CAISO Tariff stating that its Oroville and San Luis Facilities total capacity and electrical characteristics remained substantially unchanged. DWR states that it subsequently provided additional technical information and revised affidavits to assist CAISO and PG&E in confirming that there would be no substantial changes. After CAISO and PG&E agreed this was the case, the parties negotiated the new LGIAs. Therefore, DWR states that the procedural requirements of the CAISO Tariff were satisfied.

48. With respect to the damage at the Thermalito generating station resulting in a loss of generating capacity and the termination of remedial action scheme participation, DWR explains that the damage to Thermalito was the result of a fire approximately two years ago, but the rebuilding of the lost capacity will not change the electrical characteristics of the plant.⁶⁵ DWR contends that under the CAISO Tariff, replacing the original equipment with new components does not amount to a substantial change in a facility's electrical characteristics.⁶⁶ Further, DWR contends that contrary to Western and TANC's arguments, termination of PG&E remedial action scheme participation will not require DWR to make any physical changes to its facilities. PG&E emphasizes that the replacement LGIAs reflect only minor changes from the *pro forma* LGIA (as outlined above).⁶⁷

49. DWR disputes Western's assertion that certain footnotes in Appendix B of the Load IA erroneously state that specific interconnection capacity is jointly owned by DWR and the Bureau of Reclamation. DWR explains that it and the Bureau of Reclamation entered into a contract to jointly construct and use the San Luis facilities in question in 1961, and that the agreement provided that these joint-use facilities, upon completion, would be transferred to the operational control of DWR, which occurred as

¶ 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).

⁶⁴ *Id.* at 19-20; CAISO Answer at 13-24; PG&E Answer at 17-18.

⁶⁵ DWR Answer at 22-23.

⁶⁶ *Id.* at 23-24.

⁶⁷ PG&E Answer at 16-17.

planned.⁶⁸ DWR states that under the contract, it has an unfettered right to its share of the capacity of the project, in addition to the right to control, maintain and operate the entirety of the joint-use facilities (which includes the interconnection facilities).⁶⁹

50. According to CAISO, TANC never was an intended beneficiary of the Comprehensive Agreement, and the contract does not infer any third-party beneficiary rights on TANC under the remedial action scheme at issue. CAISO states that the remedial action scheme was needed to manage congestion due to planned, but unfinished upgrades to Path 15. Although these upgrades have long since been built and are in service, the remedial action scheme remained in effect as an “anachronism” of the Comprehensive Agreement. As DWR’s generating facilities enter full-fledged market participation without the constraints of the existing Comprehensive Agreement, market participants in the CAISO markets will compete to utilize the capacity of the California-Oregon Intertie over which the CAISO has operational control.⁷⁰

51. CAISO and PG&E argue that TANC’s protests are a collateral attack on the Commission’s decision in the Complaint Order.⁷¹ CAISO states that each argument TANC raised is pretext to extend the Comprehensive Agreement, despite the Commission’s finding that “it is now appropriate for the Comprehensive Agreement to terminate pursuant to its express terms, rather than to extend or amend it.”⁷² CAISO and PG&E assert that TANC attempts to prove that the CAISO and PG&E have not considered the impacts that TANC alleges will result from the terms of the LGIAs, namely, the loss of the remedial action scheme. However, CAISO and PG&E emphasize

⁶⁸ DWR Answer at 26-27 (citing Agreement Between the United States of America and the Department of Water Resources of the State of California for the Construction and Operation of the Joint-Use Facilities of the San Luis Unit, dated Dec. 30, 1961, attached as Ex. DWR-5).

⁶⁹ *Id.*

⁷⁰ CAISO Answer at 6-7.

⁷¹ *Id.* at 7-9; PG&E Answer at 8-11.

⁷² CAISO Answer at 7 (citing Complaint Order, 148 FERC ¶ 61,150 at P 63). CAISO notes as an example TANC’s Termination Protest in which TANC merely re-attaches the same six affidavits it attached to its complaint in the Complaint Proceeding with one “supplemental affidavit” from its consultant.

that these allegations derive directly from TANC's arguments in the Complaint Proceeding.⁷³

