

and the Modesto Irrigation District asserts that the CAISO's proposal strikes the appropriate balance. Accordingly, and for the reasons set forth below, the CAISO respectfully requests that the Commission find that the CAISO's proposed affected system enhancements are a just and reasonable solution to a complex jurisdictional issue.

I. Background and Introduction

On January 7, 2016, the CAISO filed in this docket the second and final set of the proposed tariff revisions resulting from its most recent interconnection process enhancement stakeholder process ("IPE 2015").³ The CAISO proposed ten categories of revisions to its generator interconnection process:

- 1) Affected systems
- 2) Commercial viability criteria
- 3) Tendering and negotiating generator interconnection agreements ("GIAs")
- 4) Deposits
- 5) Stand-alone Network Upgrades
- 6) Modifications that do not require materiality analysis
- 7) Phase II study report results updates
- 8) GIA insurance requirements
- 9) Financial security requirements
- 10) Option B projects

³ The Commission approved the first set—concerning the CAISO's revisions to the generator downsizing process—on November 24, 2015. *California Independent System Operator Corp.*, 153 FERC ¶ 61,242 (2015).

Nine parties submitted motions to intervene without comment to the CAISO's filing, including one group of parties that submitted a motion to intervene out of time. Pacific Gas & Electric Company ("PG&E") intervened and submitted brief comments to state that it "supports [the CAISO's] modifications as welcome improvements." The CAISO does not object to any of these interventions.

Three groups of parties filed substantive comments to the CAISO's filing, all on the affected system topic:

- Modesto Irrigation District ("MID"), which is CAISO affected system
- Imperial Irrigation District ("IID"), which is a CAISO affected system; and
- The American Wind Energy Association, the California Wind Energy Association, and the Large-scale Solar Association (jointly, "AWEA").

MID supports the CAISO's proposed tariff revisions and states that the revisions "reflect a careful balance of stakeholders' issues and concerns. The CAISO's revisions are the product of significant discussion and compromise among stakeholders, and are the products of multiple rounds of review, comments, and revision. . . ."4 MID also notes that "the proposed Tariff language recognizes the limits of the CAISO's legal and jurisdictional reach."5 The CAISO agrees with both characterizations.

IID similarly supports the bulk of the CAISO's proposed tariff revisions on affected systems, but seeks clarity on two proposed provisions. The CAISO appreciates these concerns and responds below.

⁴ MID Comments at p. 6.

⁵ MID Comments at p. 7.

In contrast to IID, MID, PG&E, and (the CAISO assumes) the parties who intervened without protest, AWEA argues that the CAISO's proposed tariff revisions on affected systems are "a small improvement," but "insufficient," and that the Commission should therefore reject them and impose significant new requirements that are not before the Commission in this proceeding.⁶ As described in detail below, AWEA's comments are essentially an attempt to present a complaint pursuant to Section 206 of the Federal Power Act in the form of comments on a Section 205 filing for other proposed tariff revisions. In any case, AWEA's comments wholly ignore the jurisdictional boundaries of the CAISO tariff and the Federal Power Act and mischaracterize the existing CAISO tariff and the affected system process.

II. Answer

A. AWEA Comments

1. *Contrary to AWEA's assertions, the CAISO and its stakeholders agree that a potentially affected system should not be required to demonstrate actual impact in the initial 60-day notification period.*

AWEA first argues that the CAISO's proposed revisions are insufficient because they lack a requirement "that an Affected System explain in its [initial] declaration why or how it might be impacted [by the proposed generator] or provide even preliminary evidence or demonstration of potential impacts."⁷ AWEA argues that "with such a low

⁶ AWEA Comments a p. 1.

⁷ AWEA Comments at p. 7.

threshold, there is no reason that [a potentially] Affected System would *not* identify itself” as an Identified Affected System.⁸

The CAISO and its stakeholders fully considered this issue during the IPE 2015 stakeholder process. The vast majority of stakeholders and the CAISO concluded that it would be impractical and counterproductive to require potentially affected systems to articulate the specific impacts on their system so early and, so quickly in the process, and with only the CAISO’s Phase I study results to use. As MID—an affected system—comments: “An affected system may not have access to the full set of base case data used to conduct the studies, and may have to rely in part on CAISO or third party data, studies and restudies before being able to complete the picture with information from, and analysis about, its own system.”⁹

The purpose of Order No. 2003’s affected systems coordination requirement is to allow the affected system to determine what reliability impacts the generator may have on its system.¹⁰ The threshold to be an affected system is therefore purposely and appropriately low, and should not be further burdened as AWEA suggests. AWEA’s argument also seems to assume that the CAISO notifies all of its affected systems of any proposed generator, or that it picks potentially affected systems with little discretion.

⁸ The CAISO proposed to define an Identified Affected System as an affected system that responded affirmatively to CAISO notification, thus conveying that it is an affected system and should be included in the CAISO study process results.

⁹ MID Comments at p. 7.

¹⁰ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 118 (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. ¶ 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).

On the contrary, the CAISO itself only notifies those affected systems within such proximity to the proposed generator that the CAISO reasonably believes there may be an impact.¹¹ The Southern California Edison Co. (“SCE”) territory alone, for example, is broken into five distinct areas where interconnection could affect different subsets of affected systems. This process avoids forcing potentially affected systems to analyze the impact of the 100+ interconnection requests the CAISO receives each year, and it avoids forcing interconnection customers to work with systems they could not realistically affect. An interconnection customer proposing to interconnect somewhere in the SCE North region, for example, would only have two potentially affected systems: the Los Angeles Department of Water and Power (“LADWP”) and the California Department of Water Resources (“CDWR”).

