

129 FERC ¶ 61,124  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
and Philip D. Moeller.

California Independent System Operator Corporation      Docket Nos. ER08-1317-005  
ER09-1722-000  
EL10-15-000

ORDER ACCEPTING TARIFF AMENDMENTS AND COMPLIANCE FILING AND  
INSTITUTING SECTION 206 PROCEEDING

(Issued November 17, 2009)

1. On September 18, 2009, in Docket No. ER09-1722-000, the California Independent System Operator Corporation (CAISO) filed to revise provisions of its Large Generator Interconnection Procedures (LGIP) for interconnection requests in a queue cluster window as part of its Generator Interconnection Process Reform (GIPR).<sup>1</sup> In the same filing, under Docket No. ER08-1317-005, CAISO also submitted a revision directed by the Commission in its September 17, 2009 order.<sup>2</sup> In this order we accept CAISO's proposed amendments, including the revision submitted in compliance, and institute in Docket No. EL10-15-000 a proceeding under section 206 of the Federal Power Act (FPA)<sup>3</sup> regarding the just and reasonableness of CAISO's tariff provisions, particularly section 9.2, as they relate to the financial security obligation following a customer's election to switch from Full Capacity deliverability to Energy-Only deliverability service, as discussed below.

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<sup>1</sup> The proposed tariff revisions are to the GIPR LGIP, as well as to Appendix 2 of the GIPR LGIP. Appendix 2 comprises CAISO's proposed revisions to the GIPR LGIP with variations that apply to projects in the transition cluster.

<sup>2</sup> *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,247, at P 28 (2009) (September 17, 2009 Order).

<sup>3</sup> 16 U.S.C. § 824e (2006).

## **I. Background**

2. On July 28, 2008, CAISO filed its GIPR tariff revisions, proposing amendments to CAISO's open access transmission tariff, now called the Market Redesign and Technology Upgrade (i.e., MRTU) tariff,<sup>4</sup> pursuant to the Commission's initiative on interconnection queuing practices.<sup>5</sup> CAISO's GIPR filing proposed to revise its generator interconnection process, including changes to its LGIP and Large Generator Interconnection Agreement (LGIA). In its September 26, 2008 order, the Commission conditionally accepted CAISO's proposed GIPR tariff revisions.<sup>6</sup> In November 2008, CAISO submitted additional tariff revisions to comply with the September 26, 2008 Order, which were accepted by the September 17, 2009 Order. In the September 17, 2009 Order, the Commission directed CAISO to make a change to the defined term, "Applicable Reliability Standards," to which CAISO had earlier agreed. CAISO now submits such an amendment to this term, in addition to the proposed amendments to the GIPR LGIP provisions (i.e., the LGIP provisions for interconnection requests in a queue cluster window), and requests effective dates of September 26, 2008, and November 18, 2009, respectively.

## **II. Proposed Amendments Under Docket No. ER09-1722-000**

3. CAISO states that the purpose of the GIPR filings is to reform the generator interconnection process by, among other things: (1) clearing the existing backlog of generator interconnection requests; (2) providing interconnection customers with significant certainty regarding network upgrade costs; and (3) balancing generation developer flexibility with increased generation developer commitments.

4. CAISO explains that its interconnection process reform divided projects into three groups: (1) pending projects that would continue to be studied serially under CAISO's pre-GIPR interconnection provisions (the serial group); (2) pending projects that would be studied as a cluster under a slightly modified version of the GIPR provisions (the transition cluster); and (3) future projects that would be studied as part of a cluster under full GIPR provisions.

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<sup>4</sup> CAISO, FERC Electric Tariff, Fourth Revised Volume No. 1 (Market Redesign and Technology Upgrade Tariff).

<sup>5</sup> *Interconnection Queuing Practices*, 122 FERC ¶ 61,252 (2008).

<sup>6</sup> *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292 (2008), *reh'g denied*, 127 FERC ¶ 61,177 (2009) (September 26, 2008 Order).

