

166 FERC ¶ 61,113
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur, Richard Glick,
and Bernard L. McNamee.

California Independent System Operator Corporation Docket Nos. ER18-2498-000
ER18-2498-001

ORDER ACCEPTING TARIFF REVISIONS

(Issued February 19, 2019)

1. On September 28, 2018, the California Independent System Operator Corporation (CAISO) filed, pursuant to section 205 of the Federal Power Act (FPA),¹ tariff revisions pertaining to its generator interconnection process. In this order, we accept the revisions, to be effective November 27, 2018, as requested.

I. Background

2. According to CAISO, California's renewable portfolio standard and the associated evolution in the generation development marketplace have made it increasingly important over the past several years for CAISO to identify ways to administer its generator interconnection queue more efficiently. CAISO implemented a series of generator interconnection reforms in 2008, 2010, and 2012, and undertook comprehensive Interconnection Process Enhancements stakeholder initiatives in 2013 and 2015, resulting in interconnection enhancements to the CAISO tariff, business practice manuals, and interconnection procedures.² CAISO notes that an expedited initiative in 2017 resulted in the implementation of two additional enhancements.³ CAISO states that, after the

¹ 16 U.S.C. § 824d (2012).

² See, e.g., *Cal. Indep. Sys. Operator Corp.*, 154 FERC ¶ 61,169 (2016); *Cal. Indep. Sys. Operator Corp.*, 153 FERC ¶ 61,242 (2015); *Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,231 (2014); *Cal. Indep. Sys. Operator Corp.*, 148 FERC ¶ 61,077 (2014); and *Cal. Indep. Sys. Operator Corp.*, 145 FERC ¶ 61,172 (2013).

³ See *Cal. Indep. Sys. Operator Corp.*, 162 FERC ¶ 61,207 (2018).

success of the previous initiatives, it re-launched the Interconnection Process Enhancements Initiative in 2018, which resulted in the revisions proposed here.⁴

II. CAISO Proposal

3. CAISO states that the instant filing comprises 13 distinct sets of revisions that are separate and independent, but have been filed together because they were part of the same stakeholder process and because a single filing promotes administrative efficiency.⁵ CAISO describes the revisions proposed as:

- Embedding the generator interconnection study process agreement in the interconnection request;⁶
- Allowing CAISO to remove network upgrades from interconnection customers' financial security postings where CAISO has determined they are no longer needed, even before CAISO issues the next study results;⁷
- Exempting transmission owners from needing to post financial security to themselves when they develop their own generator interconnection projects;⁸
- Clarifying that interconnection customers must go through the new resource implementation process prior to synchronization to ensure compliance with the tariff and applicable reliability criteria;⁹

⁴ CAISO Transmittal at 3-4.

⁵ *Id.* at 1-2.

⁶ CAISO Tariff, Appendix DD, Proposed §§ 3.1, 6.1, and Appendix 3. CAISO also proposes to add express language that these forms may be provided and submitted electronically, but will not require electronic submission. CAISO Transmittal at 5.

⁷ CAISO Tariff, Appendix DD, Proposed §§ 6.7.3, 11.2.7.

⁸ CAISO Tariff, Appendix DD, Proposed § 11.2; Appendix Y, Proposed § 9.2.1.

⁹ CAISO Tariff, Proposed § 25.

- Increasing the deposits required for customer-requested repowering studies and serial re-studies from \$10,000 to \$50,000 to bring deposit amounts closer to current study costs;¹⁰
- Requiring interconnection customers to provide copies of their power purchase agreements when demonstrating commercial viability;¹¹
- Clarifying that CAISO will approve modifications for interconnection customers that have achieved their commercial operation dates where the modification does not increase capacity or substantially alter the generators' electrical characteristics at the point of interconnection;¹²
- Revising the suspension provisions to identify and mitigate the impact of interconnection customers' suspensions on others in the queue;¹³
- Eliminating the demonstration interconnection customers currently must make to recover their refundable portion of financial security in order to facilitate more timely refunds because, in CAISO's experience, virtually all withdrawing interconnection customers have satisfied one of the specified preconditions for refund;¹⁴
- Including project names in CAISO's public interconnection queue;¹⁵
- Prohibiting fuel-type modifications for interconnection customers that have remained in the interconnection queue beyond the anticipated tariff timelines (i.e., seven years for cluster process or ten years for serial

¹⁰ CAISO Tariff, Proposed § 25.1.2; Appendix U, Proposed §§ 6.4, 7.6, 8.5, 10.1, 12.2.4.