52. CAISO and PG&E dispute TANC's contention that these proceedings present a different issue, specifically, "whether the terms PG&E proposes to interconnect [DWR] generation cause it to violate its obligations under the [Operating Agreement]."⁷⁴ According to CAISO, TANC argues in effect that while the Commission has considered and decided that PG&E is under no obligation to replace the remedial action scheme and that the Comprehensive Agreement may end pursuant to its express terms, the Commission has not considered the issue of whether PG&E, CAISO, and DWR must enter into new agreements with terms, including a remedial action scheme, which are exactly the same as in the Comprehensive Agreement. CAISO and PG&E urge the Commission to reject this as a collateral attack on its prior decision.⁷⁵

53. CAISO disagrees with TANC's contention that CAISO and PG&E have failed to study the potential system impacts of the continued interconnection of DWR's facilities. According to CAISO, at bottom, DWR's facilities are already physically interconnected. These proceedings present only contractual revisions.⁷⁶ CAISO next cites to the Complaint Order where the Commission stated that it found no merit "in TANC's assertion that the loss of the remedial action schemes would violate section 12.1 of the Operation Agreement to avoid adverse impacts when making a Modification to the system," and that the "termination of the DWR remedial action schemes does not appear to raise reliability concerns. Specifically, CAISO, the path operator for the California-Oregon Intertie, concluded that the termination of the DWR remedial action schemes would not adversely affect reliability of the CAISO controlled grid."⁷⁷ PG&E makes similar arguments.⁷⁸ CAISO contends that these facts remain true, and apply equally to the terms of the LGIAs subject to this proceeding.

⁷³ *Id.* at 8.

⁷⁴ *Id.* (citing TANC Replacement Protest at 44); PG&E Answer at 9-10.

⁷⁵ *Id.*

⁷⁶ CAISO Answer at 22-23.

⁷⁷ *Id.* at 24 (citing Complaint Order, 148 FERC ¶ 61,150 at PP 67-68).

⁷⁸ PG&E Answer at 11-12.

54. CAISO refutes TANC's assertions that large reductions in import capability on the California-Oregon Intertie, and corresponding reductions on the California Oregon Transmission Project will result from termination of the DWR remedial action scheme. CAISO states that it conducted operating studies in 2013 to assess the possible impact of the expiration of the Comprehensive Agreement on available transfer capability on the California-Oregon Intertie. CAISO states that its operating studies evaluated flows on the California-Oregon Intertie under the most critical system conditions and all major contingencies, assuming the unavailability of the DWR remedial action scheme.⁷⁹

55. Specifically, CAISO states that its studies considered spring, summer and winter seasons, accounted for system configurations, including new project and reconductoring project scenarios and accounted for northern California hydropower conditions ranging from 60 to 100 percent (in 10 percent increments).⁸⁰ CAISO states that its operating studies demonstrated that the termination of the DWR remedial action schemes would not reduce the path rating of the California-Oregon Intertie,⁸¹ and would have *de minimis* economic impacts. For 2018, the transmission planning studies showed only three hours of congestion on California-Oregon Intertie and no congestion in the year 2023.

56. CAISO further notes that while TANC presents certain factual findings from the CAISO's transmission planning studies, it is worthy to note that an examination of hydropower conditions in northern California from January 1, 2000 to December 31, 2013 showed that 90 percent or greater hydropower conditions occurred in approximately one-half of one percent of the hours over the 14 year period, 80 percent or greater hydropower conditions occurred in approximately three percent of the hours during that same period, and 70 percent or greater hydropower production present in approximately 8 percent of the hours during that period.⁸²

57. CAISO states that the data indicates with respect to the California-Oregon Intertie: (1) 90 percent or greater hydropower conditions, results in approximately an 11 percent (in summer) or 17 percent (in spring) reduction in available system transfer capability in only about one-half of one percent of hours annually (i.e., 43.8 hours over spring and summer); and (2) at 80 percent or greater hydropower conditions, approximately a

⁷⁹ CAISO Answer at 25 (citing CAISO June 17, 2014 Comments in the Complaint Proceeding, included in Attachment 1 to CAISO's Answer (Attachment 1)).

⁸⁰ CAISO Answer, Attachment 1 at 7.

⁸¹ *Id.* at 5-8.