5. CAISO states that after receiving their Phase I interconnection study results in early August of 2009, a number of interconnection customers in the transition cluster raised concerns about the current tariff requirements for posting interconnection financial security. Specifically, CAISO states that interconnection customers expressed concern that, in light of the current constrained economic climate and high levels of regulatory risk, the amount of financial security required prior to the commencement of construction activities was overly burdensome. CAISO also states that such customers maintain that these requirements could create an incentive for projects to withdraw their interconnection requests, particularly for those interconnection customers that had not yet received regulatory approval of their power purchase agreements. Further, under the current GIPR tariff provisions, too large a portion of the posted financial security amount would be non-refundable in the event that an interconnection customer withdrew its interconnection request for a reason that was beyond the interconnection customer's control.

6. CAISO states that, while it remains committed to the fundamental requirement of the GIPR that interconnection customers must provide sufficient and timely financial security so as to demonstrate project viability, it recognizes that the financial security obligations under the GIPR tariff provisions should be adjusted as appropriate based on experience and prevailing economic conditions and should not create disincentives for the interconnection of generation resources.

7. Among other things, CAISO proposes amendments to LGIP provisions relating to the assignment of the costs of short circuit-related reliability network upgrades (sections 6.3 and 7.3) and interconnection customer modifications to interconnection requests (section 6.7.2). CAISO also proposes certain revisions to its provisions for initial and subsequent postings of interconnection financial security (sections 9.2, 9.3, 9.4, and Appendix 2).

8. With respect to the amendments relating to financial security posting requirements, CAISO proposes to modify the requirements for initial and subsequent postings of interconnection financial security contained in LGIP sections 9.2, 9.3, and Appendix 2. CAISO explains that, within 90 calendar days after publication of the final Phase I interconnection study report, current LGIP section 9.2 requires that each interconnection customer post, with notice to CAISO, two separate financial security instruments: (1) an instrument in the amount of (a) 20 percent of the total cost responsibility assigned to the interconnection customer in the final Phase I interconnection study for network upgrades, or (b) \$500,000, whichever is greater; and (2) an instrument in the amount of 20 percent of the total cost responsibility assigned to the interconnection customer in the final Phase I interconnection study for the Participating Transmission Owner's (PTO) interconnection facilities.

9. In the instant filing, CAISO proposes to modify the amount of the first of the two interconnection financial security instruments that the interconnection customer is

required to post. Under section 9.2 as modified, interconnection customers must post financial security for network upgrades equal to the lesser of (1) 15 percent of the total cost responsibility assigned to the interconnection customer in the final Phase I interconnection study for network upgrades, (2) \$20,000 per megawatt of electrical output of the large generating facility, including any requested modifications thereto, or (3) \$7.5 million, but in no event less than \$500,000. CAISO states that the modifications appropriately balance the need for required financial security amounts that are large enough to discourage speculative interconnection projects and yet not so large as to discourage the continuation of viable projects.

10. CAISO states that currently section 9.3 requires only a second posting of financial security. CAISO explains that within 180 calendar days after publication of the final Phase II interconnection study report or at the start of construction activities of network upgrades or the PTO's interconnection facilities on behalf of the interconnection customer, whichever is earlier, the current section 9.3 requires that the interconnection customer post separate interconnection financial security instruments in the total amount of 100 percent of the total cost responsibility assigned to the interconnection customer (1) in the final Phase I interconnection study for network upgrades, if greater than \$500,000, and (2) in the final Phase II interconnection study for the PTO's interconnection facilities.

11. CAISO proposes to modify section 9.3 to divide this second posting of interconnection financial security into two subsequent postings and to revise the required posting amounts. CAISO states that the purpose of dividing the second posting requirement into two separate postings is to allow the interconnection customer to provide the required interconnection security on a more gradual basis, instead of all at once.

12. CAISO also proposes to modify the tariff provisions concerning the effects on interconnection financial security of withdrawing an interconnection request or terminating an LGIA, including the provisions regarding the schedule for determining what portion of the financial security is rendered non-refundable by the withdrawal or termination.

