

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

**CSOLAR IV South, LLC, Wistaria Ranch )  
Solar, LLC, CSOLAR IV West, LLC, )  
and CSOLAR IV North, LLC, )  
)  
Complainants, )  
)  
v. )  
)  
California Independent System Operator )  
Corporation )  
)  
Respondent. )**

**Docket No. EL13-\_\_\_\_-000**

**COMPLAINT OF THE CSOLAR ENTITIES**

Pursuant to Sections 206 and 306 of the Federal Power Act (the “FPA”),<sup>1</sup> and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (the “Commission” or “FERC”),<sup>2</sup> CSOLAR IV South, LLC (“CSOLAR South”), Wistaria Ranch Solar, LLC (“Wistaria”), CSOLAR IV West, LLC (“CSOLAR West”), and CSOLAR IV North, LLC (“CSOLAR North”) (collectively, the “CSOLAR Entities”) submit this complaint (this “Complaint”) regarding the California Independent System Operator, Inc.’s (the “CAISO”) interpretation of its Generator Interconnection Procedures (the “GIP”) and provisions of its *pro forma* Large Generator Interconnection Agreement (“LGIA”)<sup>3</sup> as permitting the CAISO to terminate the entirety of an interconnection request and/or LGIA where a phase of a project is not

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<sup>1</sup> 16 U.S.C. §§ 824e, 825e (2006).

<sup>2</sup> 18 C.F.R. § 385.206 (2012).

<sup>3</sup> The GIP and the *pro forma* LGIA for Interconnection Requests in a Queue Cluster Window that are tendered a Large Generator Interconnection Agreement on or after July 3, 2010 are set forth in Appendices Z and CC, respectively, of the CAISO’s Fifth Replacement Electronic Tariff (the “Tariff”). Capitalized terms not otherwise defined herein have the meaning set forth in the Tariff.

constructed, even if an earlier phase of the project is already under construction or in operation and even if the customer has made commitments that will ensure other generators are not adversely affected. As described herein, the CAISO's interpretation of its GIP and *pro forma* LGIA could result in unjust and unreasonable terminations of interconnection requests and/or LGIAs for new projects that have already required substantial investments, to the detriment not only of interconnection customers, but also purchasers and consumers that are relying on such projects. Accordingly, the CSOLAR Entities respectfully request that the Commission make clear that the CAISO is not permitted to terminate the entirety of an interconnection request and/or LGIA that provides for phased project development if (a) one or more phases of the project are already under construction or in operation; (b) one or more later phases of the project fails to meet its milestones, or is not constructed; and (c) the interconnection customer commits to bear the costs for all affected generators, regardless of whether such generators are connected to the CAISO grid or the distribution system of a Participating Transmission Owner ("Participating TO"). As explained in detail below, such relief is not only consistent with the CAISO Tariff and Commission precedent but is particularly appropriate in light of contractual language in the LGIA between the CAISO and certain of the CSOLAR Entities that contemplates only partial – rather than complete – termination of the LGIA in the event that any project milestones are missed.

## I.

### **CORRESPONDENCE AND COMMUNICATIONS**

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## II.

### THE PARTIES

#### A. The CSOLAR Entities

CSOLAR South and Wistaria are developing the Imperial Solar Energy Center Project near El Centro, California, which will be constructed in two phases. In Phase I, CSOLAR South will develop a 130 MW ground-mounted photovoltaic solar power generating system (the “South Project”), and in Phase II, Wistaria will develop a 70 MW ground-mounted photovoltaic solar power generating system (the “East Project”). The South Project is already under construction and is projected to achieve commercial operation in 2013. The output of the South Project is committed under a long-term power purchase agreement between CSOLAR South and San Diego Gas & Electric Company (“SDG&E”). The East Project is in an advanced stage of development and significant efforts continue to finalize the development phase of the East Project as soon as possible and bring the project on line in 2016. The South and East Projects will be interconnected to SDG&E’s system at the Imperial Valley Substation, and a non-conforming LGIA (the “Imperial Solar LGIA,” provided as Attachment B hereto) among the

CAISO, SDG&E, CSOLAR South, Wistaria,<sup>4</sup> and Tenaska Solar Management, LLC (“Tenaska Solar”) dated October 21, 2011, has been filed with, and accepted by the Commission.<sup>5</sup>

CSOLAR West and CSOLAR North are developing a project in Imperial County, near El Centro, California, which will also be developed in two phases. In Phase I, CSOLAR West will develop a 150 MW ground-mounted photovoltaic solar power generating system (the “West Project”), and in Phase II, CSOLAR North will develop a 100 MW ground-mounted photovoltaic solar power generating system (the “North Project”). The output of the West Project is committed under a long-term PPA between CSOLAR West and SDG&E. A single interconnection request was submitted for the West and North Projects, and it is anticipated that CSOLAR West and CSOLAR North will, in the near future, enter into a single LGIA that covers both of the West and North Projects as a first phase and a subsequent phase.

## **B. The CAISO**

Pursuant to the Tariff, the CAISO provides open access transmission service and administers organized wholesale markets in the state of California. Among other things, the CAISO is responsible under its Tariff for offering interconnection service on a non-discriminatory basis in accordance with the terms of the GIP and the *pro forma* LGIA.

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<sup>4</sup> CSOLAR IV East, LLC (“CSOLAR East”), an affiliate of the CSOLAR Entities and the prior developer of the East Project, assigned its rights and obligations under the Imperial Solar LGIA to Wistaria. In addition to the East Project, Wistaria is developing a 100 MW facility for which a separate interconnection request was submitted.

<sup>5</sup> See *San Diego Gas & Elec. Co.*, Docket No. ER12-170-000 (Nov. 29, 2011) (unreported); *San Diego Gas & Elec. Co.*, Docket No. ER12-170-000 (Dec. 13, 2011) (unreported) (correcting a typographical error in the prior order); *California Indep. Sys. Operator Corp.*, Docket No. ER12-556-000 (Jan. 30, 2012) (unreported).

### III.

#### BACKGROUND

##### A. Relevant Tariff Provisions

Under the GIP, an interconnection customer is permitted to make certain specified modifications to its interconnection request without affecting its interconnection queue position.<sup>6</sup> To the extent that the customer wishes to make a change that is not expressly permitted under the Tariff, “the Interconnection Customer may first request that the CAISO evaluate whether such modification is a Material Modification,”<sup>7</sup> where a “Material Modification” is defined as “[a] modification that has a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.”<sup>8</sup> If such a request is made, “the CAISO, in coordination with the affected Participating TO(s) and, if applicable, any Affected System Operator, shall evaluate the proposed modifications prior to making them and the CAISO shall inform the Interconnection Customer in writing of whether the modifications would constitute a Material Modification.”<sup>9</sup> In the event that the modification is deemed to be a Material Modification, “[t]he Interconnection Customer may then withdraw the proposed modification or proceed with a new Interconnection Request for such modification.”<sup>10</sup>

Similarly, the *pro forma* LGIA states that “[t]he Interconnection Customer or the Participating TO may undertake modifications to its facilities, subject to the provisions of this

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<sup>6</sup> See Tariff, Appendix Y, § 6.9.2.

<sup>7</sup> *Id.*, § 6.9.2.2.

<sup>8</sup> Tariff, Appendix A (definition of “Material Modification”). See also *id.*, Appendix CC, Article 1 (almost identical definition of “Material Modification”).

<sup>9</sup> *Id.*, Appendix Y, § 6.9.2.2.