⁸² *Id.* at 5-6 (citing Declaration of Neil Millar at P 22.)

nine percent (in spring) or three percent (in summer) reduction in available system transfer capability in about three percent of hours annually.⁸³

58. Further, CAISO states that its transmission studies determined that there was no reliability or economic basis to justify (1) retention of the DWR remedial action scheme, (2) construction of any additional transmission facilities (beyond those already planned) or (3) the incurrence of other cost by CAISO ratepayers to offset the loss of the DWR remedial action scheme.⁸⁴

59. CAISO states that it will continue to study the California-Oregon Intertie. CAISO notes that in October 2014 it entered into a Participation, Non-disclosure and Information Sharing Agreement (Information Sharing Agreement) with PG&E, PacifiCorp, Western, the Sacramento Municipal Utility District, Bonneville, the Portland General Electric Company and TANC for the express purpose of exchanging and analyzing confidential information (1) to evaluate the effect of the termination of the Comprehensive Agreement and the remedial action scheme on the California-Oregon Intertie after 2014; (2) to enable the parties to identify and evaluate potential measures they should take in response; and (3) to assist the parties in developing and/or negotiating potential alternative arrangements. Because of the non-disclosure terms CAISO states that it cannot disclose details, but CAISO notes that the parties have already drafted a schedule and initial study plan for 2015.⁸⁵

60. In its answer, TANC argues that neither CAISO nor PG&E's answer refutes its argument that the proposed LGIAs will have significant adverse impacts.⁸⁶ TANC requests that the Commission order hearing and settlement procedures, and ensure that TANC and its Members are held harmless from the transition proposed in the PG&E and CAISO filing. TANC contends that material issues of fact regarding the effect of the termination of the Comprehensive Agreement and the new LGIA's remain in dispute.

61. In its December 10, 2014 answer, PG&E contends that TANC's assertions about the significance of the impact to the California-Oregon Intertie are exaggerated and do not create material issues of fact. PG&E also states that there is no need for additional

⁸³ *Id.* at 5-8.

⁸⁴ *Id.* at 6.

⁸⁵ CAISO Answer at 25-26.

⁸⁶ TANC Answer at 6.

review of DWR's affidavits because they do not raise any new issues, and there is no basis for further review.

D. Commission Determination

1. Loss of Remedial Action

62. As an initial matter, we reject TANC's assertions that PG&E is obligated to hold TANC or other third parties harmless upon termination of the Comprehensive Agreement. TANC's direct challenges to the Commission's findings on that issue in the Complaint Order constitute a request for rehearing and, as such, are inappropriately raised in this proceeding.⁸⁷ TANC also raises arguments that constitute an impermissible collateral attack on the Complaint Order.⁸⁸

63. In the Complaint Order, the Commission found that PG&E alone is not required under the terms of the Operation Agreement to replace or mitigate the expected loss of DWR's participation in remedial action schemes.⁸⁹ Specifically, the Commission found that under section 8.6.3 of the Operation Agreement,⁹⁰ PG&E is not required to replace

⁸⁷ TANC's pending request for rehearing in Docket No. ER14-44-001, which raises the same arguments TANC asserts here, will be separately addressed in that proceeding.

⁸⁸ The Commission has previously explained that collateral estoppel "forecloses a party from relitigating the same question decided adversely to him by a prior judgment on another cause of action." *See Brian Hamilton v. El Paso Natural Gas Co.*, 141 FERC ¶ 61,229, at P 37 & n.44 (2012) (citing *McCulloch Interstate Gas Corp.*, 9 FERC ¶ 61,152, at 61,305 (1979), quoting *Gulf Oil Corp. v. F.P.C.*, 563 F.2d 588, 602 (3rd Cir. 1977)).

⁸⁹ Complaint Order, 148 FERC ¶ 61,150 at PP 60-62.

⁹⁰ Section 8.6.3 of the Operation Agreement states "Each Party shall operate, maintain and replace its Remedial Action Facilities, and shall provide and maintain such control and communication access to its switchable equipment and facilities, as is necessary to maintain the capability to support [rated system transfer capability] and [available system transfer capability] of its [remedial action schemes] existing as of the Effective Date, provided that PG&E shall not be required to replace any Remedial Action or element thereof provided under its Comprehensive Agreement with [DWR], PG&E Rate Schedule FERC No. 77, upon cancellation or termination of that agreement. The capital and operating costs and responsibility for Remedial Actions of additional [remedial action schemes] agreed upon by the Parties after the Effective Date shall be

(continued...)