13. According to CAISO, as modified section 9.4.1 provides that only a portion of the interconnection financial security amount posted will be refunded to the interconnection customer if it withdraws its interconnection request or terminates its LGIA for any of the following reasons: (1) the interconnection customer fails to secure a power purchase agreement after a good-faith effort to do so; (2) the interconnection customer fails to secure a permit or other authorization necessary for the construction or operation of the large generating facility; (3) there is an increase in the estimated cost of the PTO's interconnection facilities of more than 30 percent or \$300,000, whichever is greater, between the Phase I interconnection study and the Phase II interconnection study, provided that the increase is not due to the interconnection customer's modification to the

interconnection configuration; or (4) there is a material change from the Phase I interconnection study in the point of interconnection for the large generating facility mandated by CAISO. CAISO states that all of these reasons are considered to be beyond the interconnection customer's control.

### **III. Compliance Filing under Docket No. ER08-1317-005**

14. In the September 17, 2009 Order the Commission directed CAISO to revise the definition of the term, "Applicable Reliability Standards," in both the standard and GIPR versions of its LGIA (Appendices V and Z to the CAISO tariff).<sup>7</sup> CAISO submits a revised definition.

### **IV. Notice and Responsive Pleadings**

15. Notice of the filing was published in the *Federal Register*, 74 Fed. Reg. 49,373 (2009), with interventions and protests due on or before October 9, 2009.<sup>8</sup> Macquarie Energy North America Trading Inc.; Six Cities;<sup>9</sup> NRG Companies;<sup>10</sup> Mirant Energy Trading, LLC, Mirant Delta, LLC, and Mirant Potrero, LLC; and Southern California Edison Co. filed timely motions to intervene. Iberdrola Renewables, Inc. (Iberdrola) filed a motion to intervene out-of-time.

16. Pacific Gas and Electric Company (PG&E), Large-Scale Solar Association (Large Solar), BrightSource Energy (BrightSource), First Solar, Inc. (First Solar), and SunPower Corp. (SunPower) filed timely motions to intervene and comments.

17. On October 9, 2009, Clipper Windpower Development Company, Inc. (Clipper Windpower) filed a timely motion to intervene and protest and subsequently, on October 13, 2009, filed an amended protest correcting a minor typographical error.

18. On October 26, 2009, CAISO filed an answer to Clipper's protest.

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<sup>7</sup> September 17, 2009 Order, 128 FERC ¶ 61,247 at P 28.

<sup>8</sup> CAISO submitted its compliance filing under Docket No. ER08-1317-005 and its proposed amendments under Docket No. ER09-1722-000 in a single filing.

<sup>9</sup> Six Cities include: Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

<sup>10</sup> NRG Companies include: NRG Power Marketing LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, El Segundo Power LLC, and Long Beach Generation LLC.

19. On November 10, 2009, Clipper Windpower submitted an answer to CAISO's answer.

20. Except for Clipper Windpower, commenters support CAISO's proposed amendments. BrightSource supports CAISO's proposed amendments as a reasonable means of addressing the need for project developers to demonstrate financial security and project viability. First Solar and SunPower state that the cost results from Phase I study estimates of reliability and deliverability upgrades far exceeded parties' expectations. Both also state that CAISO's proposed tariff changes strike a reasonable balance between requiring sufficient financial security for projects to demonstrate project viability and avoiding excessively prohibitive financial security rules that threaten projects. SunPower avers that many projects critical to California's renewable and greenhouse goals likely will withdraw their interconnection requests absent these reforms. Large Solar "strongly supports" CAISO's proposed amendments, commenting that the transition cluster Phase I study estimates for costs of reliability and deliverability upgrades are far beyond what parties expected. Large Solar avers that these cost estimates are unrealistic and CAISO's proposal to adjust the LGIP is well-timed and "an important incremental improvement." PG&E states that it does not oppose the proposed tariff changes, but remarks that it is unclear whether they will sufficiently reduce the number of interconnection requests and weed out non-viable projects.