<sup>10</sup> *Id.*

LGIA and the CAISO Tariff.”<sup>11</sup> In the event that a customer requests a modification, the LGIA further provides that “[t]he Participating TO and the CAISO shall determine if a Large Generating Facility modification is a Material Modification in accordance with the GIP.”<sup>12</sup>

A separate, but related, tariff provision in Article 17 of the LGIA gives a non-breaching party the right to terminate in the event of Breach by another party, where “Breach” is “the failure of a Party to perform or observe any material term or condition of [the] LGIA.”<sup>13</sup> In particular, Section 17.1.2 states:

If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity.<sup>14</sup>

Nonetheless, the *pro forma* LGIA further provides that “no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations,” including, in particular, “the filing with FERC of a notice of termination of this LGIA (if applicable), which notice has been accepted for filing by FERC. . . .”<sup>15</sup>

## **B. The Imperial Solar LGIA**

As indicated above, the CAISO, SDG&E, CSOLAR South, Wistaria and Tenaska Solar are parties to the Imperial Solar LGIA, which is a non-conforming LGIA providing for interconnection service for the South and East Projects that has been filed with, and accepted by,

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<sup>11</sup> *Id.*, Appendix CC, § 5.19.1.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*, Article 1 (definition of “Breach”).

<sup>14</sup> *Id.*, § 17.1.2.

<sup>15</sup> *Id.*, § 2.3.4.

the Commission. Because network upgrades required for the interconnection of the East Project were anticipated to not be completed until as much as seven years after execution of the Imperial Solar LGIA, a new non-conforming provision was added to give CSOLAR South and Wistaria, on the one hand, and SDG&E and the CAISO, on the other hand, the right to partially terminate the LGIA in certain circumstances. Partial Termination in the Imperial Solar LGIA is defined as:

termination of this LGIA as described in Article 2.4.4 where i) this LGIA shall be terminated under Article 2.4.4 only with respect to one or more Electric Generating Units of a Phased Generating Facility; ii) this LGIA shall continue to remain in force and effect with respect to the first Electric Generating Unit to be placed into service and any subsequent Electric Generating Units of the Phased Generating Facility that are not the subject of the Partial Termination, and iii) no disconnection shall occur with respect to those phases of or Electric Generating Units within the Phased Generating Facility that are not terminated.<sup>16</sup>

In particular, CSOLAR South and Wistaria have the right to partially terminate the Imperial Solar LGIA in their “sole discretion,”<sup>17</sup> but Appendix B makes clear that:

The [Interconnection Customer] must exercise its Partial Termination Right within one hundred eighty (180) days after receipt of Notice from Southern California Edison Company (“SCE”) who is the Participating TO whose Transmission System is part of the CAISO Controlled Grid and who is responsible for construction of the Network Upgrades necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid that: (A) SCE reasonably intends to commence Construction Activities in one hundred eighty (180) days of the Network Upgrades on SCE’s Transmission System necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid or (B) SCE does not intend to construct Network Upgrades on SCE’s Transmission System because they are not necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid.<sup>18</sup>

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<sup>16</sup> Imperial Solar LGIA, Article 1 (definition of “Partial Termination”).

<sup>17</sup> *Id.*, § 2.4.4.2.

<sup>18</sup> *Id.*, Appendix B, § B.5.

On July 27, 2012, SCE notified the parties to the Imperial Solar LGIA that the SCE network upgrades contemplated in the LGIA would not be constructed and were not necessary for the full deliverability of the output of the East Project. Accordingly, under the terms of the Imperial Solar LGIA, CSOLAR South and Wistaria must exercise or lose their partial termination rights by January 23, 2013, – *i.e.*, 180 days after receipt of the July 27, 2012 notice.

The Imperial Solar LGIA also states that partial termination may be exercised “at the mutual discretion of the Participating TO’s [(sic)] and the CAISO, upon the failure of the Interconnection Customer to meet any of the milestones set forth in Appendix B.”<sup>19</sup> Unlike CSOLAR South and Wistaria’s partial termination rights, there are no temporal limitations on SDG&E and the CAISO’s right to partially terminate the Imperial Solar LGIA.

**C. Communications Between The CSOLAR Entities And The CAISO Regarding Downsizing**

On August 27, 2012, Tenaska, Inc. (“Tenaska”), the upstream owner of the CSOLAR Entities, sent a letter (the “Tenaska August 27, 2012 Letter,” provided as Attachment C hereto) to the CAISO requesting that the CAISO assess whether elimination of the East Project and/or North Project would be considered a Material Modification of either the CSOLAR Entities’ LGIAs and/or interconnection requests. The letter stated that Tenaska would be willing to fund the full amount of its required upgrades notwithstanding the reduction in project size, and to forego refunds in order to ensure that the size reduction would not constitute a Material Modification.

By letter dated October 22, 2012 (the “CAISO October 22, 2012 Letter,” provided as Attachment D hereto), the CAISO notified Tenaska that its “request is material and therefore

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<sup>19</sup> *Id.*, § 2.4.4.2.

denied.”<sup>20</sup> The CAISO stated that “[t]he cluster interconnection process doesn’t provide for a Phase II interconnection ‘restudy’, which is the level of review and inquiry that the [CAISO] would need to undertake when upgrades are evaluated in a study group, and are common to multiple generating facilities.”<sup>21</sup> The CAISO further indicated that even if the CAISO were to undertake a restudy, a reduction in project size “would likely change the cost allocation among the group. . . .”<sup>22</sup> While the CAISO acknowledged that “Tenaska has offered to maintain its current cost responsibility as part of the downsizing request,” the CAISO stated that “this offer does not obviate the fact that the GIP does not provide for restudy opportunities.”<sup>23</sup>

#### **D. The CAISO’s Downsizing Proposal In Docket No. ER13-218-000**

On October 29, 2012, the CAISO submitted a tariff amendment in Docket No. ER13-218-000 (the “ER13-218 Proceeding”) to give certain customers in the CAISO interconnection queue a one-time opportunity to downsize their projects.<sup>24</sup> As the CAISO explained, the customers that entered the interconnection queue prior to cluster five did so in what has, in retrospect, proven to be “a time of significant transition in the electricity industry, particularly in California.”<sup>25</sup> As a result of the market changes, the CAISO received requests from numerous customers to modify the size of their interconnection requests. The CAISO explained, however, that its interconnection process does not “permit an interconnection customer to split a project that has been studied as a single project in interconnection studies into multiple projects with

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<sup>20</sup> CAISO October 22, 2012 Letter at 1.

<sup>21</sup> *Id.* at 2.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Tariff Amendment to Implement Downsizing Opportunity for Interconnecting Generator Projects (generator project downsizing tariff amendment), Docket No. ER13-218-000 (filed Oct. 29, 2012) (the “CAISO ER13-218 Filing”).

<sup>25</sup> *Id.*, Transmittal Letter at 7.

multiple generator interconnection agreements.”<sup>26</sup> The CAISO further explained that opportunities to downsize are currently limited under the CAISO Tariff because the “opportunity to downsize during the interconnection study process has passed” for most projects that entered the queue prior to cluster five, and “there is a high likelihood that downsizing the projects would have a material impact on other customers in the queue, therefore making them ineligible for downsizing under the material modification review process.”<sup>27</sup> The CAISO stated that “[i]n the worst potential case, inability to complete the project or meet milestones could be a breach of the customer’s generator interconnection agreement.”<sup>28</sup> To address this issue, the CAISO proposed that customers that entered the CAISO’s interconnection queue prior to cluster five be given “a *one-time opportunity* to downsize their projects with no limitation on the MW generating capacity of the downsizing requests,”<sup>29</sup> provided that they submit a downsizing request to the CAISO by January 4, 2013.<sup>30</sup>

In response to the October 27 Filing, the CSOLAR Entities filed a limited protest explaining that the CAISO’s proposal does not give customers adequate comfort that the entirety of their LGIAs will not be terminated in the event that one or more phases of a project misses its milestones, even in cases where earlier project phases are already under construction or in operation.<sup>31</sup> The CSOLAR Entities therefore requested that the Commission find that the CAISO may not terminate the entirety of an LGIA that provides for phased development of a

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<sup>26</sup> *Id.* at 6-7.

<sup>27</sup> *Id.* at 7.

<sup>28</sup> *Id.* (footnote omitted).

<sup>29</sup> *Id.* at 2 (emphasis in original).

<sup>30</sup> *See id.* at 11.