DWR's participation in remedial action schemes upon termination of the Comprehensive Agreement, "including substituting some other means of achieving the same objective as the remedial action schemes."⁹¹

64. Here, TANC argues that, notwithstanding the Commission's decision in the Complaint Order, PG&E is nonetheless obligated under the Operation Agreement (and general principles of transmission planning) to mitigate the impacts from the loss of DWR's participation in remedial action schemes before the termination of the Comprehensive Agreement. TANC attempts to distinguish the Commission's previous finding that section 8.6.3 of the Operation Agreement places no obligation on PG&E to replace DWR participation in remedial action schemes upon the termination of the Comprehensive Agreement,⁹² from TANC's argument here that, in entering into the replacement LGIAs, PG&E is obligated to mitigate the effects of DWR's lack of participation in remedial action schemes.⁹³

65. We reject TANC's arguments. As noted above, we found in the Complaint Order that PG&E is not obligated by the terms of the Operation Agreement to "replace any Remedial Action or element thereof provided under its Comprehensive Agreement . . . upon cancellation or termination of that agreement"⁹⁴ and TANC has not demonstrated that PG&E is obligated to do so when entering into replacement agreements with DWR to continue interconnection service upon termination of the Comprehensive Agreement.⁹⁵

66. However, we note that in the Complaint Order, we recognized the importance of preserving the import capability of the California-Oregon Intertie, and stated that we

shared by the Parties pro rata in relation to [rated system transfer capability] Shares unless otherwise agreed in writing." *Id.* P 26.

⁹¹ *Id.* P 62.

⁹² *Id.* PP 60-62.

⁹³ *See* TANC LGIA Protest at PP 42-44.

⁹⁴ Complaint Order, 148 FERC ¶ 61,150 at P 60 (quoting Operation Agreement section 8.6.3).

⁹⁵ We note that CAISO has concluded that the termination of the DWR remedial action schemes would not adversely affect reliability of the CAISO-controlled grid, and no party disputes this conclusion. *See* CAISO Answer, Attachment 1, Declaration of Neil Millar at 7.

expected that the parties would “work on a collaborative basis to implement a mutually agreeable solution” to the regional transmission planning concerns.⁹⁶ Based on the record, we are encouraged that the parties have moved in this direction (*see* discussion regarding Information Sharing Agreement above). We continue to encourage the parties to work toward a mutually agreeable resolution.

2. Notice of Termination

67. TANC and other parties argue that termination of the Comprehensive Agreement has not been shown to be just and reasonable. We disagree. As discussed above, we determined in the Complaint Order that continuation of the Comprehensive Agreement, an existing transmission contract, was intended to expire in accordance with its terms with service transitioning to competitive electricity markets.⁹⁷ We continue to find that it is appropriate for the Comprehensive Agreement to terminate pursuant to its express terms, rather than to extend or amend it.⁹⁸

68. We note that, in support of its argument, TANC relies on *Midcontinent Indep. Sys. Operator, Inc.*, 145 FERC ¶ 61,038, at P 6 (2013) (*MISO*).⁹⁹ TANC’s reliance on *MISO* is misplaced. In that proceeding, MISO sought Commission approval to unilaterally terminate a generator interconnection agreement well before the agreement’s natural expiration. MISO sought to terminate the agreement because it believed—and the Commission agreed—that the interconnection customer was in breach and default of the

⁹⁶ Complaint Order, 148 FERC ¶ 61,150 at P 69.

⁹⁷ *Id.* P 63.

⁹⁸ *See 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, at 31,665 (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) (“if a customer’s existing bundled service (transmission and generation) contract or transmission only contract expires, and the customer takes any new transmission service from its former supplier, the terms and conditions of the Final Rule tariff would then apply to the transmission service that the customer receives.”).

⁹⁹ TANC Termination Protest at 14.

agreement for failing to meet required milestones that were material terms.¹⁰⁰ Here, PG&E is not proposing to terminate the Comprehensive Agreement due to a breach or default by DWR; rather, the Comprehensive Agreement is expiring by its own express terms. Accordingly, we accept the notice of termination of the Comprehensive Agreement for filing, effective on December 31, 2014, as requested.