21. Clipper Windpower objects to CAISO's proposed revisions to the GIPR LGIP, arguing that they fail to include provisions that would reduce the financial security obligations of interconnection customers who elect to change their status from Full Capacity Deliverability (Full Capacity) to Energy-Only Deliverability (Energy-Only) prior to commencement of the Phase II Interconnection Study.<sup>11</sup> Clipper Windpower

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<sup>11</sup> See CAISO, FERC Electric Tariff, Fourth Revised Volume No. 1 (Market Redesign Technology Upgrade Tariff), App. A (Master Definitions Supplement). Full Capacity deliverability status is defined as the condition whereby a large generating facility interconnected with the CAISO controlled grid, under the CAISO Balancing Authority Area peak Demand and a variety of severely stressed system conditions, can deliver the Large Generating Facility's full output to the aggregate of Load on the CAISO controlled grid, consistent with CAISO's Reliability Criteria and procedures and the CAISO On-Peak Deliverability Assessment. Energy-Only deliverability status is defined as a condition elected by an interconnection customer for a large generating facility interconnected with the CAISO controlled grid that makes the Interconnection Customer responsible only for the costs of Reliability Network Upgrades and not the costs of Delivery Network Upgrades. Energy-Only resources will be deemed to have a Net Qualifying Capacity of zero, and therefore, cannot be considered to be a Resource Adequacy Resource.

explains that, as a result, interconnection customers who decide to obtain lesser-level Energy-Only service would still be responsible for whatever financial security requirements accompanied their requests for higher-level Full Capacity service during the Phase I study.

22. Clipper Windpower states that it is developing the 400 MW Concepcion II Project (the Project) located in Baja California, Mexico, that would import clean wind-generated power via direct interconnection to the CAISO markets. Clipper Windpower states that CAISO's estimated cost of Full Capacity service network upgrades is approximately \$538,000,000, while its estimated cost of the reliability network upgrades required by energy only service is \$4,578,000,<sup>12</sup> or a difference in upgrades between service levels of approximately \$533,000,000. Clipper Windpower asserts that requiring security in excess of the amount of the secured obligation is unreasonable.

23. According to Clipper Windpower, the CAISO proposal that interconnection customers who exercise their right to convert their interconnection service—from Full Capacity to Energy-Only deliverability—provide financial security in excess of the secured obligation (i.e., the cost of network upgrades) is contrary to Commission policy and the “just, reasonable, and not unduly discriminatory” standard of the FPA.<sup>13</sup> Clipper Windpower maintains that the proposed security requirement fails to address the situation where an interconnection customer exercises its right under LGIP section 7.1 to change its deliverability status from Full Capacity to Energy-Only, as Clipper Windpower has done.

24. Clipper Windpower explains that LGIP section 7.1 provides that, “[w]ithin five (5) Business Days following the Results Meeting ... the Interconnection Customer shall either (i) confirm the desired deliverability status that the Interconnection Customer had previously designated ... or (ii) change the status of desired deliverability from [Full Capacity] to [Energy-Only].”<sup>14</sup> Moreover, Clipper Windpower notes that, as set forth in the definitions of Full Capacity and Energy-Only deliverability service, Energy-Only customers are responsible only for the costs of Reliability Network Upgrades, while Full Capacity customers are responsible for the costs of both Reliability Network Upgrades and Deliverability Network Upgrades. However, Clipper Windpower takes note that,

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<sup>12</sup> We take note that Clipper Windpower provides \$4,478,000 at page 2 of its protest, but that the number appears more frequently as \$4,578,000. Clipper Windpower Protest at 10.

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.* at 9 (quoting LGIP § 7.1).

under the CAISO amendment, an interconnection customer who exercises its right under LGIP section 7.1 to switch from Full Capacity to Energy-Only service must still pay the deposit on the upgrades assigned as if it had confirmed a desired delivery status of Full Capacity, rather than changing its desired delivery status to Energy-Only.<sup>15</sup> Thus, Clipper Windpower avers that the CAISO amendment obligates projects initially studied as Full Capacity to post security for the cost of upgrades for which they will not be responsible.