<sup>31</sup> Motion to Intervene and Limited Protest of the CSOLAR Entities, Docket No. ER13-218-000 (filed Nov. 19, 2012) (the “CSOLAR ER13-218 Protest”). The CSOLAR ER13-218 Protest was filed by CSOLAR South, CSOLAR East, CSOLAR West, and CSOLAR North.

project where an earlier project phase is already under construction or in operation and a later phase of the project misses its milestones if the interconnection customer makes certain financial commitments to ensure that other customers are not harmed.<sup>32</sup>

In response to the CSOLAR ER13-218 Protest, the CAISO argued that the CSOLAR Entities' request was beyond the scope of the ER13-218 Proceeding.<sup>33</sup> In an order issued on December 20, 2012, the Commission conditionally accepted the CAISO's downsizing proposal, subject to the CAISO "amend[ing] its tariff to ensure that downsizing generators bear the costs of their downsizing on all impacted generators, regardless of whether the impacted generator is connected to the CAISO-controlled grid or to the distribution system of one of the [Participating TOs]."<sup>34</sup> The Commission also agreed with the CAISO that the concerns raised in the CSOLAR ER13-218 Protest were "outside of the scope of [the] proceeding."<sup>35</sup>

#### IV.

#### COMPLAINT

##### **A. The CAISO's Interpretation Of Its GIP And *Pro Forma* LGIA Could Result In Unjust And Unreasonable Terminations Of Entire Interconnection Requests And/Or LGIAs In The Event That A Later Phase Of A Project Fails To Meet Its Milestones.**

In interpreting its GIP and *pro forma* LGIA, the CAISO has taken the position that failure to meet a project milestone, or failure to construct a phase or the full generating capacity of a project, constitutes a Material Modification of the interconnection request, or a breach of an

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<sup>32</sup> See *id.* at 2.

<sup>33</sup> See Motion to File Answer, and Answer to Protests, of the California Independent System Operator Corporation at 7-9, Docket No. ER13-218-000 (filed Nov. 30, 2012) (the "CAISO ER13-218 Answer").

<sup>34</sup> *California Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,219 at P 48 (2012) (the "December 20 Order").

<sup>35</sup> *Id.* at P 46.

LGIA that would give the CAISO the right to terminate the request and/or LGIA *in its entirety*. In particular, in the CAISO October 22, 2012 Letter, the CAISO made clear that Tenaska’s request, on behalf of the CSOLAR Entities, to reduce the size of the South and West Projects “is material and therefore denied,”<sup>36</sup> because “[t]he cluster interconnection process doesn’t provide for a Phase II interconnection ‘restudy’” and because “reducing the project megawatt sizes would likely change the cost allocation among the group. . . .”<sup>37</sup> In the ER13-218 Proceeding, the CAISO also stated that “[i]n the worst potential case, inability to complete the project or meet milestones could be a breach of the customer’s generator interconnection agreement.”<sup>38</sup>

The CAISO’s interpretation of the GIP and *pro forma* LGIA is unjust and unreasonable as it could mean that the CAISO will seek to terminate the entirety of an interconnection request and/or LGIA, even in cases where earlier phases of projects are already under construction or in operation, simply because a later phase of the project is not constructed or misses its milestones. Not only would this mean that project developers and lenders could lose their entire investment in projects, including projects that may already be in the late stages of development or construction or may even have achieved commercial operation, but it would also deprive purchasers and consumers of the output of new generation facilities, including from renewable facilities that are designed to help achieve California’s renewable policy goals. Moreover, although the CAISO stated that inability to construct the entirety of a project would be considered breach of an LGIA only “[i]n the worst potential case,”<sup>39</sup> and even assuming that the CAISO ultimately determines not to exercise its purported termination rights, the uncertainty and

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<sup>36</sup> CAISO October 22, 2012 Letter at 1.

<sup>37</sup> *Id.* at 2.

<sup>38</sup> CAISO ER13-218 Filing, Transmittal Letter at 7.

<sup>39</sup> *Id.*

the threat of termination could, by themselves, be sufficient to place customers in the difficult position of having to downsize prematurely<sup>40</sup> or terminate potentially viable project phases in order to ensure that the entirety of their interconnection requests and/or LGIAs are not placed at risk. In either case, the CAISO's position could result in a severe waste of resources.

The CSOLAR Entities' projects provide a concrete example of the dilemma facing interconnection customers. As explained previously, there is a single LGIA for both the South and East Projects, but at this time, only the South Project has been able to obtain a PPA. Similarly, there was one interconnection request, and will likely be one LGIA, for both the West and North Projects, but at this time, only the West Project has been able to obtain a PPA. Although the East and North Projects have not yet been able to obtain PPAs, the CSOLAR Entities are highly reluctant to abandon these projects because of the substantial time, effort, and money that have already been expended in their development, and because it is the CSOLAR Entities' belief that market conditions will shift in the foreseeable future to make the East and North Projects economically viable. Nevertheless, as a result of the CAISO's interpretation of its GIP and *pro forma* LGIA, any failure to meet its milestones for the East or North Projects in the future could result in termination of the LGIAs not only for those projects, but also for the South and West Projects, which could, in turn, result in breaches of the existing PPAs with SDG&E and a default under the financing of the South Project. Indeed, at this time, the CSOLAR Entities believe that, in order to eliminate the threat to their interconnection requests and LGIAs if the East and North Projects later prove not to be economically viable, they have no choice but

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<sup>40</sup> The downsizing option filed by the CAISO and accepted by the Commission in the ER13-218 Proceeding only provided for a one-time downsizing opportunity for customers that entered the queue prior to cluster five, and any requests to downsize must be filed with the CAISO by January 4, 2013. Accordingly, this option will not provide a viable option for many customers, and, even for customers that are eligible, could require premature downsizing of projects that could potentially be viable.

to exercise their partial termination rights under the Imperial Solar LGIA with respect to the East Project by January 23, 2013, and to submit a downsizing request with respect to the North Project by the January 4, 2013 deadline imposed by the CAISO. The CSOLAR Entities submit that it is unjust and unreasonable to require them to partially terminate or downsize projects in which they have invested substantial time and capital, simply in order to ensure that the South and West Projects will not be threatened.

**B. The Commission Should Determine That The CAISO Is Not Permitted To Terminate The Entirety Of Interconnection Requests And/Or LGIAs In Circumstances Where The Interconnection Customer Makes Commitments To Ensure That Other Customers Will Not Be Harmed.**

As described above, the CAISO's interpretation of its GIP and *pro forma* LGIA places interconnection customers like the CSOLAR Entities in the difficult position of having to either terminate potentially viable projects prematurely, or risk termination of the entirety of their interconnection requests and/or LGIAs, even with respect to projects that are already under construction or in operation. To avoid this unjust and unreasonable result, the CSOLAR Entities request that the Commission make clear that the CAISO may not terminate the entirety of an LGIA that provides for phased project development where: (a) an earlier project phase is already under construction or in operation; (b) one or more phases of the project has missed its development milestones or will not be constructed; and (c) the customer makes commitments to ensure that other customers are not harmed, consistent with the December 20 Order – *i.e.*, where the customer ensures that there is no “Material Modification” as defined in the Tariff by committing to “bear the costs of [its] downsizing on all impacted generators, regardless of whether the impacted generator is connected to the CAISO-controlled grid or to the distribution

system of one of the [Participating TOs].”<sup>41</sup> In addition, as explained above, the CSOLAR Entities will have no choice but to exercise their partial termination rights under the Imperial Solar LGIA by January 23, 2013, and to submit a downsizing request to the CAISO by January 4, 2013. In order to minimize any risk of future disagreements between the CSOLAR Entities and the CAISO on this issue, the CSOLAR Entities also request that, to the extent that the Commission grants the relief requested herein, the Commission further confirm that the CSOLAR Entities may withdraw their partial termination and downsizing notices.