¹¹ CAISO Tariff, Appendix DD, Proposed § 6.7.4; Appendix Y, Proposed § 6.9.5; Appendix U, Proposed § 4.4.7.

¹² CAISO Tariff, Proposed § 25.5; Proposed Article 3.4.5 of Appendices T and FF; Proposed Article 5.19.1 of Appendices V, BB, CC, and EE.

¹³ CAISO Tariff, Proposed Article 5.16 of Appendices V, BB, CC, and EE.

¹⁴ CAISO Tariff, Appendix DD, Proposed § 11.4; Appendix Y, Proposed § 9.4.

¹⁵ CAISO Tariff, Proposed § 3.6 of Appendices U, Y, and DD.

process) and applying the commercial viability criteria to all requests for modifications beyond the anticipated tariff timelines;¹⁶

- Aligning the deliverability capacity allocation process with the current procurement landscape to place greater emphasis on viable projects, and to allow interconnection customers to access available deliverability more efficiently;¹⁷ and
- Increasing opportunities for interconnection customers to convert to energy only deliverability status without shifting costs to other interconnection customers or transmission owners.¹⁸

4. CAISO requests an effective date of November 27, 2018, in order to implement the instant revisions in the upcoming deliverability allocation cycle.¹⁹

III. Notice and Responsive Pleadings

5. Notice of CAISO's filing was published in the *Federal Register*, 83 Fed. Reg. 50,355 (2018), with interventions and protests due on or before October 19, 2018. Timely motions to intervene were filed by Avangrid Renewables, LLC; GridLiance West LLC; the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; Modesto Irrigation District; Southern California Edison Company; First Solar, Inc.; and Northern California Power Agency. A timely motion to intervene and comments in support of CAISO's proposal was filed by Pacific Gas and Electric Company. A timely motion to intervene and protest was filed by EDF Renewables, Inc. (EDF). On October 29, 2018, CAISO filed an answer to EDF's protest.

6. On November 21, 2018, Commission staff issued a deficiency letter seeking additional information regarding CAISO's proposals to revise its tariff provisions pertaining to: (1) suspensions of interconnection projects; (2) expanding the applicability of the commercial viability criteria; and (3) late-process conversions to energy only deliverability status (Deficiency Letter). On December 21, 2018, CAISO filed its response to the Deficiency Letter (Deficiency Response) in Docket No. ER18-2498-001.

¹⁶ CAISO Tariff, Appendix DD, Proposed § 6.7.4; Appendix Y, Proposed § 6.9.5; Appendix U, Proposed § 4.4.7.

¹⁷ CAISO Tariff, Appendix DD, Proposed §§ 8.9.2, 9.

¹⁸ CAISO Tariff, Appendix DD, Proposed §§ 6.7.2.5, 7.4.1; Appendix Y, Proposed § 6.9.2.5; Appendix U, Proposed § 4.4.10.

¹⁹ CAISO Transmittal at 36.

Notice of the Deficiency Response was published in the *Federal Register*, 84 Fed. Reg. 84 (2019), with comments due on or before January 11, 2019. None was filed.

IV. Discussion

A. Procedural Matters

7. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2018), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

8. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We accept CAISO's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

9. As an independent system operator (ISO), the Commission views CAISO as an "independent entity" with respect to evaluating proposed variations from the *pro forma* interconnection rules established in Order No. 2003.²⁰ In Order No. 2003, the Commission explained that it would apply a more flexible standard to variations proposed by independent entities than those proposed by non-independent entities. The Commission found that applying a more flexible standard for independent entities "is a balanced approach that recognizes that [a regional transmission organization (RTO)] or ISO has different operating characteristics depending on its size and location and is less likely to act in an unduly discriminatory manner than a Transmission Provider that is a market participant."²¹ Thus, the Commission concluded that "an RTO or ISO shall therefore have greater flexibility to customize its interconnection procedures and agreements to fit regional needs."²²

²⁰ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220 (2004), *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (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); *see also Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at PP 14, 16 (2008).

²¹ Order No. 2003, 104 FERC ¶ 61,103 at P 827.