25. Clipper Windpower claims that prior to the filing of the financial security revisions, CAISO, through its staff, repeatedly assured Clipper Windpower and other interconnection customers that it would recognize a difference between interconnection service levels in setting financial security requirements for network upgrades costs.<sup>16</sup> Clipper Windpower contends that based on this understanding it went ahead with the payment of a \$250,000 non-refundable deposit. Clipper Windpower states that it now faces the decision of whether to proceed with the payment of the \$7,500,000 for its security obligation, 50 percent of which is non-refundable.

26. Clipper Windpower states that it could not have been aware that Full Capacity upgrades could possibly be as high as \$538,000,000, and that it could face the possibility of losing the \$7,500,000 it would pay as Network Upgrade Financial Security, as well as the initial \$250,000 deposit, if the Project proves to be unviable. Clipper Windpower concludes that if CAISO's position on the security deposit amount had been clear, Clipper Windpower would not have moved forward into the transition interconnection queue with a proposal to sell its wind-generated power into the California market.

27. Clipper Windpower further contends that transmission providers do not need protection against costs that they will *not* incur in constructing network upgrades.<sup>17</sup> Clipper Windpower adds that one of the policy objectives of Order No. 2003 is to ensure a proper balancing of the risk associated with the financing and development of new facilities.<sup>18</sup> Clipper Windpower cites Commission precedent for the proposition that such balancing requires an interconnection customer to obtain security to protect the

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<sup>15</sup> *Id.* at 9.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *Id.* at 11.

<sup>18</sup> *Id.* (quoting *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,078, at P 21 (2009), which cited *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171, at P 6 (2004)).

transmission provider from default during the design, procurement, and construction phase, but the interconnection customer retains certain protections to prevent it from having to provide too much security.<sup>19</sup> In particular, Clipper Windpower states that Order No. 2003 requires the reduction of security on a dollar-for-dollar basis, as payments are made by an interconnection customer, to guard against providing too much security while ensuring sufficient protection to the transmission provider against real cost exposure.<sup>20</sup> Clipper Windpower explains that as the interconnection customer makes security payments, the transmission provider's cost exposure—its risk—decreases and under Commission policy, the interconnection customer's obligation to provide security similarly decreases.<sup>21</sup>

28. Clipper Windpower claims that CAISO's proposed revisions in the instant filing would impose vastly different financial security requirements on an interconnection customer that initially selects Energy-Only service in its interconnection request than would be imposed on another interconnection customer that initially selects Full Capacity interconnection and subsequently switches to Energy-Only service after the Phase I study is completed. Clipper Windpower states that, notwithstanding these interconnection customers have projects with the same capacity and other characteristics, are part of the same cluster and interconnect at the same point, and would be assigned identical network upgrade costs, they would be subject to vastly different obligations to post financial security. Clipper Windpower contends that this is patently unduly discriminatory.

29. Clipper Windpower requests that the Commission require CAISO to modify its tariff to provide for a reduction in the amount of financial security to be provided by an interconnection customer that exercises the option to change its service level from Full Capacity to Energy-Only service after the Phase I study is completed. In addition, Clipper Windpower requests that if the Commission accepts CAISO's proposed revisions to the financial security requirements, the Commission should direct CAISO to refund Clipper Windpower's \$250,000 interconnection request deposit based on CAISO's failure to communicate its position on this issue.

30. In its answer to Clipper Windpower, CAISO asserts that, under the guise of a protest to the proposed GIPR LGIP financial security revisions, Clipper Windpower

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<sup>19</sup> *Id.* at 11-12 (citing *Cal. Indep. Sys. Operator Corp.*, 126 FERC ¶ 61,078, at P 22 (2009)).

<sup>20</sup> *Id.* at 12 (citing *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146, at P 594 (2003)).