The CSOLAR Entities’ requested finding will provide interconnection customers, including the CSOLAR Entities, with needed certainty regarding their rights under their LGIAs, while simultaneously ensuring that there will not be any monetary harm or delays to other customers in the CAISO interconnection queue. Such relief would also be fully consistent with the Tariff, as well as the December 20 Order. As an initial matter, neither the CAISO’s GIP nor its *pro forma* LGIA specify that failure to meet project milestones or failure to construct a later phase of a project is grounds for terminating an interconnection request or an LGIA in its entirety. Instead, as described above, the GIP states that only in the event that a modification

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<sup>41</sup> December 20 Order, 141 FERC ¶ 61,219 at P 48. In the CSOLAR ER13-218 Protest, the CSOLAR Entities asked the Commission to find that:

the CAISO may not terminate the entirety of an LGIA that provides for phased development of a project where an earlier project phase is already under construction or in operation and one or more phases of the project has missed its development milestones, but the customer agrees to pay the *full cost of upgrades identified in the respective interconnection agreements for customers in the same queue cluster, including the upgrades for those customers that were assigned a portion of the upgrade cost but are not yet moving forward*, and to forego refunds for the portion of costs that are reasonably attributable to the uncompleted phase(s).

CSOLAR ER13-218 Protest at 9 (emphasis in original). The CSOLAR Entities are here modifying the commitment that would be required from customers to reflect the Commission’s directive in the December 20 Order, but would be willing to make the commitments proposed in their ER13-218 Protest to the extent so directed by the Commission.

proposed by an interconnection customer is deemed to be a “Material Modification” shall the customer be required to either “withdraw the proposed modification or proceed with a new Interconnection Request for such modification,”<sup>42</sup> while the LGIA provides that “[t]he Participating TO and the CAISO shall determine if a Large Generating Facility modification is a Material Modification in accordance with the GIP.”<sup>43</sup> In either case, a “Material Modification” is defined as a modification that would have “a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.”<sup>44</sup> Based on the CAISO October 22, 2012 Letter, however, the CAISO has apparently taken the position that a Material Modification exists whenever a restudy is required.<sup>45</sup> Indeed, the CAISO went so far as to state that, although it “understands and appreciates that Tenaska has offered to maintain its current cost responsibility . . . this offer does not obviate the fact that the GIP does not provide for restudy opportunities.”<sup>46</sup> That is, the CAISO’s position apparently is that any modification that would require a restudy is a Material Modification, *irrespective* of whether there would be any actual cost impact or delay to other customers. The CAISO provided no explanation as to how this reading is consistent with the Tariff, particularly given that restudies may be required for a variety of reasons and are a customary part of the interconnection process.<sup>47</sup> Regardless, in this case, the relief requested by the CSOLAR Entities is designed to ensure that there would not be any Material Modification as defined in the Tariff

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<sup>42</sup> Tariff, Appendix Y, § 6.9.2.2.

<sup>43</sup> *Id.*, Appendix CC, § 5.19.1.

<sup>44</sup> *Id.*, Appendix A (definition of “Material Modification”). *See also id.*, Appendix CC, Article 1 (same).

<sup>45</sup> *See* CAISO October 22, 2012 Letter at 2.

<sup>46</sup> *Id.*

<sup>47</sup> *See, e.g.*, Tariff, Appendix Y, § 3.7 (indicating that the CAISO may determine that restudies are required).

because the customer that fails to meet its milestones with respect to, or does not construct, later project phases would be required, consistent with the December 20 Order, to commit to “bear the costs of their downsizing on all impacted generators, regardless of whether the impacted generator is connected to the CAISO-controlled grid or to the distribution system of one of the [Participating TOs].”<sup>48</sup>

In addition, the requested relief is consistent with Commission precedent. As explained above, the *pro forma* LGIA defines a “breach” as “the failure of a Party to perform or observe any material term or condition of [the] LGIA,”<sup>49</sup> and provides that if not cured as provided for in Article 17 of the LGIA, “the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA. . . .”<sup>50</sup> Nevertheless, even if a breach has occurred, a termination of the LGIA is not effective until a notice of termination is filed with, and accepted by, the Commission.<sup>51</sup> The Commission has explained that, in any situation where a transmission provider files a notice of termination, it “must evaluate . . . whether the applicant demonstrates that the proposed termination is not unjust, unreasonable, unduly discriminatory or preferential, or if it is consistent with the public interest.”<sup>52</sup> The Commission has further made clear that, in assessing proposed terminations, its focus is on “what the proposed termination does, and what harm, if any, it causes.”<sup>53</sup>

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<sup>48</sup> December 20 Order, 141 FERC ¶ 61,219 at P 48.

<sup>49</sup> Tariff, Appendix CC, Article 1 (definition of “Breach”).

<sup>50</sup> *Id.*, § 17.1.2.

<sup>51</sup> *Id.*, § 2.3.4.

<sup>52</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 141 FERC ¶ 61,097 at P 33 (2012) (“*MISO*”) (footnote omitted).

<sup>53</sup> *Allegheny Power Sys., Inc.*, 102 FERC ¶ 61,318 at P 9 (2003). *See also, e.g., Southern Cal. Edison Co.*, 140 FERC ¶ 61,117 at P 23 (2012) (setting for hearing proposed termination of interconnection agreement where “it is unclear from the record before us whether other customers in the interconnection queue would be harmed if the Notice of Termination is not granted”); *Illinois Power Co.*,

The Commission has never, to the CSOLAR Entities' knowledge, approved the termination of an interconnection agreement based solely on the interconnection customer's failure to develop the entirety of its planned project. To the contrary, the Commission expressly approved the Midwest Independent Transmission System Operator, Inc.'s ("MISO") proposal, in response to protests by developers, to modify its interconnection procedures to clarify that "MISO would only seek to terminate that portion of a facility that fails to achieve Commercial Operation within three years of the Commercial Operation Date agreed to and specified in the [agreement]."<sup>54</sup> The Commission has also previously demonstrated its reluctance to terminate LGIAs where, as here, there will be no harm to other parties. In particular:

- The Commission determined that Judith Gap Energy LLC ("Judith Gap") was entitled to the full 188 MW of network resource interconnection service under its LGIA, "even though Judith Gap will have placed only 135 MW into commercial operation by the three-year anniversary of the commercial operation date specified in the Agreement."<sup>55</sup> Explaining that "Judith Gap's rights under the Agreement remain intact absent harm to lower-queued generators,"<sup>56</sup> the Commission pointed out that it would be difficult for a showing of harm to be made in that case because "not only has the generator committed to funding all of the network upgrades, but such upgrades will actually have been built as well."<sup>57</sup>
- The Commission approved the extension of interconnection milestones where the customer committed "to fund all the system upgrades necessary to interconnect the entire project[.]" which would be "sufficient to protect [the transmission provider] and later-queued generators from unforeseen extraordinary costs."<sup>58</sup> The Commission further found that, in the event that the interconnection customer was unable to meet the commercial operation date for its steam turbine, the transmission provider would nevertheless be required to interconnect the customer's combustion

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120 FERC ¶ 61,237 at P 20 (2007) (rejecting a notice of termination because "Illinois Power has not shown that allowing Franklin County to extend its milestones beyond three years will harm lower queued generators").

<sup>54</sup> *Midwest Indep. Transmission Sys. Operator, Inc.*, 137 FERC ¶ 61,188 at P 29 (2011).

<sup>55</sup> *Judith Gap Energy LLC & NorthWestern Corp.*, 125 FERC ¶ 61,169 at P 1 (2008) ("*Judith Gap*").

<sup>56</sup> *Id.* at P 21.

<sup>57</sup> *Id.* at n.21.

<sup>58</sup> *Florida Power & Light Co.*, 99 FERC ¶ 61,318 at P 19 (2002).

turbines, and the customer would only be required to withdraw its interconnection request with respect to the steam turbine.<sup>59</sup>

- The Commission rejected the proposed termination of an interconnection agreement “given the lack of harm to any of the Parties in the proceeding, the fact that no interconnection customers were disadvantaged by [the customers]’s proposed amendments, and that [the customer] made good faith efforts to cure its breach.”<sup>60</sup>

Finally, the relief requested herein is particularly appropriate with respect to the Imperial Solar LGIA, which expressly provides the CAISO and SDG&E with the option of partially terminating the LGIA “upon the failure of the Interconnection Customer to meet any of the milestones set forth in Appendix B.”<sup>61</sup> Under general principles of contract interpretation, this specific remedy of partial termination should be the only remedy that is applicable to any failure to meet milestones, and would preclude the CAISO from exercising the more generalized remedies available for unspecified breach of the contract.<sup>62</sup> Indeed, although the language in the Imperial Solar LGIA by itself makes clear that the CAISO should not be permitted to terminate the entirety of the LGIA for the CSOLAR Entities’ failure to meet any milestones,<sup>63</sup> the

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<sup>59</sup> *Id.* at P 20 (also stating that the customer would be “eligible for transmission service credits for all system upgrades that it funds, whether or not it must re-apply for interconnection for the steam turbine”).