²² *Id.*

10. Applying that rationale here, we find that the 13 sets of revisions to CAISO's generator interconnection agreements and procedures are just and reasonable and not unduly discriminatory measures that clarify or enhance the existing tariff provisions. We find that the 10 sets of revisions that are not expressly discussed in this order streamline CAISO's interconnection process, add clarity and transparency, and increase administrative efficiency. As discussed in greater detail below, we find that the remaining three sets of revisions are just and reasonable improvements upon the current interconnection procedures that increase certainty and help to ensure that projects in the interconnection queue are those mostly likely to achieve commercial operation. Therefore, we accept CAISO's proposed revisions, effective November 27, 2018, as requested.

1. Suspension Provisions

a. Proposal

11. CAISO states that its current Large Generator Interconnection Agreement (LGIA) allows an interconnection customer to suspend work on a project for up to three years but does not require the interconnection customer to provide an estimate of how long the suspension will last. Thus, when an interconnection customer submits a notice of suspension, CAISO and the transmission owner are generally unable to gauge the magnitude of impact of the delay on later-queued projects.²³ Hence, CAISO proposes to modify its tariff language pertaining to suspensions to state that an interconnection customer "may request" a suspension and also proposes to add two new requirements that interconnection customers must include in their requests for suspension: (1) an anticipated end date of the suspension; and (2) a request for a material modification assessment, along with a modification assessment deposit, which would identify any impacts to the construction schedule of later-queued customers resulting from the project's suspension. CAISO also proposes to add tariff language providing that where CAISO and the transmission owner determine that the suspension will not result in a material modification, CAISO and the transmission owner will approve the suspension request.²⁴ CAISO explains that, in addition, where the interconnection customer can resolve any material impact, the modification will still be approved.²⁵

12. CAISO asserts that suspension has been frequently used by the interconnection customer to maintain its queue position while it seeks a power purchase agreement, and

²³ *Id.* at 13-14.

²⁴ CAISO Tariff, Proposed Article 5.16 of Appendices V, BB, CC, and EE.

²⁵ CAISO Transmittal at 14.

has not typically been used to achieve the Commission's goal of permitting construction flexibility. CAISO states that if a project does not secure a power purchase agreement by the end of the suspension period, it tends to withdraw its interconnection request. CAISO asserts that, under its current rules, suspensions can cause uncertainties for other interconnection customers, and adversely impact LGIA terms and the material modification assessments required for other modifications (such as milestone extensions unrelated to suspensions).²⁶

13. CAISO asserts that, to the extent its proposed revisions diverge from the generator interconnection procedures in Order No. 2003, CAISO believes they are necessary improvements upon CAISO's current tariff. CAISO notes that due to the huge influx of new generation precipitated by California's rising renewable portfolio standards, CAISO is now studying and processing hundreds of new generator projects per year. CAISO asserts that the proposed deviations from the *pro forma* LGIA provide clarity and certainty regarding the scope of the suspension requests, and make CAISO's procedures for processing requests for suspension consistent with CAISO's practice of approving a modification request only if the interconnection customer agrees to mitigate any impact arising in a material modification assessment.²⁷ CAISO states that the proposed requirements mitigate the impact of suspensions on the remainder of the projects in the interconnection queue. CAISO also proposes to add tariff language allowing interconnection customers to request to extend or shorten the suspension, subject to the limits established by Order No. 2003.²⁸

14. CAISO asserts that its proposed revisions will preserve interconnection customers' flexibility to suspend for any reason, while also ensuring that CAISO and the transmission owner can evaluate and mitigate any harmful impact of suspensions on transmission owners and other interconnection customers.²⁹

²⁶ *Id.* at 14.

²⁷ CAISO Business Practice Manual for Generator Management, § 6.2 (providing that a request to modify an interconnection request will be denied, and the Interconnection Customer shall not be permitted to make the modification while retaining its Queue Position, if the modification is determined to be a Material Modification).

²⁸ CAISO Tariff, Proposed Article 5.16 of Appendices V, BB, CC, and EE.