<sup>21</sup> *Id.*

seeks rejection of a tariff provision that the Commission accepted in the September 26, 2008 Order as part of the GIPR LGIP and which the CAISO is not proposing to revise in the instant filing. According to CAISO, under the GIPR LGIP an interconnection customer's initial posting of interconnection financial security is based on the interconnection customer's share of both reliability network upgrades and delivery network upgrades at the time that the Phase I interconnection study was conducted.<sup>22</sup>

31. CAISO states that, following its original proposal, a number of stakeholders commented that the initial posting amount should be changed and that a "subtractor" should be included when a Full Capacity interconnection customer elected to switch to Energy-Only deliverability status before the commencement of the Phase II study. CAISO states that it responded by lowering the amount of the first posting but did not include a "subtractor," reasoning that "the fact that one or more interconnection customers change from Full Capacity to Energy-Only deliverability status does not necessarily lead to a reduction in overall network upgrade costs."<sup>23</sup>

32. CAISO further states that under such circumstances, it is necessary to complete the Phase II study to determine whether and to what extent any upgrades characterized in

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<sup>22</sup> See CAISO, FERC Electric Tariff, Fourth Revised Volume No. 1 (Market Redesign Technology Upgrade Tariff), App. A (Master Definitions Supplement). Reliability network upgrades are the transmission facilities at or beyond the point of interconnection identified in the interconnection studies as necessary to interconnect one or more large generating facilities safely and reliably to the CAISO controlled grid, which would not have been necessary but for the interconnection of one or more large generating facilities, including network upgrades necessary to remedy short circuit or stability problems, or thermal overloads. Reliability network upgrades shall be deemed necessary only for thermal overloads, occurring under any system conditions, where such thermal overloads cannot be adequately mitigated through congestion management, operating procedures, or special protection or remedial action systems based on the characteristics of the large generating facilities included in the interconnection studies, limitations on market models, systems, or information, or other factors specifically identified in the interconnection studies. Reliability network upgrades also include, consistent with the practice of the Western Energy Coordinating Council (WECC), the facilities necessary to mitigate any adverse impact the large generating facility's interconnection may have on WECC's path rating. Delivery network upgrades are transmission facilities at or beyond the point of interconnection, other than reliability network upgrades, identified in the interconnection studies to relieve constraints on the CAISO controlled grid.

<sup>23</sup> CAISO Answer at 5.

Phase I as deliverability upgrades would no longer be required. Moreover, CAISO posits that if the total network upgrade costs do decline, the interconnection customer who switches to Energy-Only deliverability status does realize the benefit of such reduction because, pursuant to proposed revisions in the instant filing, the second and third security postings are based on the lesser of Phase I or Phase II study costs.

33. CAISO responds to Clipper Windpower's claim of reliance upon incorrect information regarding the cost components of the initial financial security posting communicated during a September 11, 2009 results meeting with CAISO staff. CAISO concedes that while this is true, Clipper Windpower was subsequently informed on September 22, 2009, by email, that the financial security information relayed at the results meeting had been incorrect and that the initial financial security posting would be based on all Phase I network cost estimates, including both reliability and delivery network upgrades. CAISO adds that Clipper Windpower cannot reasonably assert reliance on a 2009 miscommunication that was subsequently corrected as a basis for providing a \$250,000 deposit study deposit a year earlier.

34. In its answer to CAISO's answer, Clipper Windpower argues, among other things, that the possibility that switching to Energy-Only deliverability service will not have downward cost effects for a cluster group is irrelevant. Clipper Windpower explains that, when one interconnection customer switches from Full Capacity deliverability to Energy-Only deliverability service, the costs are reallocated among the cluster. Clipper Windpower contends that the "fixed costs are allocated among the customer group receiving the service," notwithstanding that there was no "downward effect" on costs for the cluster group and, therefore, CAISO's argument is an irrelevant non-sequitur.<sup>24</sup>

## V. Discussion

### A. Procedural Matters

35. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2009), the notices of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Further, pursuant to Rule 214, we will grant the unopposed motion to intervene out-of-time filed by Iberdrola given its interest, the early stage of the proceeding, and the absence of any undue prejudice or delay.

36. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2009), prohibits an answer to a protest or an answer unless otherwise

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<sup>24</sup> Clipper Windpower Answer at 6.

ordered by the decisional authority. We will accept CAISO's and Clipper Windpower's answers because they have provided information that assisted us in our decision-making process.