Because the CAISO has already made this initial determination of probable affected systems, it makes little sense to force these affected systems to jump through hoops to re-verify that they may be, in fact, affected systems. More problematic still, AWEA has not considered the endgame of its proposal.¹² Requiring potentially affected systems to identify articulable “preliminary evidence” of impacts would only cause the affected systems to require study agreements and deposits for those studies, thus supplanting any initial opportunity to avoid those studies and their costs altogether.

¹¹ The CAISO maintains the potentially affected system list on its website. The list is based on the CAISO’s transmission planning study areas. CAISO Jan. 7 Filing at p. 7 n. 18; https://www.caiso.com/Documents/GeneratorInterconnectionProcedures_AffectedSystemsContactList.xls

¹² AWEA Comments at pp. 13-14 suggest that all Affected System information be included in CAISO study results, thus requiring the Affected Systems to perform their studies before the CAISO continues (because the CAISO otherwise lacks the data or visibility to have affected system information).

Reasonably assuming the affected system will not want to study the proposed generator twice, it will convert its ultimate affected system study into this initial affected system study. As IID—another affected system—comments: “IID agrees that an Affected System should not be required to perform studies nor should it be required to make any further determination regarding impacts on its system during this 60-day period. Indeed, as the CAISO recognized, it would be unreasonable to require a study to be performed analyzing impacts on the Affected System *until after a generator executes an Affected System study agreement and pays a deposit for the costs of the study.*”¹³

Interconnection customers, on the other hand, understandably may want to defer executing affected system study agreements and providing deposits until they can first ensure that their project is viable. The CAISO’s proposal is just and reasonable because it will preserve this flexibility while providing a greater degree of clarity for the interconnection customer. AWEA’s argument would sacrifice all flexibility on the altar of hasty, unnecessarily costly, and elusive affected system certainty.

2. *AWEA mischaracterizes the CAISO’s existing tariff and Order No. 2003 requirements to coordinate with affected systems.*

AWEA argues that the CAISO “does nothing to carry out its explicit [existing] Tariff responsibilities to coordinate and perform studies that include Affected System information.”¹⁴ As an initial matter, this statement has no relevance to any of the proposed tariff changes and should be ignored.¹⁵ The CAISO has always included in

¹³ IID Comments a p. 5 (emphasis added).

¹⁴ AWEA Comments at p. 8.

¹⁵ AWEA’s allegation is an attempt to present a complaint pursuant to Section 206 of the Federal Power Act in the form of comments on a Section 205 filing for other proposed tariff

the Generator Interconnection and Deliverability Allocation Procedures (“GIDAP”) the Order No. 2003 *pro forma* language AWEA focuses on, namely, that the CAISO “coordinate the conduct of any studies required to determine the impact of the Interconnection Request on Affected Systems with Affected System Operators, to the extent possible, and, if possible, the CAISO will include those results (if available) in its applicable Interconnection Study within the time frame specified in this GIDAP.”¹⁶ But AWEA mischaracterizes the Commission’s Order Nos. 2003 and 888 language and therefore the CAISO’s (and all transmission providers’) compliance with existing requirements.

Under Order No. 2003 and Order No. 888, the CAISO is only required to “assist the [] customer in coordinating with the Affected System;” not conduct the studies for the affected systems.¹⁷ The Commission adopted this approach for three key reasons AWEA misunderstands or ignores throughout its comments: (1) transmission providers only have sufficient data and visibility to conduct studies on their own systems, and not affected systems; (2) transmission providers have no jurisdiction to impose requirements on affected systems; and (3) purely intrastate and governmental utilities—which comprise nearly all of the CAISO’s affected systems—are specifically exempted

revisions. The CAISO therefore urges that the Commission ignore these comments unless and until AWEA files a complaint under Section 206. See, e.g., *ISO New England Inc.*, 112 FERC ¶ 61,060 (2005); *Commonwealth Edison Co.*, 108 FERC ¶ 61,185 at P 7 (2004), *order denying reh’g*, 110 FERC ¶ 61,269 at P 10 (2005). Alternatively, AWEA’s comments here are an attempt to supplement its petition for a national rulemaking on interconnection issues, which did not otherwise include a substantive discussion on affected systems. See *American Wind Energy Association*, Petition for Rulemaking, Docket No. RM15-21-000 (June 16, 2015). In either case, they are inappropriate here.

¹⁶ Section 3.7 of Appendix DD.

¹⁷ Order No. 2003 at P 118 (citing to Section 21.1 of Order No. 888’s *pro forma* Open Access Transmission Tariff).

from the Commission's jurisdiction under Section 201 of the Federal Power Act.¹⁸ The Commission reiterated this fact in Order No. 2003, noting that “the owner or operator of an Affected System is not bound by the provisions of the Final Rule LGIP or LGIA . . . [nor] required to participate in the interconnection of the Generating Facility.”¹⁹

As such, transmission providers such as the CAISO can only invite the affected system to work with the interconnection customer so that the affected system may determine what, if any, reliability impacts the proposed generator may present.²⁰ The CAISO does not have the requisite data nor the tariff authority nor the Federal Power Act jurisdiction to dictate the study requirements of affected systems or their internal deadlines for conducting affected system studies as AWEA suggests.²¹

Additionally, AWEA argues that the CAISO's proposed tariff revisions will leave interconnection customers in an “untenable position,”²² even though most of these processes have already been captured in the CAISO's business practice manuals for over a year. During that time, AWEA did not file a complaint pursuant to Section 206, and in fact praised the CAISO for its interconnection process reforms and petitioned the Commission to impose similar requirements on other transmission providers in a

¹⁸ 16 U.S.C. § 824(f).

¹⁹ Order No. 2003 at P 121.