²⁹ *Id.* at 15.

b. Deficiency Response

15. In the Deficiency Letter, staff asked several questions seeking further clarification of CAISO's requirement to mitigate the impact of a material modification.³⁰ In response, CAISO explains that, under the current tariff it cannot evaluate whether an interconnection customer will need to modify the construction schedule set forth in its LGIA until after the suspension ends. If the schedule needs to be modified, the interconnection customer must submit a material modification assessment request. Only at that point can CAISO evaluate whether the modification request negatively impacts other projects and whether those impacts can be mitigated. However, CAISO asserts that by that point in the process, mitigation of the impact may not be possible because the affected projects have already experienced the impacts in the form of delays or increased costs. CAISO states that it does not seek to curb or prevent suspensions of interconnection requests, but seeks to prevent suspensions from negatively affecting other interconnection customers by performing a material modification assessment before the start of the suspension. CAISO explains that its interconnection procedures already include mitigation requirements as part of the material modification approval process.³¹ CAISO further explains that if an interconnection customer agrees to the mitigation measures identified in the assessment, the modification is no longer considered a material modification, and will be approved. Thus, CAISO asserts that its proposed revisions put requested suspensions on level ground with other interconnection request modifications by allowing CAISO and the transmission owner to evaluate and mitigate any negative impacts of the requested suspension.³²

c. Commission Determination

16. As noted above, CAISO is an independent entity and, therefore, has greater flexibility than a non-independent entity to customize its interconnection procedures.³³ Therefore, applying the independent entity variation standard here, we find that CAISO's proposal to mitigate the impact of interconnection customers' suspensions is just and reasonable. We find that the revisions proposed here will enable CAISO to assess the potential adverse impact of any suspension request on other interconnection customers prior to the suspension. In addition, we conclude that CAISO's proposed revisions are a

³⁰ Deficiency Letter at 1-3.

³¹ CAISO Business Practice Manual for Generator Management, § 6.4.8.2.

³² Deficiency Response at 2-7.

³³ See Order No. 2003, 104 FERC ¶ 61,103 at P 827.

just and reasonable and not unduly discriminatory approach to discouraging nonviable projects that can slow down processing the queue.

17. In particular, CAISO has explained that its current inability to perform a material modification³⁴ assessment to evaluate potential adverse impacts prior to approving a suspension may shift risks of increased costs and schedule delays to the transmission owner or other interconnection customers.³⁵ We conclude that CAISO's proposal to require that the suspension must not result in a material modification is just and reasonable because it may help prevent the shifting of risks and costs by allowing CAISO, the interconnection customer, and the transmission owner to evaluate mitigation options before the suspension negatively impacts the transmission owner or other interconnection customers.

2. Expansion of Commercial Viability Criteria

a. Proposal

18. CAISO's tariff specifies that interconnection customers have either seven or ten years to achieve commercial operation for their projects.³⁶ If an interconnection customer seeks to extend the commercial operation date of its project beyond the seven/ten-year timeline, CAISO applies commercial viability criteria to ensure that only viable projects retain their deliverability allocation.³⁷ However, CAISO states that it cannot currently apply the commercial viability criteria to modification requests, even requests for modifications to projects that have been in the queue beyond the anticipated timeline, unless the modification would further extend the project's commercial operation date. Thus, in order to address late modification requests by interconnection customers that have lingered in the queue beyond the seven/ten year timeline, CAISO proposes to remove the language limiting its use of the commercial viability criteria. Instead, CAISO proposes to apply the commercial viability criteria to all modifications that require a

³⁴ The CAISO tariff defines a material modification as a "modification that has a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date." CAISO Tariff, Appendix A.

³⁵ Under the revised provisions, the suspension may commence upon the customer agreeing to mitigate the impact identified in CAISO's material modification assessment.

³⁶ CAISO's original serial interconnection procedures permitted a ten-year development timeline, which was subsequently replaced by a seven-year timeline when CAISO implemented cluster studies. CAISO Tariff, Appendix DD, § 3.5.1.4.