**B. Commission Determination**

37. We will accept CAISO's proposed amendments, as well as its compliance filing revising the definition of "Applicable Reliability Standard," and institute a section 206 proceeding, as discussed below.

38. CAISO's proposed amendments are part of its generator interconnection process reform. CAISO explains that, in early August 2009, following its July and November 2008 submissions proposing GIPR LGIP revisions, a number of interconnection customers raised concerns about the current tariff requirements for posting interconnection financial security. Those customers averred that, in the event that an interconnection customer withdrew its interconnection request for a reason beyond its control, the amount of non-refundable security was too large.<sup>25</sup> Accordingly, in the instant filing CAISO proposes, *inter alia*, to revise these financial security requirements. While the CAISO filing does propose amendments to the tariff provisions on interconnection financial security posting requirements, it does not propose to amend the provisions relating to interconnection customers who elect to switch from Full Capacity to Energy-Only deliverability service (and their related financial security obligations), as Clipper Windpower now requests. Moreover, CAISO points out that, although a number of stakeholders previously had raised this issue, referring to a "subtractor" that should be included when a Full Capacity interconnection customer elects to switch to Energy-Only deliverability status before the commencement of the Phase II study, CAISO "ultimately changed the proposal to lower the amount of the first posting but did not include a 'subtractor.'"<sup>26</sup>

39. The Phase I interconnection study makes a preliminary, but detailed determination of the transmission facilities that would be required to interconnect the generators in the study.<sup>27</sup> The Phase I study identifies the need for Reliability Network Upgrades, Delivery Network Upgrades, and Interconnection Facilities.<sup>28</sup> This study is more

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<sup>25</sup> CAISO Filing at 3.

<sup>26</sup> CAISO Answer at 5.

<sup>27</sup> CAISO Filing, Docket No. ER08-1317-000, Ex. ISO-2 at 7 (filed July 28, 2008) (Test. Robert Sparks).

<sup>28</sup> *Id.*

comprehensive than the Order No. 2003 Feasibility Study; the results of the Phase I study form the basis for the posting of financial security, notwithstanding that the specific transmission projects identified as needed in the Phase I study are not necessarily those that will need to be constructed.<sup>29</sup>

40. Further, CAISO states that an interconnection customer does realize a reduction by switching from Full Capacity to Energy-Only deliverability status because, under the proposed revision, the second and third security postings are based on the lesser of Phase I or Phase II study costs.<sup>30</sup> And under the CAISO tariff, Clipper Windpower would be required to keep the \$7.5 million financial security deposit until the Phase II study results become available, which will not be until November 2010. Only then could the financial security deposit be revised. Moreover, if, between the time of the initial financial security posting (which is due December 2009) and 180 days after the Phase II study results are published, Clipper Windpower must withdraw through no fault of its own, it stands to lose 50 percent of the *initial* security posting, not the revised, presumably lower posting amount. Therefore, we agree with Clipper Windpower that for generators switching from Full Capacity deliverability to Energy-Only deliverability status, it may be unjust and unreasonable for “Transmission providers ... to be protected with respect to costs they will *not* incur in constructing Network Upgrades for an [interconnection customer] that has switched its deliverability status to [Energy-Only].”<sup>31</sup> In the context of a filing that seeks to reduce financial security postings for customers in the queue, Clipper Windpower has highlighted concerns with respect to other existing tariff provisions that we agree may need to be addressed. Accordingly, because requiring a financial security deposit that exceeds the total costs of Network Upgrades under the new election (i.e., following a switch from Full Capacity deliverability to Energy-Only deliverability service) may not be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, we will institute in Docket No. EL10-15-000 a proceeding under section 206 of the FPA to investigate whether the tariff provision(s) relating to the financial security deposit following such a switch in status is just and reasonable.

41. CAISO also maintains that the fundamental requirement of the GIPR is to ensure that interconnection customers provide sufficient and timely financial security in order to demonstrate project viability. We agree with CAISO that it is important that the tariff provisions appropriately balance the need for required financial security amounts that are

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<sup>29</sup> *Id.*, Ex. ISO-2 at 8.