²⁰ While the CAISO has authority to require interconnection customers to enter into affected system study agreements and mitigate reliability impacts, it does not have the authority to impose a similar requirement on affected systems. See Section 11.4.2 of the CAISO's *pro forma* Large Generator Interconnection Agreement (“LGIA”), Appendix EE to the CAISO tariff.

²¹ MID and IID echo this sentiment in their respective comments.

²² AWEA Comments at p. 8.

rulemaking proceeding.²³ In fact, AWEA explicitly noted that “CAISO has a practice that provides cost information at an earlier stage. . . . This process has been in place for years and has worked well to support the development of new generation.”²⁴ AWEA did not speak directly about the CAISO’s affected systems process, but did not discuss affected system issues in its petition’s litany of issues either.

Moreover, AWEA’s argument that interconnection customers will be in an “untenable position,”²⁵ and “new generation cannot be built . . . and not at the levels needed to meet California’s energy goal and upcoming Clean Power Plan needs”²⁶ borders on spurious. Compared to the CAISO’s 2015 peak load of 46,519 MW,²⁷ current proposed CAISO interconnection requests comprise approximately 35,000 MW of capacity, with 23,409 MW of that capacity coming from renewable resources, and 4,283 MW coming from energy storage.²⁸

As the CAISO stated in its comments on AWEA’s petition for a rulemaking, the CAISO interconnection process has seen the lion’s share of this development. Over 100 new generator projects accounting for more than 16,000 MW of new capacity have come through the CAISO queue and achieved commercial operation in the last ten

²³ See *American Wind Energy Association*, Petition for Rulemaking, Docket No. RM15-21-000, at pp. 24, 30 (June 16, 2015).

²⁴ *Id.* at p. 30.

²⁵ AWEA Comments at p. 8.

²⁶ AWEA Comments at p. 1.

²⁷ CAISO Peak Load History 1998 – 2015, available at <https://www.caiso.com/Documents/CaliforniaISOPeakLoadHistory.pdf>.

²⁸ CAISO interconnection queue, available at <https://www.caiso.com/planning/Pages/GeneratorInterconnection/Default.aspx>; see also EIA, “California State Energy Profile,” available at <http://www.eia.gov/state/?sid=CA#tabs-1> (updated July 17, 2014) (showing current California renewable levels).

years, with the vast majority coming from renewable resources.²⁹ In the last two years alone, 45 projects achieved commercial operation, adding 3,689 MW of capacity, 99% of which came from renewable resources. In short, the CAISO and California are on track to meet the state's energy goals, despite AWEA's assertions to the contrary.³⁰

Further, AWEA recognizes in its comments that the CAISO's proposed revisions are an improvement. Other commenters extol the CAISO's enhancement further. IID states that "the process has improved significantly and there is much better communication," since the CAISO implemented many of its proposed enhancements through its business practice manuals. PG&E likewise states that the CAISO's proposal will "provide greater certainty for interconnection customers and other participants."³¹ And MID says "the CAISO's proposal is significant in that it accomplishes the goal of timely notice to Interconnection Customers without imposing a rigid study process that places undue burdens on utility resources and staff."³² As such, the Commission should approve the CAISO's proposal as just and reasonable.

It should also be noted that AWEA somewhat laboriously explains the CAISO's "current provisions and responsibilities regarding affected systems" while citing to tariff provisions that are anachronistic to all but a small minority of the CAISO's current interconnection requests.³³ To clarify for AWEA, the Large Generator Interconnection

²⁹ See *American Wind Energy Association*, Docket No. RM15-21-000, Comments of the CAISO, pp. 2-4 (Sep. 28, 2015).

³⁰ CAISO interconnection queue, available at <https://www.caiso.com/planning/Pages/GeneratorInterconnection/Default.aspx>.

³¹ PG&E Comments at p. 2.

³² MID Comments at p. 7.

³³ See AWEA Comments at pgs. 4-6.

Procedures (“LGIP,” Appendix U), the Small Generator Interconnection Procedures (“SGIP,” Appendix S), and their corresponding GIAs only apply to interconnection requests that pre-dated the CAISO’s cluster study process and still have not declared commercial operation (approximately nine percent of the CAISO’s 246 outstanding interconnection requests at the time of this filing).³⁴ Likewise, the Generator Interconnection Process (“GIP,” Appendix Y) provisions AWEA describes at length only apply to interconnection requests between when the CAISO implemented Appendix Y and when the CAISO implemented the GIDAP (Appendix DD), but that still have not declared commercial operation (*i.e.*, clusters 1-4, approximately 26% of the CAISO’s interconnection requests).³⁵ If AWEA is not, in fact, alleging that the CAISO is currently failing to comply with its existing tariff and Order No. 2003 requirements; but that its proposed revisions will somehow contradict them, that argument also fails as presented by AWEA. As described above, the historic generator interconnection process tariff appendices only apply to interconnection requests submitted in their specified periods. LGIP, SGIP, and GIP provisions are thus inapposite to the CAISO’s proposed revisions to the GIDAP, and cannot result in tariff violations.

³⁴ See Section 1.1 of Appendix Y; CAISO interconnection queue, available at <https://www.caiso.com/planning/Pages/GeneratorInterconnection/Default.aspx>.

³⁵ See Section 1.1 of Appendix DD.

3. *The CAISO's allowance for later notification to affected systems is a just and reasonable means to ensure system reliability and treat affected systems fairly.*

The CAISO proposed to notify potentially affected systems within 30 days of when interconnection customers post their initial interconnection financial security.³⁶ Stakeholders and the CAISO, however, recognized that there could be a limited set of circumstances where later notification is necessary, namely, where (i) the CAISO failed to identify the affected system initially for any reason (e.g., due to administrative error); (ii) the interconnection customer modifies its project such that an electric system operator becomes a potentially affected system; or (iii) the interconnection customer converts from a Wholesale Distribution Access Tariff to the CAISO tariff and the same affected systems were not notified previously (or the conversion was due to a system change).