³⁷ CAISO Tariff, Appendix DD, § 6.7.4; CAISO Tariff, Appendix U, § 4.4.7.

material modification assessment where the interconnection customer's commercial operation date has exceeded or will exceed seven/ten years from the date the interconnection request is received by CAISO. CAISO states that for modifications requested under these circumstances, interconnection customers will need to demonstrate the commercial viability of the project in order to have the modification approved and to retain their deliverability allocation. If the project cannot meet the commercial viability criteria it can still complete the modification, but it will be converted to energy only deliverability status. CAISO proposes to expressly exclude three categories of modifications from this requirement: (1) insubstantial changes to the generating facility; (2) changes to inverters; and (3) the addition of energy storage from the proposed expansion of the commercial viability criteria.³⁸

b. EDF Protest

19. EDF argues that CAISO has not justified its proposal to expand the applicability of the commercial viability criteria to include modification requests made by a project beyond the applicable seven/ten-year development timeline. EDF asserts that this revision is not necessary because such changes must undergo a material modification assessment, and because these types of modifications generally improve a project's chances to succeed. Thus, EDF contends that such modifications should be permitted without the imposition of additional requirements.³⁹

20. EDF also argues that CAISO's use of the term "insubstantial changes" is ambiguous and provides CAISO with too much discretion. Thus, EDF contends that the proposed changes to the applicability of the commercial viability criteria are not just and reasonable. EDF asserts that if the Commission wants to accept this set of revisions, it should require CAISO to define and clarify this term.⁴⁰

c. CAISO Answer

21. CAISO emphasizes that this proposal was precipitated largely by outcry from developers, including EDF, who objected to a proposed change in a project's fuel type by an interconnection customer that had been in the queue for more than ten years. CAISO states that it agrees with the premise that modifications improve a project's chance of success, but nevertheless argues that the commercial viability criteria are necessary to ensure that interconnection customers cannot retain valuable deliverability allocations

³⁸ CAISO Transmittal at 18.

³⁹ EDF Protest at 9-10.

⁴⁰ *Id.* at 10-12.

unless they can demonstrate that they are commercially viable and therefore likely to proceed toward commercial operation.⁴¹

22. CAISO also argues that EDF's objection to the term "insubstantial changes" is without merit. CAISO avers that this language is not intended as a rule to give CAISO broad authority, but as a standard that provides CAISO with the necessary flexibility to make case-by-case determinations that minor changes should not subject an interconnection customer to the commercial viability criteria. CAISO contends that it would not be feasible to attempt to capture every example of what constitutes an "insubstantial change" in the tariff. Further, CAISO asserts that examples are not rates, terms, and conditions and therefore are more appropriately included in the business practice manuals than the tariff.⁴²

d. Deficiency Response

23. In the Deficiency Letter, staff asked CAISO to describe and quantify how modifications by interconnection customers that have exceeded their anticipated timelines have impacted later-queued customers' ability to acquire deliverability.⁴³ In response to staff's questions, CAISO states that it currently has 35 interconnection customers with 8,093 MW of allocated deliverability in the queue that have exceeded their anticipated timelines. CAISO asserts that if any of these 35 projects withdrew or were converted to energy only deliverability status after failing to demonstrate commercial viability, it likely would free up deliverability for later-queued projects and reduce the need for the construction of additional network upgrades. CAISO also notes that stakeholders, including EDF, have expressed their view that it is unfair to allow projects that have lingered in the queue to make fuel-type modifications and still retain their queue position. CAISO states that to date, 61 interconnection customers have exceeded their tariff-anticipated timelines of seven or ten years. According to CAISO, 12 of those interconnection customers have withdrawn, 43 remain in queue, and six have achieved commercial operation. CAISO specifies that of those six, all requested various modifications after their seven/ten year timelines, but those modifications generally consisted of delaying their commercial operation and construction milestones, phasing their commercial operation, and altering inverters, turbines, and transformers.⁴⁴

⁴¹ CAISO Answer at 14-16

⁴² CAISO Answer at 19-20.

⁴³ Deficiency Letter at 3-4.

⁴⁴ Deficiency Response at 10.

e. **Commission Determination**

24. Taking into account CAISO's status as an independent entity, we accept CAISO's proposal to expand the applicability of the commercial viability criteria because it will help to ensure that only viable projects remain in the queue beyond their anticipated development timelines. EDF correctly states that requests for modifications are already subject to a material modification assessment. However, we are not persuaded by this line of argument because the question of whether a project is commercially viable is a separate consideration from the potential impacts of modifying a project. First, as explained in Order No. 2003, as an independent entity, CAISO is less likely to apply the proposed revisions in an unduly discriminatory manner than a non-independent entity and, therefore, is afforded greater flexibility to customize its interconnection procedures.⁴⁵ Second, if a project has remained in CAISO's interconnection queue beyond its anticipated development timeline, we conclude that it is reasonable for CAISO to assess whether the project remains commercially viable before approving material modifications, given that CAISO allows seven or ten years to achieve commercial operation. Some of the Commission's goals in facilitating interconnection queue reform are "discouraging speculative or unviable projects from entering the queue, getting projects that are not making progress towards commercial operation out of the queue, and helping viable projects achieve commercial operation as soon as possible."⁴⁶ We find that CAISO's proposal to expand applicability of the commercial viability criteria is consistent with these goals.