<sup>30</sup> CAISO Answer at 5.

<sup>31</sup> *Id.* at 11 (emphasis in original).

large enough to discourage speculative interconnection projects and yet not so large as to discourage the continuation of viable projects.<sup>32</sup> However, as mentioned above, it may be unjust and unreasonable to require a financial security obligation for an amount greater than an interconnection customer's full exposure of reliability upgrades (following a customer's election to switch from Full Capacity deliverability to Energy-Only deliverability service). In addition, we note that, consistent with CAISO's other proposed security requirements, the security deposit provided by such a customer would act to discourage speculative interconnection projects yet would not chill the advancement of viable projects.

42. We conclude that a trial-type hearing is not necessary to resolve the matter that is the subject of this proceeding. Rather, we believe a paper hearing will allow us to determine whether CAISO's tariff provisions relating to the financial security deposit following an interconnection customer's switch in status continue to be just and reasonable. We direct CAISO to submit a filing in Docket No. EL10-15-000 to demonstrate whether its current tariff provisions, particularly section 9.2, relating to an interconnection customer's financial security obligation following the customer's election to switch from Full Capacity deliverability to Energy-Only deliverability service is just and reasonable, within 30 days of the date of this order. Comments from interested parties may be filed within 30 days following CAISO's filing. After receipt and consideration of the filing and any comments, the Commission will address in a subsequent order whether the current tariff provisions relating to the financial security deposit following an interconnection customer's switch in status continue to be just and reasonable.

43. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA requires that the Commission establish a refund effective date that is no earlier than publication of notice of the Commission's initiation of its investigation in the *Federal Register*, and no later than five months subsequent to that date. In order to give maximum protection to customers, and consistent with our precedent,<sup>33</sup> we will establish a refund effective date at the earliest date allowed. This date will be the date on which notice of our investigation in this proceeding is published in the *Federal Register*. The Commission is also required by section 206 to indicate when it expects to issue a final order. The Commission expects to

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<sup>32</sup> CAISO Filing at 8 (citing September 26, 2008 Order, 124 FERC ¶ 61,292 at P 60).

<sup>33</sup> See, e.g., *PJM Interconnection, L.L.C.*, 90 FERC ¶ 61,137 (2000); *Cambridge Elec. Light Co.*, 75 FERC ¶ 61,177, *clarified*, 76 FERC ¶ 61,020 (1996); *Canal Elec. Co.*, 46 FERC ¶ 61,153, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

issue a final order in this section 206 investigation within 180 days of the date of this order.

44. We will accept CAISO's proposed amendments proffered under Docket No ER09-1722-000.

45. With respect to the definition of "Applicable Reliability Standards," in the September 17, 2009 Order the Commission directed that CAISO revise this term. CAISO has complied with this directive and, accordingly, we will accept CAISO's revised definition submitted under Docket No. ER08-1317-005.

The Commission orders:

(A) CAISO's proposed amendments submitted under Docket No. ER09-1722-000 are hereby accepted, to be effective November 18, 2009, as requested, as discussed in the body of this order.

(B) CAISO's proposed revision submitted under Docket No. ER08-1317-005 is hereby accepted, to be effective September 26, 2008, as requested, as discussed in the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred by the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), an investigation is hereby instituted, in Docket No. EL10-15-000, concerning the justness and reasonableness of CAISO's tariff provisions relating to the financial security deposit following an interconnection customer's switch in status.

(D) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the investigation ordered in Ordering Paragraph (C) above, under section 206 of the Federal Power Act, in Docket No. EL10-15-000.

(E) CAISO is hereby directed to submit a filing in Docket No. EL10-15-000 to demonstrate whether its current tariff provisions relating to the financial security deposit following an interconnection customer's switch in status continue to be just and reasonable, within 30 days of the date of the issuance of this order. Any interested person desiring to be heard in this proceeding should file a notice of intervention or motion to intervene with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.214). Interested parties may file comments within 30 days of CAISO's filing.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.