3. The Replacement Agreements

69. We will accept the ten replacement agreements filed by PG&E in Docket Nos. ER15-227-000, ER15-227-001 and ER15-227-002, effective January 1, 2015, as requested. The proposed Load IA is a wires-to-wires agreement governing the interrelationship between PG&E's and DWR's systems, under which PG&E agrees to provide interconnection service to DWR's loads at various points of interconnection. The transmission facilities agreements describe the parties' interconnection facilities at each of DWR's load-only points of interconnection and reflect charges DWR must pay for PG&E's ongoing cost of owning, operating and maintaining the PG&E-owned direct assignment facilities that are used for the sole purpose of interconnecting DWR's pumping plants to PG&E's system. The maintenance agreement provides for PG&E to perform maintenance on the communication equipment installed at DWR's San Luis pumping-generating plant. The revisions to two existing agreements – The Pine Flat Agreement and the Midway-Wheeler Ridge Agreement – are ministerial changes to reflect termination of the Comprehensive Agreement and the transition of DWR to CAISO transmission service, and changes to update cost-of ownership rates. We find that the rate, terms and conditions in these agreements, as well as the proposed cost-of-ownership charges for direct assignment facilities, are just and reasonable.

70. The two proposed non-conforming LGIAs govern the interconnection of DWR's Oroville and San Luis pumping-generating plants. Appendix A of the LGIAs references an affidavit in which DWR represents that the total capacity of the plants have remained substantially unchanged and will remain substantially unchanged. As such, pursuant to section 25 of the CAISO Tariff, the parties may to enter into the LGIAs without undergoing the CAISO's Interconnection Study process. We find the non-conforming changes from the *pro forma* LGIA in CAISO's Tariff incorporate minor changes to reflect certain State of California general terms and conditions and state contractor certification clauses required of agreements with DWR, and to reflect an effective date concurrent with the termination of the Comprehensive Agreement.

71. TANC and other parties argue that CAISO and PG&E should have performed system impact studies for the proposed LGIAs because they will not connect DWR's

¹⁰⁰ *MISO*, 145 FERC ¶ 61,038 at P 3.

generation on the same terms as they presently operate, and will impact the interconnected electric system.¹⁰¹ Specifically, TANC argues that the absence of DWR's participation in the remedial action scheme constitutes a material difference from the terms under which DWR's generation was interconnected and load was served under the Comprehensive Agreement, and that PG&E's proposed LGIAs will adversely affect TANC by reducing the import capability on the California-Oregon Transmission Project in violation of the Operation Agreement.¹⁰²

72. We disagree that PG&E and CAISO should have performed system impact studies for the LGIAs. CAISO's generator interconnection procedures do not require system impact studies for existing generators, like the Oroville and San Luis facilities, that remain substantially unchanged.¹⁰³ The generator interconnection procedures in the CAISO Tariff to study a project do not apply to existing generating units unless they will be modified with a resulting increase in total capacity or substantial change in electrical characteristics such that CAISO would need to study the project. Neither of those criteria applies to DWR's facilities, which have been interconnected with PG&E's system for decades.

73. Further, contrary to TANC's assertions, replacing old generation with new equipment does not result in a change in electrical characteristics that necessitate the generator to re-enter the interconnection queue and study process. As discussed above, DWR submitted affidavits to CAISO and PG&E stating that the Oroville and San Luis Facilities total capacity and electrical characteristics remained substantially unchanged, and CAISO and PG&E agreed. In addition, CAISO notes that it will continue to study DWR's re-powering proposal.

74. Finally, we reject Western's contention regarding the Load IA. We agree with DWR that the Load IA is not ambiguous regarding interconnection capacity that is jointly owned by DWR and the Bureau of Reclamation. We therefore accept the Load IA as filed.

¹⁰¹ TANC LGIA Protest at 17.

¹⁰² *Id.* at 19-20.

¹⁰³ CAISO notes that since DWR has provided it with a proposed construction schedule and affidavit declaring its intention to replace the damaged generation at Thermalito within CAISO's three-year timeline, the full capacity continues to be taken into account and is reflected in the LGIA. *See* CAISO Answer at 15-16.

The Commission orders:

(A) PG&E's Notice of Termination of the Comprehensive Agreement between PG&E and DWR in Docket No. ER15-223-000 is hereby accepted, effective December 31, 2014, as requested, as discussed in the body this order.

(B) The 10 replacement agreements filed by PG&E in Docket Nos. ER15-227-000, ER15-227-001 and ER15-227-002 are hereby accepted, effective January 1, 2015, as requested, as discussed in the body of this order.

(C) The revisions to the Pine Flat and Midway-Wheeler Ridge Agreements filed by PG&E in Docket Nos. ER15-231-000 and ER15-231-001 are hereby accepted, effective January 1, 2015, as requested, as discussed in the body of this order.

(D) CAISO's two certificates of concurrence filed in Docket No. ER15-322-000 are hereby accepted, effective January 1, 2015, as requested, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.