<sup>60</sup> *MISO*, 141 FERC ¶ 61,097 at P 33.

<sup>61</sup> Imperial Solar LGIA, § 2.4.4.2.

<sup>62</sup> *See, e.g., Young v. Verizon’s Bell Atl. Cash Balance Plan*, 615 F.3d 808, 823 (7th Cir. 2012) (“Contract interpretations should, to the extent possible, give effect to all language without rendering any term superfluous, but if both a general and a specific provision apply to the subject at hand, the specific provision controls.” (citation omitted)); *Puerto Rico Tel. Co., Inc. v. Sprintcom, Inc.*, 662 F.3d 74, 96 (1st Cir. 2011) (“It is a well-known precept for the interpretation of contracts that specific provisions in a contract trump the general provisions.”); *Central Intern. Co. v. Kemper Nat. Ins. Cos.*, 202 F.3d 372, 374 (1st Cir. 2000) (setting forth the “ordinary principle[ ] of contract interpretation” that “specific language is treated as a limitation on general language” (citing, among others, Restatement (Second) of Contracts § 203(c) (1979))).

<sup>63</sup> The CSOLAR Entities reserve their right to raise this, and any other applicable arguments, regarding the proper interpretation of the Imperial Solar LGIA in the appropriate forum to the extent the CAISO attempts to terminate the entirety of the LGIA in the future.

CSOLAR Entities are here making additional commitments to further guarantee that no third parties will be harmed.

As indicated in the CSOLAR ER13-218 Protest, the CSOLAR Entities recognize the importance of efficient interconnection queue administration. Accordingly, the CSOLAR Entities are only requesting that the Commission find that the CAISO may not terminate LGIAs in narrow circumstances that fully address the Commission's concerns regarding harm to third parties and ensure that there is no Material Modification to the LGIA or the underlying interconnection request.

## V.

### **OTHER MATTERS**

#### **A. Other Proceedings**

The issues presented in this Complaint are not currently pending in any other Commission proceeding.<sup>64</sup>

#### **B. Negotiations Among The Parties**

As discussed herein, the CSOLAR Entities have previously requested that the CAISO determine if elimination of the East or North Projects would constitute a Material Modification under the CSOLAR Entities' respective LGIAs or interconnection requests. The CSOLAR Entities have also discussed their concerns regarding the potential termination of the entirety of their LGIAs/interconnection requests with the CAISO on a number of occasions. The CSOLAR Entities do not, however, believe that negotiations with the CAISO will resolve the core question of whether the CAISO should be permitted to terminate the entirety of LGIAs and/or interconnection requests in circumstances where a customer has failed to meet milestones for, or

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<sup>64</sup> As noted above, the CSOLAR Entities requested that the Commission address certain of the issues raised in this Complaint in the ER13-218 Proceeding, but the December 20 Order determined such issues to be beyond the scope of that proceeding.

does not construct, a later phase of a project, but where the customer has ensured that other customers will not be harmed by committing to bear the costs for all affected generators, regardless of whether such generators are connected to the CAISO grid or the distribution system of a Participating TO.

In accordance with Rule 206(b)(9) of the Commission's Rules of Practice and Procedure,<sup>65</sup> the CSOLAR Entities state that they did not contact the Commission's Office of Enforcement before filing this Complaint, as they do not believe that the disputes underlying this Complaint about the CAISO's interpretation of, and its rights under, the Tariff lend themselves to resolution by the Office of Enforcement.

**C. Financial Impact**

Termination of the entirety of the Imperial Solar LGIA would make it impossible for the South Project, on which construction is well underway and which is anticipated to commence commercial operations in 2013, to obtain the interconnection service necessary to satisfy its obligations under the PPA with SDG&E, and could result in a default under the PPA, as well as financing agreements for the South Project. Similarly, termination of the entirety of the interconnection request and/or LGIA for the West and North Projects could result in a default under the PPA with SDG&E for the output of the West Project.

**D. Service and Form of Notice**

In accordance with Rule 206(c) of the Commission's Rules of Practice and Procedure,<sup>66</sup> the CSOLAR Entities are serving a copy of this Complaint on the respondent, the CAISO. In

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<sup>65</sup> 18 C.F.R. § 385.206(b)(9) (2012).

<sup>66</sup> 18 C.F.R. § 385.206(c) (2012).





**Attachment A**  
**Form of Notice**

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

**CSOLAR IV South, LLC, Wistaria Ranch )  
Solar, LLC, CSOLAR IV West, LLC, )  
and CSOLAR IV North, LLC, )  
)  
Complainants, )  
)  
v. )  
)  
California Independent System Operator )  
Corporation )  
)  
Respondent. )**

**Docket No. EL13-\_\_\_\_-000**

**NOTICE OF COMPLAINT**

Take notice that on January 3, 2013, CSOLAR IV South, LLC, Wistaria Ranch Solar, LLC, CSOLAR IV West, LLC, and CSOLAR IV North, LLC (Complainants) filed a Complaint against the California Independent System Operator Corporation (CAISO) pursuant to Sections 206 and 306 of the Federal Power Act (FPA), alleging that the CAISO’s interpretation of its Generator Interconnection Procedures and *pro forma* Large Generator Interconnection Agreement as permitting the CAISO to terminate the entirety of interconnection agreements or interconnection requests where a portion of the interconnecting generating facility has missed its milestones or is not constructed is unjust and unreasonable within the meaning of Section 206 of the FPA.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 CFR §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. CAISO’s answer and all interventions, or protests must be filed on or before the comment date. CAISO’s answer, motions to intervene, and protests must be served on Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the “eFiling” link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the “eLibrary” link and is available for review in the Commission’s Public Reference Room in Washington, D.C. There is an “eSubscription” link on the web site that enables subscribers to receive email notification

when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose  
Secretary

**Attachment B**  
**Imperial Solar LGIA**

California Independent System Operator Corporation  
Non-Conforming Service Agreements  
Tariff Record Title: Service Agreement No. 2355

**LARGE GENERATOR INTERCONNECTION AGREEMENT (LGIA)  
AMONG**

**CSOLAR IV SOUTH, LLC  
AND**

**CSOLAR IV EAST, LLC  
AND**

**TENASKA SOLAR MANAGEMENT, LLC  
AND**

**SAN DIEGO GAS & ELECTRIC COMPANY  
AND**

**CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

**PROJECT: Imperial Valley Substation South (Q#510)**

Tariff Record Proposed Effective Date: 10/22/11  
Version Number: 0.0.0  
Option Code: A

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**LARGE GENERATOR INTERCONNECTION AGREEMENT****CSOLAR IV SOUTH, LLC****CSOLAR IV EAST, LLC****SAN DIEGO GAS & ELECTRIC COMPANY****CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

**THIS LARGE GENERATOR INTERCONNECTION AGREEMENT** (“LGIA”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and among CSOLAR IV South, LLC and CSOLAR IV East, LLC, each of which is a limited liability company organized and existing under the laws of the State of Delaware, as tenants – in – common (collectively, the “**Interconnection Customer**”), Tenaska Solar Management, LLC, a limited liability company organized and existing under the laws of the State of Delaware, as agent for the Interconnection Customer (the “**Manager**”), San Diego Gas & Electric Company, a corporation organized and existing under the laws of the State of California (“**Participating TO**”), and California Independent System Operator Corporation, a California nonprofit public benefit corporation organized and existing under the laws of the State of California (“**CAISO**”). Interconnection Customer, Participating TO, and CAISO each may be referred to as a “**Party**” or collectively as the “**Parties**.”