Although the Large-scale Solar Association and CalWEA³⁷ worked closely with the CAISO on tailoring these circumstances, they now join AWEA in criticizing those circumstances for creating “tremendous risk” to generation developers.³⁸ AWEA argues that “interconnection customers *cannot proceed* with developing a Generating Facility knowing that, at any time, another Affected System may claim it is impacted by the project,” and that this system gives Affected Systems leverage to demand “even gold-

³⁶ CAISO Jan. 7 Filing at p. 8. Initial interconnection financial security postings generally occur after the interconnection customers' Phase I study results meetings (approximately one year into the interconnection process). The CAISO intends to provide these notices in complete batches to each affected system (i.e., one email and letter containing all of the proposed interconnections that may affect their system) for administrative efficiency.

³⁷ Who join AWEA in its comments.

³⁸ AWEA Comments at p. 9.

platted [sic] upgrades.”³⁹ This argument fails for several reasons. First, as described above, the *status quo* already allows significant generator development without the protections the CAISO proposes here. AWEA admits the CAISO’s proposal is an improvement to the *status quo*, yet insists that interconnection customers now will be unable to proceed with development.⁴⁰ The significant historic and recent development belie this allegation.

Second, AWEA offers no substantive critique of the CAISO’s three proposed causes for later notification other than to claim summarily that they are a risk to developers. AWEA thus misses the fundamental purpose of notifying affected systems: ensuring the reliability of the grid. AWEA, in fact, argues that this may be a mistake on the CAISO’s part: “the amendment does not address the risk [to generation developers] that an Affected System might find a ‘legitimate reliability issue’ as late as a few months before the commercial operate date and claim impact.”⁴¹ Reliability is the paramount concern for the CAISO and its other stakeholders, and it was the paramount concern for the Commission in Order No. 2003.⁴² Reliability is now an even greater concern given the subsequent adoption of national reliability standards. For this reason the CAISO

³⁹ AWEA Comments at pp. 9-10 (emphasis added).

⁴⁰ Pursuant to Section 205 of the Federal Power Act, “the Commission limits its evaluation of a utility’s proposed tariff revisions to an inquiry into ‘whether the rates proposed by a utility are reasonable—and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.’ *California Independent System Operator Corp.*, 141 FERC ¶ 61,135 at P 44 n. 43 (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)).

⁴¹ AWEA Comments at p. 10.

⁴² See Order No. 2003 at P 118; Order No. 2003-A at P 114.

must allow affected systems to be notified of potential reliability impacts, regardless of the overall negligible financial impacts to a generation project.

Third, AWEA ignores that two of the three circumstances allowing for later notification would be caused by the generation developers themselves through modifications to the projects from what was described in their interconnection requests. It would be inequitable and open up the affected system process to significant gaming if interconnection customers could propose one project that avoids impact to some or all affected systems, then substantially modify their projects once the affected system process is completed.

Fourth, AWEA ignores that while late notification will be rarely necessary, substantial interconnection customer-driven modifications will warrant late notification far more frequently than the CAISO's failure to provide initial notification due to an administrative error. In recent years the CAISO has only failed to notify a small subset of affected systems once, and realized and remedied the error quickly. In contrast, in 2014 the CAISO received 94 modification requests from interconnection customers, compared to 83 interconnection requests.⁴³ The practical meaning of this figure is that, on average, every project in the interconnection queue will request a modification at least once while in queue. While very few of these modification requests will result in a change substantial enough to warrant notifying an affected system, it is evident that

⁴³ See *American Wind Energy Association*, Docket No. RM15-21-000, Comments of the NYISO, CAISO, PJM, and MISO at p. 3 (Sep. 8, 2015); the CAISO publishes an annual report on the number, length, and accounting of interconnection modifications. See <https://www.caiso.com/Documents/2014ModificationAssessmentAccountingReport.pdf>.

interconnection customer-driven modifications warrant an exception to the initial notification period.

Fifth, as described in detail in section II.A.6, below, AWEA's argument that interconnection customers are "held hostage" by their reliability impacts on affected systems ignores both the legal remedies available to the interconnection customers, and the measures the CAISO and its participating transmission owners will take if they agree that affected systems are somehow recalcitrant.⁴⁴

Sixth, AWEA criticizes the CAISO's proposed affected system process because it explicitly states that "An affected System's mitigation remedies that may be available outside the CAISO Tariff are unaffected by these revisions." AWEA takes issue with this tautology because it does not prohibit affected systems from using any and all remedies outside the CAISO tariff, thereby allowing affected systems to demand mitigation and/or payments through other contracts or legal remedies.⁴⁵ The CAISO only included this provision at the insistence of stakeholders precisely to clarify what AWEA fails to grasp: The CAISO cannot control what occurs outside the confines of the CAISO tariff, cannot dictate affected systems' internal practices, and it certainly cannot affect contracts or legal remedies to which the CAISO is not a party and does not have jurisdiction. AWEA's failure to understand this issue demonstrates that it should remain explicitly stated in the tariff. In any event, this tariff amendment proceeding is not the appropriate forum to address the internal practices of affected systems.

⁴⁴ See CAISO Business Practice Manual ("BPM") for GIDAP at Section 6.1.4.3, available at <http://www.caiso.com/rules/Pages/BusinessPracticeManuals/Default.aspx>.

⁴⁵ AWEA Comments at p. 9.