25. Moreover, CAISO proposes that a project that cannot demonstrate commercial viability, but still desires to proceed with the modification, may be converted to energy only status and complete the modification. We believe that this revision for CAISO strikes an appropriate balance between allowing interconnection customers to modify their projects in ways to enhance the probability of successful completion, and limiting the circumstances where nonviable projects are permitted to retain their valuable deliverability allocations, rather than releasing the deliverability for reallocation to projects with a higher probability of proceeding to commercial operation.

26. We reject EDF's contention that the term "insubstantial changes" is ambiguous or grants CAISO too much discretion. We find that CAISO's proposed language provides it the flexibility necessary to make case-by-case determinations about minor changes that should not be subject to the commercial viability criteria, rather than attempting to define in the tariff each example of what constitutes an insubstantial change. Again, we note

⁴⁵ Order No. 2003, 104 FERC ¶ 61,103 at P 827.

⁴⁶ See, e.g., *Midwest Indep. Transmission Sys. Operator, Inc.*, 124 FERC ¶ 61,183, at P 44 (2008).

that, as an independent entity, CAISO is less likely to apply the proposed revisions in an unduly discriminatory manner than a non-independent entity.

3. Conversions to Energy Only Deliverability Status

a. CAISO Proposal

27. CAISO explains that, under its tariff, interconnection customers must select their deliverability status for their project. To be eligible to provide resource adequacy capacity, an interconnection customer must select either full capacity deliverability status or partial capacity deliverability status, and will then be responsible for its share of any delivery network upgrades needed to interconnect the project. Those interconnection customers selecting the “energy only” option are not eligible to be a resource adequacy resource, but are also not responsible for the cost of delivery network upgrades. Interconnection customers currently have the option to convert their project to energy only status at several points throughout the interconnection process: (1) in the initial interconnection request; (2) at the initial scoping meeting; (3) at the Phase 1 study results meeting; or (4) after the interconnection customer receives its deliverability allocation results. If an interconnection customer converts to energy only status at one of these times, or fails CAISO’s commercial viability criteria later in the interconnection process, it is no longer responsible for financing delivery network upgrades. In that case, financial responsibility for the upgrades, if still needed, falls to later-queued interconnection customers or reverts to the transmission owner.⁴⁷

28. CAISO states that, after it implemented its commercial viability criteria, some interconnection customers sought to exploit a loophole in its procedures by intentionally failing the commercial viability criteria so that they would be converted to energy only status late in the interconnection process. By doing so, those customers sought to compel CAISO to remove their cost responsibility for delivery network upgrades. According to CAISO, this was an attempt to reduce the interconnection customer’s financial security posting, shifting the total costs of the upgrades (financial security posting and obligation to finance upgrades) to the transmission owner, which has no financial security to cover the costs.⁴⁸

29. To remedy this loophole, CAISO proposes revisions to permit interconnection customers to convert to energy only status at any time, including long after they have executed generator interconnection agreements, so long as the conversion does not shift cost responsibility for delivery network upgrades that are still needed for other projects. Thus, under the proposed revisions, if a customer wants to convert to energy only status

⁴⁷ CAISO Transmittal at 31-33.