**RECITALS**

**WHEREAS**, CAISO exercises Operational Control over the CAISO Controlled Grid; and

**WHEREAS**, the Participating TO owns, operates, and maintains the Participating TO’s Transmission System; and

**WHEREAS**, Interconnection Customer(or Affiliates thereof) intends to own, lease and/or control and operate the Generating Facility identified as a Large Generating Facility in Appendix C to this LGIA; and

**WHEREAS**, Interconnection Customer, Manager, Participating TO, and CAISO have agreed to enter into this LGIA for the purpose of interconnecting the Large Generating Facility with the Participating TO’s Transmission System;

**NOW, THEREFORE**, in consideration of and subject to the mutual covenants contained herein, it is agreed:

When used in this LGIA, terms with initial capitalization that are not defined in Article 1 shall have the meanings specified in the Article in which they are used.

## ARTICLE 1. DEFINITIONS

**Adverse System Impact** shall mean the negative effects due to technical or operational limits on conductors or equipment being exceeded that may compromise the safety and reliability of the electric system.

**Affected System** shall mean an electric system other than the CAISO Controlled Grid that may be affected by the proposed interconnection, including the Participating TO's electric system that is not part of the CAISO Controlled Grid.

**Affiliate** shall mean, with respect to a corporation, partnership or other entity, each such other corporation, partnership or other entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such corporation, partnership or other entity.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

**Applicable Reliability Council** shall mean the Western Electricity Coordinating Council or its successor.

**Applicable Reliability Standards** shall mean the requirements and guidelines of NERC, the Applicable Reliability Council, and the Balancing Authority Area of the Participating TO's Transmission System to which the Generating Facility is directly connected, including requirements adopted pursuant to Section 215 of the Federal Power Act.

**Asynchronous Generating Facility** shall mean an induction, doubly-fed, or electronic power generating unit(s) that produces 60 Hz (nominal) alternating current

**Balancing Authority** shall mean the responsible entity that integrates resource plans ahead of time, maintains load-interchange-generation balance within a Balancing Authority Area, and supports Interconnection frequency in real time.

**Balancing Authority Area** shall mean the collection of generation, transmission, and loads within the metered boundaries of the Balancing Authority. The Balancing Authority maintains load-resource balance within this area.

**Base Case** shall mean the base case power flow, short circuit, and stability data bases used for the Interconnection Studies.

**Breach** shall mean the failure of a Party to perform or observe any material term or condition of this LGIA.

**Breaching Party** shall mean a Party that is in Breach of this LGIA.

**Business Day** shall mean Monday through Friday, excluding federal holidays and the day after Thanksgiving Day.

**CAISO Controlled Grid** shall mean the system of transmission lines and associated facilities of the parties to the Transmission Control Agreement that have been placed under the CAISO's Operational Control.

**CAISO Tariff** shall mean the CAISO's tariff, as filed with FERC, and as amended or supplemented from time to time, or any successor tariff.

**Calendar Day** shall mean any day including Saturday, Sunday or a federal holiday.

**Commercial Operation** shall mean the status of an Electric Generating Unit or project phase at a Generating Facility that has commenced generating electricity for sale, excluding electricity generated during Trial Operation.

**Commercial Operation Date** of an Electric Generating Unit or project phase shall mean the date on which the Electric Generating Unit or project phase at the Generating Facility commences Commercial Operation as agreed to by the applicable Participating TO, the CAISO, and the Interconnection Customer pursuant to Appendix E to this LGIA, and in accordance with the implementation plan agreed to by the Participating TO and the CAISO for multiple individual Electric Generating Units or project phases at a Generating Facility where an Interconnection Customer intends to establish separate Commercial Operation Dates for those Electric Generating Units or project phases.

**Confidential Information** shall mean any confidential, proprietary or trade secret information of a plan, specification, pattern, procedure, design, device, list, concept, policy or compilation relating to the present or planned business of a Party, which is designated as confidential by the Party supplying the information, whether conveyed orally, electronically, in writing, through inspection, or otherwise, subject to Article 22.1.2.

**Default** shall mean the failure of a Breaching Party to cure its Breach in accordance with Article 17 of this LGIA.

**Distribution System** shall mean those non-CAISO-controlled transmission and distribution facilities owned by the Participating TO.

**Distribution Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Distribution System. Distribution Upgrades do not include Interconnection Facilities.

**Effective Date** shall mean the date on which this LGIA becomes effective upon execution by all Parties subject to acceptance by FERC, or if filed unexecuted, upon the date specified by FERC.

**Electric Generating Unit** shall mean an individual electric generator and its associated plant and apparatus whose electrical output is capable of being separately identified and metered.

**Emergency Condition** shall mean a condition or situation: (1) that in the judgment of the Party making the claim is imminently likely to endanger life or property; or (2) that, in the case of the CAISO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the CAISO Controlled Grid or the electric systems of others to which the CAISO Controlled Grid is directly connected; (3) that, in the case of the Participating TO, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Participating TO's Transmission System, Participating TO's Interconnection Facilities, Distribution System, or the electric systems of others to which the Participating TO's electric system is directly connected; or (4) that, in the case of the Interconnection Customer, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or Interconnection Customer's Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions; provided, that Interconnection Customer is not obligated by this LGIA to possess black start capability.

**Environmental Law** shall mean Applicable Laws or Regulations relating to pollution or protection of the environment or natural resources.

**Federal Power Act** shall mean the Federal Power Act, as amended, 16 U.S.C. §§ 791a et seq.

**FERC** shall mean the Federal Energy Regulatory Commission or its successor.

**Force Majeure** shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's

control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

**Generating Facility** shall mean the Interconnection Customer's Electric Generating Unit(s) used for the production of electricity identified in the Interconnection Customer's Interconnection Request, but shall not include the Interconnection Customer's Interconnection Facilities.

**Generating Facility Capacity** shall mean the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.

**Generator Interconnection Procedures (GIP)** shall mean the CAISO protocol that sets forth the interconnection procedures applicable to an Interconnection Request pertaining to a Large Generating Facility or Small Generating Facility that is included in CAISO Tariff Appendix Y.

**Generator Interconnection Study Process Agreement** shall mean the agreement between the Interconnection Customer and the CAISO for the conduct of the Interconnection Studies.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be any one of a number of the optimum practices, methods, or acts to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

**Governmental Authority** shall mean any federal, state, local or other governmental, regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power; provided, however, that such term does not include the Interconnection Customer, CAISO, Participating TO, or any Affiliate thereof.

**Governing Independent Study Process Interconnection Studies** shall mean the engineering study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's

Transmission System and, if applicable, an Affected System, which shall consist primarily of a Facilities Study as described in Section 4.5 of the Generation Interconnection Procedures or a System Impact Study as described in Section 4.4 of the Generation Interconnection Procedures.

**Hazardous Substances** shall mean any chemicals, materials or substances defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “hazardous constituents,” “restricted hazardous materials,” “extremely hazardous substances,” “toxic substances,” “radioactive substances,” “contaminants,” “pollutants,” “toxic pollutants” or words of similar meaning and regulatory effect under any applicable Environmental Law, or any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any applicable Environmental Law.

**Initial Synchronization Date** shall mean the date upon which an Electric Generating Unit is initially synchronized and upon which Trial Operation begins.

**In-Service Date** shall mean the date upon which the Interconnection Customer reasonably expects it will be ready to begin use of the Participating TO’s Interconnection Facilities to obtain back feed power.

**Interconnection Customer's Interconnection Facilities** shall mean all facilities and equipment, as identified in Appendix A of this LGIA, that are located between the Generating Facility and the Point of Change of Ownership, including any modification, addition, or upgrades to such facilities and equipment necessary to physically and electrically interconnect the Generating Facility to the Participating TO’s Transmission System. Interconnection Customer's Interconnection Facilities are sole use facilities.