4. *The CAISO's affected system proposal only shifts existing responsibilities away from, and not toward, interconnection customers.*

AWEA next argues that the CAISO's proposal shifts its current tariff responsibilities under the tariff from the CAISO to the interconnection customer.⁴⁶ This argument mischaracterizes the affected system study process and exaggerates the role of the interconnection customer. AWEA states that the CAISO identifies the affected systems, but "the Interconnection Customer must then attempt to effectuate Affected System studies and coordinate the results with CAISO studies without the expertise, means or resources to do so."⁴⁷ This is counterfactual: Interconnection customers only "effectuate" Affected System studies in the sense that they sign a study agreement, deposit requisite funds, and provide project data (which they already prepared for their interconnection request to the CAISO) to enable the affected systems to conduct their studies. Moreover, as explained in detail in Section II.A.2, above, interconnection customers clearly have had the "means and resources" to effectuate their limited role in the affected system study process. The CAISO suspects that they will continue to have it in the future.

AWEA's allegations also contradict the accounts of other stakeholders. In its comments, for example, IID states:

⁴⁶ This argument is similar to AWEA's argument regarding coordinating studies, described in Section II.A.2, above, and is an attempt to present a complaint pursuant to Section 206 of the Federal Power Act in the form of comments on a Section 205 filing for other proposed tariff revisions. The CAISO therefore urges that the Commission ignore AWEA's comments. See, e.g., *ISO New England Inc.*, 112 FERC ¶ 61,060 (2005); *Commonwealth Edison Co.*, 108 FERC ¶ 61,185 at P 7 (2004), *order denying reh'g*, 110 FERC ¶ 61,269 at P 10 (2005).

⁴⁷ AWEA Comments at p. 11.

Since the CAISO began taking a more active role in notifying potentially Affected Systems of interconnection requests that may impact their systems and verifying that Interconnection Customers have in fact coordinated with them to ensure reliability impacts have been addressed before a generation project is energized, the process has improved significantly and there is much better communication. Prior to the CAISO doing so, it often was difficult to obtain executed Affected System study agreements from all relevant generators, let alone agreements to fund the necessary costs of mitigation.⁴⁸

Stakeholders thus felt it was important to include the CAISO's coordination role in the tariff to formalize its improved process, contrary to AWEA's allegations.

AWEA next argues that the CAISO's coordination of affected system studies somehow contradicts or fails its "planning responsibility . . . under the CAISO Tariff [and] . . . NERC standards."⁴⁹ AWEA fails to cite to a tariff provision or NERC reliability standard to support this argument, so it is difficult to surmise what specific responsibility AWEA refers to; but, again, the CAISO believes that AWEA ignores the fact that the CAISO does not have sufficient data or visibility to conduct studies or "plan" on other systems, nor the implicit authority. For this very reason affected system studies are necessary under Order No. 2003.

AWEA further argues that the following CAISO Business Practice Manual ("BPM") language "is inconsistent with CAISO's Tariff responsibilities and thus cannot be just and reasonable:"⁵⁰

No later than six months prior to its generating unit's Initial Synchronization Date, an Interconnection Customer must provide documentation to the CAISO confirming that Identified Affected System operators have been contacted, that any system reliability impacts have been addressed (or that there are no system impacts), or that the Interconnection Customer has taken all reasonable steps to

⁴⁸ IID Comments at p. 4.

⁴⁹ AWEA Comments at p. 11.

⁵⁰ IID Comments at pp. 11-12.

address potential reliability system impacts with the Identified Affected System operator but has been unsuccessful.⁵¹

Because the CAISO's BPM language was not part of the CAISO's Section 205 filing in this docket, this is yet another example of AWEA including a Section 206 complaint under the guise of comments to Section 205 filing. As such, the Commission should ignore AWEA's comments. Nevertheless, AWEA also argues that this BPM language demonstrates that "CAISO has a system that is not workable," notwithstanding AWEA's recent praise for the workability of the CAISO system and the CAISO's success in integrating new renewable generation.⁵²

AWEA's argument that the above requirement is "significant" for generators is both conclusory and without basis. This requirement is simply the means by which the CAISO ensures that all affected system issues have been resolved. In most cases the interconnection customer satisfies this requirement by simply forwarding the CAISO a written or electronic communication from the affected system stating "no reliability issues." Moreover, without this requirement the CAISO would be unable to verify independently that all affected system issues have been resolved, and there are therefore no remaining reliability concerns. It is a basic tenet of generator interconnection that projects cannot energize if there are outstanding reliability issues.⁵³ As IID states in its comments, previous to the CAISO's BPM reforms "it often was

⁵¹ *Id.*; CAISO BPM for GIDAP at Section 6.1.4.3.

⁵² *See American Wind Energy Association*, Petition for Rulemaking, Docket No. RM15-21-000, at pp. 24, 30 (June 16, 2015).

⁵³ *See, e.g.*, Order No. 2003 at PP 118-120; NERC Reliability Standard IRO-001-1.1.

difficult to obtain executed Affected System study agreements from all relevant generators, let alone agreements to fund the necessary costs of mitigation.”⁵⁴

AWEA also misleads the Commission by suggesting that this BPM language reflects all that the CAISO does in its coordination role. To wit, AWEA quotes less than 10% of that section in the GIDAP BPM to fit its argument.⁵⁵ The remaining 90% evinces that the CAISO and the transmission owner go to great lengths to assist interconnection customers in resolving affected system issues. The CAISO explains these provisions in detail in Section II.A.6 below. As demonstrated there, the CAISO takes a large, active role to coordinate with interconnection customers as much as possible under the CAISO’s jurisdiction and with limited visibility on other systems. If AWEA wishes to significantly increase the role of transmission providers in the affected system process, it should have raised that issue in its petition for a rulemaking.⁵⁶

5. *AWEA ignores the limits of both the CAISO’s study results, and its inability to impose those study results upon affected systems.*

AWEA accurately states that the CAISO tariff does not require, and that the CAISO has not here proposed to require “an Affected System to use CAISO assumptions or methodologies in its studies.”⁵⁷ AWEA argues that this lack of a requirement could lead to inconsistent results, if, for example, the affected system’s

⁵⁴ IID Comments at p. 4.