⁴⁸ *Id.* at 33-34.

after a Phase II study, or if an interconnection customer is involuntarily converted to energy only status as a result of failing to satisfy the commercial viability and/or deliverability retention criteria, it will be allowed to reduce its cost responsibility or interconnection financial security for delivery network upgrades only where CAISO and the transmission owner determine that the assigned delivery network upgrade is no longer needed for current interconnection customers. CAISO asserts that this proposed revision will ensure that interconnection customers cannot convert to energy only solely for the purpose of reducing their financial security posting before withdrawal, thereby leaving the financing to the transmission owner.⁴⁹

b. EDF Protest

30. EDF objects to CAISO's proposed revisions to the energy only conversion rules because, according to EDF, these revisions would force interconnection customers to pay for network upgrades without the interconnection customer receiving the deliverability rights provided by those upgrades. EDF claims that very few projects will be able to take advantage of the expanded right to convert to energy only because the interconnection customer will have limited information about whether it will be able to avoid the delivery network upgrade costs, which creates risk because the interconnection customer could end up with the less valuable energy only status but still be responsible for financing the delivery network upgrades. EDF proposes alternatives, which it claims would alleviate this alleged problem: (1) allowing the interconnection customer to withdraw its conversion request if the upgrades are still necessary, or (2) requiring CAISO to provide a non-binding estimate of financing obligations that could be eliminated through the conversion.⁵⁰

31. In addition, EDF argues that this proposed change creates an unjust and unreasonable result for interconnection customers that are involuntarily converted to energy only status by failing to meet the deliverability retention requirements or commercial viability criteria. EDF explains that, in this scenario, an interconnection customer would involuntarily lose its deliverability status and also be forced to pay for upgrades from which it would receive no benefit. EDF contends that if the CAISO tariff will force an interconnection customer to lose its deliverability status, then the customer should not remain financially responsible for the upgrades related to that deliverability. EDF disputes CAISO's claim that this is needed to eliminate potential gaming because the tariff limits the costs that can be reallocated. Moreover, EDF claims that forcing an energy only project to retain cost responsibility for large delivery network upgrades will

⁴⁹ *Id.* at 34-35.

⁵⁰ EDF Protest at 4-6.

likely force that project out of the queue anyway, resulting in the same cost shifting that CAISO seeks to avoid.⁵¹

c. CAISO Answer

32. CAISO argues that EDF mischaracterizes its proposal. CAISO states that the purpose of its proposal is not to provide enhanced flexibility for customers to convert to energy only at any time, but to provide a clear avenue for legitimate energy only conversions. CAISO states that this change is necessary to close a loophole in the existing tariff and to ensure that late-process conversions to energy only do not harm transmission owners or other customers.⁵²

33. CAISO also rebuts EDF's argument that CAISO's proposal is unjust and unreasonable because it would require an interconnection customer who involuntarily loses its deliverability status to pay for deliverability network upgrades. CAISO clarifies that interconnection customers do not *pay for* delivery network upgrades, but instead *finance* their allocated share of the network upgrades they trigger. Upon achieving commercial operation, the transmission owner reimburses the interconnection customer, with interest, within five years for the entire amount financed. In addition, CAISO asserts that interconnection customers only "involuntarily lose" their deliverability allocation when they fail to adhere to tariff requirements, namely the commercial viability criteria and deliverability retention criteria. CAISO highlights that interconnection customers only fail these requirements when they have remained in the queue for a long time without making progress towards commercial operation. CAISO argues that interconnection customers must risk some funds to develop a project.⁵³

34. CAISO also argues that the modifications proposed by EDF are infeasible, aid interconnection customer speculation, and should be rejected. CAISO states that it does not have the ability to perform a preliminary assessment as to whether delivery network upgrades would remain necessary after a project converts its deliverability status. Further, CAISO states that its proposal is consistent with all other customer-elected modification requests in that the request itself represents that the customer is committed to a change. CAISO posits that providing interconnection customers with a "wait and see" study option would ensure that every customer contemplating withdrawal from the

⁵¹ *Id.* at 6-8.

⁵² CAISO Answer at 5-7.

⁵³ *Id.* at 10-14.

queue would request such a preliminary assessment to determine whether they could reduce their financial security posting by first converting to energy only status.⁵⁴

d. Deficiency Response

35. In the Deficiency Letter, staff asked CAISO to quantify the impact of late conversions to energy only deliverability status.⁵⁵ In response, CAISO reiterates that its proposal seeks to close a loophole in the existing procedures. CAISO provides examples using typical cost figures to illustrate the financial risk to other customers and the transmission owner when an interconnection customer deliberately fails the commercial viability criteria for the sole purpose of reducing its financial security posting. CAISO states that its examples illustrate how these late conversions to energy only status by interconnection customers have the effect of shifting significant costs in delivery network upgrade financing obligations to other customers.⁵⁶