**Interconnection Facilities** shall mean the Participating TO’s Interconnection Facilities and the Interconnection Customer's Interconnection Facilities. Collectively, Interconnection Facilities include all facilities and equipment between the Generating Facility and the Point of Interconnection, including any modification, additions or upgrades that are necessary to physically and electrically interconnect the Generating Facility to the Participating TO’s Transmission System. Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Interconnection Financial Security** shall mean any of the financial instruments listed in Section 9.1 of the GIP that are posted by an Interconnection Customer.

**Interconnection Handbook** shall mean a handbook, developed by the Participating TO and posted on the Participating TO’s web site or otherwise made available by the Participating TO, describing technical and operational requirements for wholesale generators and loads connected to the Participating TO's portion of the

CAISO Controlled Grid, as such handbook may be modified or superseded from time to time. Participating TO's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In the event of a conflict between the terms of this LGIA and the terms of the Participating TO's Interconnection Handbook, the terms in this LGIA shall apply.

**Interconnection Request** shall mean a request, in the form of Appendix 1 to the Generator Interconnection Procedures, in accordance with the CAISO Tariff.

**Interconnection Service** shall mean the service provided by the Participating TO and CAISO associated with interconnecting the Interconnection Customer's Generating Facility to the Participating TO's Transmission System and enabling the CAISO Controlled Grid to receive electric energy and capacity from the Generating Facility at the Point of Interconnection, pursuant to the terms of this LGIA, the Participating TO's Transmission Owner Tariff, and the CAISO Tariff.

**Interconnection Study** shall mean

- (i) For Interconnection Requests processed under the cluster study process described in the Generation Interconnection Procedures, either of the following studies: the Phase I Interconnection Study or the Phase II Interconnection Study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), pursuant to the Generator Interconnection Procedures;
- (ii) For Interconnection Requests processed under the Independent Study Process described in the Generation Interconnection Procedures, the governing study(ies) conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), pursuant to the Generation Interconnection Procedures, which shall consist primarily of a Facilities Study as described in Section 4.5 of the GIP or a System Impact Study as described in Section 4.4 of the GIP.

**IRS** shall mean the Internal Revenue Service.

**Large Generating Facility** shall mean a Generating Facility having a Generating Facility Capacity of more than 20 MW.

**Loss** shall mean any and all damages, losses, and claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties.

**Material Modification** shall mean those modifications that have a material impact on the cost or timing of any Interconnection Request or any other valid interconnection request with a later queue priority date.

**Metering Equipment** shall mean all metering equipment installed or to be installed for measuring the output of the Generating Facility pursuant to this LGIA at the metering points, including but not limited to instrument transformers, MWh-meters, data acquisition equipment, transducers, remote terminal unit, communications equipment, phone lines, and fiber optics.

**NERC** shall mean the North American Electric Reliability Corporation or its successor organization.

**Network Upgrades** shall be Participating TO's Delivery Network Upgrades and Participating TO's Reliability Network Upgrades.

**Operational Control** shall mean the rights of the CAISO under the Transmission Control Agreement and the CAISO Tariff to direct the parties to the Transmission Control Agreement how to operate their transmission lines and facilities and other electric plant affecting the reliability of those lines and facilities for the purpose of affording comparable non-discriminatory transmission access and meeting applicable reliability criteria.

**Partial Termination** shall refer to termination of this LGIA as described in Article 2.4.4 where i) this LGIA shall be terminated under Article 2.4.4 only with respect to one or more Electric Generating Units of a Phased Generating Facility; ii) this LGIA shall continue to remain in force and effect with respect to the first Electric Generating Unit to be placed into service and any subsequent Electric Generating Units of the Phased Generating Facility that are not the subject of the Partial Termination, and iii) no disconnection shall occur with respect to those phases of or Electric Generating Units within the Phased Generating Facility that are not terminated.

**Partial Termination Charge** shall mean that sum paid by the Interconnection Customer upon Partial Termination as provided for in Article 2.4.4.

**Partial Termination Charge Security** shall mean a form of security, issued in favor of the CAISO, naming the CAISO as the beneficiary for an amount equal to the maximum Partial Termination Charge that may become payable upon Partial Termination as provided for in Article 2.4.4. The Partial Termination Charge Security shall be in a form determined to be acceptable by the CAISO, of the type listed in CAISO Cluster GIP (CAISO Tariff Appendix Y) Section 9.1 (a) –(f), but which security shall be held in favor of the CAISO. Partial Termination Charge Security is separate and distinct from the Interconnection Financial Security.

**Participating TO's Delivery Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, other than Reliability Network Upgrades, identified

in the Interconnection Studies, as identified in Appendix A, to relieve constraints on the CAISO Controlled Grid.

**Participating TO's Interconnection Facilities** shall mean all facilities and equipment owned, controlled or operated by the Participating TO from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to this LGIA, including any modifications, additions or upgrades to such facilities and equipment. Participating TO's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades.

**Participating TO's Reliability Network Upgrades** shall mean the additions, modifications, and upgrades to the Participating TO's Transmission System at or beyond the Point of Interconnection, identified in the Interconnection Studies, as identified in Appendix A, necessary to interconnect the Large Generating Facility safely and reliably to the Participating TO's Transmission System, which would not have been necessary but for the interconnection of the Large Generating Facility, including additions, modifications, and upgrades necessary to remedy short circuit or stability problems resulting from the interconnection of the Large Generating Facility to the Participating TO's Transmission System. Participating TO's Reliability Network Upgrades also include, consistent with Applicable Reliability Standards and Applicable Reliability Council practice, the Participating TO's facilities necessary to mitigate any adverse impact the Large Generating Facility's interconnection may have on a path's Applicable Reliability Council rating. Participating TO's Reliability Network Upgrades do not include any Participating TO's Delivery Network Upgrades.

**Participating TO's Transmission System** shall mean the facilities owned and operated by the Participating TO and that have been placed under the CAISO's Operational Control, which facilities form part of the CAISO Controlled Grid.

**Party or Parties** shall mean the Participating TO, CAISO, Interconnection Customer or the applicable combination of the above.

**Phase I Interconnection Study** shall mean the engineering study conducted or caused to be performed by the CAISO, in coordination with the applicable Participating TO(s), that evaluates the impact of the proposed interconnection on the safety and reliability of the Participating TO's Transmission System and, if applicable, an Affected System. The study shall identify and detail the system impacts that would result if the Generating Facility(ies) were interconnected without identified project modifications or system modifications, as provided in the On-Peak Deliverability Assessment (as defined in the CAISO Tariff), and other potential impacts, including but not limited to those identified in the Scoping Meeting as described in the Large Generator Interconnection Procedures. The study will also identify the approximate total costs, based on per unit

costs, of mitigating these impacts, along with an equitable allocation of those costs to Interconnection Customers for their individual Generating Facilities.

**Phase II Interconnection Study** shall mean an engineering and operational study conducted or caused to be performed by the CAISO once per calendar year, in coordination with the applicable Participating TO(s), to determine the Point of Interconnection and a list of facilities (including the Participating TO's Interconnection Facilities, Network Upgrades, Distribution Upgrades, and Stand Alone Network Upgrades), the cost of those facilities, and the time required to interconnect the Generating Facility(ies) with the Participating TO's Transmission System.

**Phased Generating Facility** shall mean a Generating Facility that is structured to be completed and to achieve Commercial Operation in two or more successive phases that are specified in this LGIA, such that each phase comprises a portion of the total megawatt generation capacity of the entire Generating Facility.

**Point of Change of Ownership** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Customer's Interconnection Facilities connect to the Participating TO's Interconnection Facilities.

**Point of Interconnection** shall mean the point, as set forth in Appendix A to this LGIA, where the Interconnection Facilities connect to the Participating TO's Transmission System.

**QF PGA** shall mean a Qualifying Facility Participating Generator Agreement specifying the special provisions for the operating relationship between a Qualifying Facility and the CAISO, a pro forma version of which is set forth in Appendix B.3 of the CAISO Tariff.

**Qualifying Facility** shall mean a qualifying cogeneration facility or qualifying small power production facility, as defined in the Code of Federal Regulations, Title 18, Part 292 (18 C.F.R. §292).