⁵⁵ CAISO BPM for GIDAP at Section 6.1.4.3 (72 of 737 words).

⁵⁶ *See American Wind Energy Association*, Petition for Rulemaking, Docket No. RM15-21-000 (June 16, 2015).

⁵⁷ AWEA Comments at p. 12.

option to “group projects differently than CAISO did.”⁵⁸ The CAISO has not included such a provision for the reasons explained above: The CAISO does not have day-to-day expertise with affected systems’ grids, nor the authority or jurisdiction under its tariff to dictate how affected systems must study the potential impact of new generation on their systems. Even if the CAISO included such a tariff provision, it would be unenforceable and the affected systems could ignore it. Moreover, virtually all of the CAISO’s affected systems are governmental entities specifically excluded from the Commission’s jurisdiction under Section 201 of the Federal Power Act.⁵⁹ As such, the Commission itself could not impose such a rule without first exercising any appropriate authority it may have under Sections 210, 211A, and/or 212 of the Federal Power Act, which apply to electric utilities, unregulated transmitting utilities, and transmitting utilities, respectively, or potentially in connection with a complaint regarding an affected system’s reciprocity tariff.⁶⁰ Such an approach would be far beyond the narrow scope of this Section 205 proceeding, and the Commission could only exercise this authority after proper notice and review.

6. *AWEA ignores existing dispute processes and the CAISO’s lack of jurisdiction to impose separate processes on affected systems.*

AWEA’s final argument is that the CAISO’s proposal offers no means to address disputes with Affected Systems.”⁶¹ This is true of the *proposal* itself, but only because the CAISO and Order No. 2003 already provide means to address disputes with

⁵⁸ *Id.*

⁵⁹ 16 U.S.C. § 824(f).

⁶⁰ See 16 U.S.C. §§ 824i – 824k.

⁶¹ AWEA Comments at p. 12.

affected systems. For this reason—and because stakeholders did not request any additional means—the CAISO focused on other issues in this stakeholder initiative. Seeking to impose new tariff provisions on the CAISO that are unrelated to the specific tariff provisions the CAISO is proposing renders AWEA's request beyond the scope of this proceeding and, again, essentially constitutes a section 206 complaint under the guise of comments to a section 205 filing. If, on the other hand, AWEA here alleges that even with the proposal the CAISO tariff does not have a dispute resolution process, AWEA is incorrect. The CAISO notes again that because of their nature as affected systems, there is little the CAISO or the Commission can do to force affected systems to adopt a specific dispute process, and it certainly cannot be done in a CAISO section 205 proceeding. Perhaps for this reason the Commission simply stated in Order No. 2003 that “as provided in the OATT, the Commission’s Dispute Resolution Service is available should the Interconnection Customer wish to challenge the Transmission Provider’s decision to delay construction pending completion of the Affected System upgrades.”⁶²

Additionally, the CAISO affected system process offers a number of remedies available to interconnection customers. First, the CAISO itself avoids impacts on other systems wherever possible. The CAISO’s GIDAP BPM states:

To the extent possible impacts on the Identified Affected System can be mitigated within the CAISO Controlled Grid without the need for infrastructure improvement, the CAISO will work with the Identified Affected System in advance of the Interconnection Customer’s project being energized to develop operating procedures or take other necessary mitigation actions. Consistent with the CAISO Transmission Planning Process and operating procedures, the CAISO

⁶² Order No. 2003 at P 118.

will continue to monitor the effectiveness of non-infrastructure solutions after the project is energized and coordinate with Affected Systems.⁶³

In fact, this form of mitigation is the most common for potential affected system impacts, and requires little or nothing from the interconnection customer.

Second, where infrastructure improvements are required, but where the affected system is not moving forward in resolving such impacts, the CAISO and the relevant CAISO transmission owner(s) will develop and construct the necessary upgrades on the CAISO controlled grid to mitigate the impact on the affected system, subject to reimbursement by the interconnection customer.⁶⁴

Third, if the affected system operator is working with the interconnection customer, but the interconnection customer believes that the affected system is requiring unreasonable mitigation measures, or there is not a real impact to reliability, the CAISO will “review the reasonableness of the studies conducted and study results issued by the Identified Affected System operator. If the CAISO has concerns, the CAISO may review whether the Identified Affected System has used the information on the CAISO system that the CAISO provided to the Identified Affected System, and may make suggestions to the identified Affected System.”⁶⁵ Interconnection customers make this request frequently, and the CAISO has always worked closely with the interconnection customer and affected system to resolve any issue.

⁶³ CAISO BPM for GIDAP at Section 6.1.4.3.

⁶⁴ *Id.*

⁶⁵ *Id.*

As such, and contrary to AWEA's allegations, the CAISO has provided and continues to provide significant means within the bounds of its jurisdiction to mediate instances where the interconnection customer or the affected system raises an issue.