e. Commission Determination

36. Given the greater flexibility afforded independent entities to implement variations from the *pro forma* interconnection procedures, as discussed above, we find that CAISO's proposed energy only conversion revision is just and reasonable because it appropriately closes a loophole in the current rules, while still allowing a legitimate avenue for energy only conversions later in the process. According to CAISO, interconnection customers have deliberately failed the commercial viability criteria (and converted to energy only status very late in the process) in an attempt to mitigate financial losses upon withdrawal from the queue, and thereby shift costs to the transmission owner who is then left without financial security to cover the costs of upgrades. Thus, we find that it is reasonable for CAISO to implement changes to ensure that, if an interconnection customer voluntarily converts to energy only status well after studies have been completed, or is involuntarily converted as a result of failing the commercial viability or deliverability retention requirements, it will be allowed to reduce its interconnection financial security for delivery network upgrades only where CAISO and the transmission owner can determine that the assigned delivery network upgrade is no longer necessary.

37. In addition, we note that under the existing interconnection procedures, an interconnection customer is made aware of the costs of necessary delivery network

⁵⁴ *Id.* at 9-10.

⁵⁵ Deficiency Letter at 3.

⁵⁶ Deficiency Response at 7-9.

upgrades before signing a generator interconnection agreement as well as the amount of posted financial security that it will lose if it subsequently withdraws from the queue.⁵⁷ Thus, if the delivery network upgrades are prohibitively expensive, the interconnection customer may withdraw from the queue prior to signing the agreement and making the required financial security posting. CAISO is not proposing to modify the existing rights to withdraw or convert to energy only status, but instead proposes revisions to ensure that late-process conversions do not have an adverse impact on transmission owners or other interconnection customers.

38. We find that the objections raised by EDF mischaracterize CAISO's proposal. As noted above, CAISO's proposed revisions are intended to eliminate the incentive for interconnection customers to intentionally fail the commercial viability or deliverability retention requirements, and not to provide opportunities for interconnection customers to avoid the agreed upon delivery network upgrade financing obligations. Further, what EDF characterizes as an "involuntary" conversion to energy only status would occur only if an interconnection customer has been in the queue for seven/ten years without making the required progress towards commercial operability. It is also important to distinguish between an obligation to *finance* a network upgrade and *paying for* a network upgrade. Under the CAISO tariff, interconnection customers do not pay for network upgrades, but finance the network upgrades until commercial operation of the generating facility is achieved, at which point they are reimbursed for the expenditure for the network upgrades by the transmission owner. Conversion to energy only status itself does not alter the transmission owner's obligation to reimburse an interconnection customer for network upgrades for which that customer remains responsible. Thus, we are not persuaded that these proposed revisions, in the CAISO context, create an unreasonable risk of harm to interconnection customers. To the contrary, we find that the proposal prevents harm and increases cost certainty by evaluating the ongoing need for assigned delivery network upgrades before allowing an interconnection customer to convert to energy only status in order to reduce its financial security posting.

39. Finally, because we accept CAISO's proposal on this issue as just and reasonable, we find that is not necessary to further consider the merit of EDF's alternative modifications.⁵⁸

⁵⁷ CAISO Transmittal at 32 ("Memorializing responsibility for network upgrades before the execution of [generator interconnection agreements] is critical under CAISO's interconnection procedures."); *see also* CAISO Tariff, Appendix DD, § 13 (establishing that the generator interconnection agreement is not tendered to the interconnection customer until after the issuance of the Phase II study report).

⁵⁸ *See Cities of Bethany v. FERC*, 727 F.2d 1131,1136 (D.C. Cir. 1984) (holding that the Commission's authority to review rates under the FPA is limited to an inquiry

The Commission orders:

CAISO's proposed tariff revisions are hereby accepted, to be effective November 27, 2018, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

into whether the rates proposed by a utility are reasonable, and do not extend to determining whether a proposed rate schedule is more or less reasonable than alternative rate designs); *Louisville Gas and Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (finding that the just and reasonable standard under the FPA is not so rigid as to limit rates to a “best rate” or “most efficient rate” standard; rather, a range of alternative approaches often may be just and reasonable), *reh'g denied, E. ON U.S. LLC*, 116 FERC ¶ 61,020 (2006).