B. AWEA "Solutions"

In response to its singular concerns, AWEA proposes several "solutions," which the CAISO has not currently proposed to the Commission. These solutions, like so much of AWEA's comments, are either a poorly disguised complaint under Section 206 of the Federal Power Act, or a request for the Commission to institute action against individual affected systems, and as such, should not be considered by the Commission here. Moreover, as the Commission has made clear in numerous cases, pursuant to Section 205 of the Federal Power Act, "the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into 'whether the rates proposed by a utility are reasonable—and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.'"⁶⁶ As such, "there is no need to consider in any detail the alternative plans proposed by" commenters such as AWEA.⁶⁷

Further, AWEA's solutions err in the same ways its arguments above err: AWEA fails to understand that the CAISO and the Commission lack the ability to force affected systems into a regimented system, unless action can be justified under FPA sections 210, 211A, or 212 after notice and review. However, that must be done in separate proceedings pertaining to the affected system, not in a CAIOS section 205 proceeding.

⁶⁶ *California Independent System Operator Corp.*, 141 FERC ¶ 61,135 at P 44 n. 43 (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)).

⁶⁷ *Id.*

As Order No. 2003 and Section 201 of the Federal Power Act make clear, the CAISO can only invite affected systems to coordinate with the CAISO, its transmission owners, and its interconnection customers.⁶⁸ AWEA, for example, argues that the Commission “should require CAISO to amend its Tariff to require joint studies with Affected Systems,” and suggests the WECC Path Rating Process as a model. Setting aside that neither CAISO stakeholders nor the CAISO Board of Governors reviewed or approved such a proposal, AWEA’s suggestion fails to understand that the consequences of having to undergo such a process for every interconnection request early in the interconnection process—where so many interconnection customers ultimately withdraw from the queue because they cannot secure a power purchase agreement, permitting, or financing—would be extremely burdensome to all parties, and would slow the interconnection request process to a crawl.

At the end of its comments, AWEA admits that “some may question the extent of FERC jurisdiction to order Affected System coordination.”⁶⁹ It then asks the Commission “to keep in mind the reciprocity requirement in its open access policies” because some affected systems have non-jurisdictional open access tariffs.⁷⁰ The Commission cannot examine and amend the reciprocity tariffs of affected systems in this CAISO proceeding, many of whom are not even parties. Doing so would require separate proceedings on each affected system’s reciprocity tariff. AWEA also makes an erroneous leap in concluding that the CAISO or the Commission could somehow

⁶⁸ AWEA Comments at p. 13.

⁶⁹ AWEA Comments at p. 15.

⁷⁰ *Id.*

impose extra requirements in these tariffs to “require [affected systems] to coordinate with the CAISO” through the CAISO’s Section 205 filing.⁷¹ This is incorrect. The Commission and the courts have been clear that “jurisdiction cannot arise from the absence of objection, or even from affirmative agreement.”⁷² To the contrary, “as a statutory entity, the Commission cannot acquire jurisdiction merely by agreement of the parties before it.”⁷³ In other words, “parties cannot confer jurisdiction; only Congress can.”⁷⁴ As such, AWEA’s suggestion to use non-jurisdictional tariffs to impose its version of eye-for-an-eye reciprocity on affected systems is as infeasible as it would be punitive.⁷⁵

Finally, the CAISO notes that AWEA secretes into its final footnote that the CAISO “has not offered to pursue” voluntary agreements with affected systems to put into place more substantial coordination mechanisms.⁷⁶ This is false. The CAISO has only conveyed that it was not pursuing such voluntary agreements with affected systems as part of the substantial efforts of IPE 2015. The CAISO also conveyed that it could pursue such agreements as part of its next interconnection stakeholder initiative if there is a real desire among stakeholders and the affected systems are willing to participate. To date, the majority of CAISO stakeholders and its affected systems have not expressed meaningful interest in pursuing such agreements. Moreover, as

⁷¹ *Id.*

⁷² *Columbia Gas Transmission Corp. v. FERC*, 404 F.3d 459, 463 (D.C. Cir. 2005).

⁷³ *Id.* (quoting *American Mail Line Ltd. v. FMC*, 503 F.2d 157, 170 (D.C.Cir.1974)).

⁷⁴ *Id.* (quoting *Weinberger v. Bentex Pharms., Inc.*, 412 U.S. 645, 652 (1973)).

⁷⁵ AWEA Comments at p. 15.

⁷⁶ AWEA Comments at p. 15 n. 9.

described in detail in Section II.A.2, above, coordinating with affected systems has not proven to be a hurdle in interconnecting to the CAISO and commencing operation.

C. IID Comments

IID supports the CAISO's proposal but seeks some clarification on certain proposed tariff provisions that raise complex jurisdictional questions. IID correctly points out that the typical CAISO "neighboring system is not a 'public utility' subject to FERC's rate jurisdiction under the FPA,"⁷⁷ and it is therefore possible that some parties could interpret certain provisions incorrectly.

1. Late Notification

IID notes that the CAISO's proposed tariff language allows notification to the affected systems outside of the standard process where (i) the CAISO failed to identify the affected system initially for any reason (e.g., due to administrative error); (ii) the interconnection customer modifies its project such that an electric system operator becomes a potentially affected system; or (iii) the interconnection customer converts from a Wholesale Distribution Access Tariff to the CAISO tariff and the same affected systems were not notified previously (or the conversion was due to a system change).⁷⁸

IID states that it does not object to later notice under these circumstances provided that:

- 1) the same exceptions are accorded, on an even-handed basis, to Affected System Operators with respect to the 60-day notice they must provide to the CAISO so that they too can provide a later notice in the circumstances where

⁷⁷ IID Comments at p. 3.

⁷⁸ IID Comments at p. 4.

- they have an inadvertent administrative error, the Interconnection Customer modifies its project, or an Interconnection Customer conversion occurs; and
- 2) it is clarified that such a late notice by the CAISO will not result in a failure to timely mitigate impacts on an Affected System before a generation project is allowed by the CAISO to be energized or otherwise restrict the ability of an Affected System Operator to recover costs it incurs for necessary mitigation.

The second issue is easily clarified: Yes, if the CAISO provides late notification to the potentially affected system, the affected system's rights under the CAISO tariff are unaffected. In other words, the affected system's 60-day clock only begins to run once it receives notification from the CAISO.⁷⁹ Only where the potentially affected system notifies the CAISO that it is not an affected system, or provides no notification at all after 60 days, will the CAISO presume that the potentially affected system is not an affected system and proceed toward the commercial operation of the generating facility unless the affected system notifies the CAISO of a reliability issue.

Moreover, the CAISO included language in its proposal that for "late" cases, "the CAISO will coordinate with the Interconnection Customer and the potentially Affected System Operator to develop an expedited timeline to determine whether the Affected System is an Identified Affected System." As such, while the CAISO will not limit the

⁷⁹ In practice, affected systems could receive more than notification (and corresponding identification period) for the same interconnection customer. For example, IID could be identified as a potentially affected system after the Phase I study. It could then determine that it is not an affected system. If the interconnection customer then made a substantial modification (such as a change in point of interconnection), the CAISO could determine that re-notifying IID is necessary, and IID would again be allowed to determine whether it is an affected system because of the interconnection customer's changes. At no time would IID lose any rights to mitigation or compensation under the CAISO tariff under this scenario.

potentially affected system's time, it will reach out and begin coordinating with the system as soon and as quickly as possible.

The first issue IID raises is more difficult. Although the CAISO is sympathetic to IID's concern, affording affected systems the same rights to later responses because of administrative errors was not considered in the stakeholder process. More critically, allowing affected systems to provide such notification would be an exception that swallows the rule and defeats the purpose of the CAISO's proposal, which is to provide some degree of clarity for the interconnection customers. The CAISO also believes that it has proposed a straightforward process for the affected systems with a "low threshold," as discussed above.⁸⁰

The CAISO can confirm, however, that instances where the interconnection customers modify or convert their projects would result in new (or renewed) notifications from the CAISO and that the affected system would be afforded all rights to mitigation and payment under the CAISO tariff.

2. *Consequences of Failing to Identify as an Affected System*

IID seeks clarification on the CAISO's proposed provision stating that "Any mitigation the electric system operator that failed to timely identify as an Identified Affected System determines is necessary will be the responsibility of the electric system operator and not of the CAISO, the Participating Transmission Owner(s), or the Interconnection Customer."⁸¹ IID first questions whether this provision is intended to mean that the CAISO "will not take any action . . . to prevent or stop harm to the

⁸⁰ AWEA Comments at p. 8.

⁸¹ IID Comments a pp. 2, 6-9.

reliability of a neighboring system, even if such inaction would result in a violation of mandatory Reliability Standards.”⁸² The answer to this question is No. The reliability of the grid—CAISO controlled or otherwise—is the paramount concern of the CAISO, and the CAISO would never intentionally or knowingly act or fail to act in any way that would affect reliability. The CAISO’s proposed provision that it will “not delay the synchronization or Commercial Operation of the Generating Facility . . . unless the Affected System identifies, and the CAISO confirms, a legitimate reliability issue,” also means that the CAISO *will delay* until any reliability issues are resolved, whenever presented.

Assume, for example, an interconnection customer posts its initial financial security and the CAISO notifies IID that it could be potentially affected by the interconnection customer’s project, and IID notifies that the CAISO that IID is *not* an affected system. Several years pass and on the day before the generator commences commercial operation, IID realizes that there could be a reliability impact on the IID system. In this scenario, the CAISO would confirm a reliability issue exists and *not* energize the generator until the impact could be resolved. Moreover, in such a circumstance or wherever possible, the CAISO will first evaluate whether the affected system impact may be mitigated through CAISO operational procedures without the need for infrastructure improvement on either system. If so, the CAISO will mitigate the impact for the affected system.⁸³

⁸² IID Comments at p. 7.

⁸³ CAISO BPM for GIDAP at Section 6.1.4.3.

IID further asks whether the intent of the CAISO’s proposed language is “that no payment must be made, even by the generator causing the harm, to upgrade facilities on the neighboring system.”⁸⁴ The CAISO agrees with IID that the CAISO lacks the authority “to dictate what mitigation costs a governmental utility, such as IID, can or cannot collect in its rates,” and it certainly cannot restrict the affected system’s legal rights under the CAISO tariff.⁸⁵ For this reason the CAISO included a provision explicitly stating that “An Affected System’s mitigation remedies that may be available outside the CAISO tariff are unaffected by these provisions.” The intent of the provision IID questions is simply that where an affected system fails to identify as such, then later requires mitigation, it must seek compensation for that mitigation from the interconnection customer through those other remedies. After working with stakeholders—including CAISO affected systems—the CAISO concluded that this was a just and reasonable enforcement mechanism to ensure that affected systems were incentivized to meet the “low threshold” of identification. It is not the CAISO’s intent to deny IID the ultimate recoupment of its costs by any and all means. The CAISO only intends to set forth a reasonable process that mitigates timing and financial risk to the extent possible and states what the CAISO will do under specific circumstances, thereby helping to mitigate the financial risks posed to interconnection customers.

⁸⁴ IID Comments at p. 7.

⁸⁵ IID Comments at p. 8.

III. Conclusion

For the reasons explained above and in the CAISO's January 7, 2016 filing in this docket, the CAISO respectfully requests that the Commission should accept the proposed tariff revisions as filed and without condition.

Respectfully submitted,

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Dated: February 4, 2016

CERTIFICATE OF SERVICE

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

Dated at Folsom, CA this 4th day of February, 2016.

/s/ Anna Pascuzzo

Anna Pascuzzo