**Reasonable Efforts** shall mean, with respect to an action required to be attempted or taken by a Party under this LGIA, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

**Scoping Meeting** shall mean the meeting among representatives of the Interconnection Customer, the Participating TO(s), other Affected Systems, and the CAISO conducted for the purpose of discussing alternative interconnection options, to exchange information including any transmission data and earlier study evaluations that would be reasonably expected to impact such interconnection options, to analyze such information, and to determine the potential feasible Points of Interconnection.

**Stand Alone Network Upgrades** shall mean Network Upgrades that the Interconnection Customer may construct without affecting day-to-day operations of the CAISO Controlled Grid or Affected Systems during their construction. The Participating TO, the CAISO, and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to this LGIA.

**System Protection Facilities** shall mean the equipment, including necessary protection signal communications equipment, that protects (1) the Participating TO's Transmission System, Participating TO's Interconnection Facilities, CAISO Controlled Grid, and Affected Systems from faults or other electrical disturbances occurring at the Generating Facility and (2) the Generating Facility from faults or other electrical system disturbances occurring on the CAISO Controlled Grid, Participating TO's Interconnection Facilities, and Affected Systems or on other delivery systems or other generating systems to which the CAISO Controlled Grid is directly connected.

**Transmission Control Agreement** shall mean CAISO FERC Electric Tariff No. 7.

**Trial Operation** shall mean the period during which the Interconnection Customer is engaged in on-site test operations and commissioning of an Electric Generating Unit prior to Commercial Operation.

## ARTICLE 2. EFFECTIVE DATE, TERM AND TERMINATION

- 2.1 Effective Date.** This LGIA shall become effective upon execution by all Parties subject to acceptance by FERC (if applicable), or if filed unexecuted, upon the date specified by FERC. The CAISO and Participating TO shall promptly file this LGIA with FERC upon execution in accordance with Article 3.1, if required.
- 2.2 Term of Agreement.** Subject to the provisions of Article 2.3, this LGIA shall remain in effect for a period of ten (10) years from the Effective Date and shall be automatically renewed for each successive one-year period thereafter.
- 2.3 Termination Procedures.**
- 2.3.1 Written Notice.** This LGIA may be terminated by the Interconnection Customer after giving the CAISO and the Participating TO ninety (90) Calendar Days advance written notice, or by the CAISO and the Participating TO notifying FERC after the Generating Facility permanently ceases Commercial Operation.
- 2.3.2 Default.** A Party may terminate this LGIA in accordance with Article 17.

**2.3.3 Suspension of Work.** This LGIA may be deemed terminated in accordance with Article 5.16.

**2.3.4** Notwithstanding Articles 2.3.1, 2.3.2, and 2.3.3, no termination shall become effective until the Parties have complied with all Applicable Laws and Regulations applicable to such termination, including the filing with FERC of a notice of termination of this LGIA (if applicable), which notice has been accepted for filing by FERC, and the Interconnection Customer has fulfilled its termination cost obligations under Article 2.4.

**2.3.5 Partial Termination.** The Parties have included within this LGIA a provision for Partial Termination of this LGIA, the terms of which are set forth in Article 2.4.4. Notwithstanding any other term of this LGIA, Partial Termination shall be determined to have occurred in any and all circumstances where (i) one or more phases or Electric Generating Units for which the Interconnection Customer has secured Partial Termination eligibility are terminated, and (ii) this LGIA has not been terminated in its entirety and (iii) all phases or Electric Generating Units have not been disconnected pursuant to Article 2.5.

**2.4 Termination Costs.** Immediately upon the other Parties' receipt of a notice of the termination of this LGIA pursuant to Article 2.3 above, the CAISO and the Participating TO will determine the total cost responsibility of the Interconnection Customer. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already paid its share of Network Upgrade costs, as set forth in Appendix G to this LGIA, the Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with its cost responsibility for Network Upgrades, in accordance with Section 9.4 of the GIP.

The Interconnection Customer will also be responsible for all costs incurred or irrevocably committed to be incurred in association with the construction of the Participating TO's Interconnection Facilities (including any cancellation costs relating to orders or contracts for Interconnection Facilities and equipment) and other such expenses, including any Distribution Upgrades for which the Participating TO or CAISO has incurred expenses or has irrevocably committed to incur expenses and has not been reimbursed by the Interconnection Customer, as of the date of the other Parties' receipt of the notice of termination, subject to the limitations set forth in this Article 2.4. Nothing in this Article 2.4 shall limit the Parties' rights under Article 17. If, as of the date of the other Parties' receipt of the notice of termination, the Interconnection Customer has not already reimbursed the Participating TO and the CAISO for costs incurred to construct the Participating TO's Interconnection Facilities, the

Participating TO will liquidate the Interconnection Customer's Interconnection Financial Security associated with the construction of the Participating TO's Interconnection Facilities, in accordance with Section 9.4 of the GIP. If the amount of the Interconnection Financial Security liquidated by the Participating TO under this Article 2.4 is insufficient to compensate the CAISO and the Participating TO for actual costs associated with the construction of the Participating TO's Interconnection Facilities contemplated in this Article, any additional amounts will be the responsibility of the Interconnection Customer, subject to the provisions of Section 9.4 of the GIP. Any such additional amounts due from the Interconnection Customer beyond the amounts covered by its Interconnection Financial Security will be due to the Participating TO immediately upon termination of this LGIA in accordance with Section 9.4 of the GIP.

If the amount of the Interconnection Financial Security exceeds the Interconnection Customer's cost responsibility under Section 9.4 of the GIP, any excess amount will be released to the Interconnection Customer in accordance with Section 9.4 of the GIP.

(a) Interrelationship of Termination of the Entire LGIA under Article 2.4 and Partial Termination under 2.4.4: Nothing in this Article 2.4 shall limit the operation of those provisions pertaining to Partial Termination or the Partial Termination Charge contained in Article 2.4.4. In the event of Partial Termination, the provisions of Article 2.4.4 shall govern.

**2.4.1** Notwithstanding the foregoing, in the event of termination by a Party, all Parties shall use commercially Reasonable Efforts to mitigate the costs, damages and charges arising as a consequence of termination. With respect to any portion of the Participating TO's Interconnection Facilities that have not yet been constructed or installed, the Participating TO shall to the extent possible and with the Interconnection Customer's authorization cancel any pending orders of, or return, any materials or equipment for, or contracts for construction of, such facilities; provided that in the event the Interconnection Customer elects not to authorize such cancellation, the Interconnection Customer shall assume all payment obligations with respect to such materials, equipment, and contracts, and the Participating TO shall deliver such material and equipment, and, if necessary, assign such contracts, to the Interconnection Customer as soon as practicable, at the Interconnection Customer's expense. To the extent that the Interconnection Customer has already paid the Participating TO for any or all such costs of materials or equipment not taken by the Interconnection Customer, the Participating TO shall promptly refund such amounts to the Interconnection Customer, less any

costs, including penalties, incurred by the Participating TO to cancel any pending orders of or return such materials, equipment, or contracts.

- 2.4.2** The Participating TO may, at its option, retain any portion of such materials, equipment, or facilities that the Interconnection Customer chooses not to accept delivery of, in which case the Participating TO shall be responsible for all costs associated with procuring such materials, equipment, or facilities.
- 2.4.3** With respect to any portion of the Interconnection Facilities, and any other facilities already installed or constructed pursuant to the terms of this LGIA, Interconnection Customer shall be responsible for all costs associated with the removal, relocation or other disposition or retirement of such materials, equipment, or facilities.
- 2.4.4 Partial Termination.** The Parties agree that this LGIA shall provide for Partial Termination on the terms and conditions of this Article 2.4.4. This Article 2.4.4 shall apply only in the event of Partial Termination and shall not apply if this LGIA is terminated with respect to the entire Generating Facility. Partial Termination shall be deemed to have occurred, and the terms of this Article 2.4.4 shall apply in any and all situations of termination under this LGIA where the LGIA is not terminated in its entirety with the corresponding disconnection of all Electric Generating Units or phases of the Generating Facility that are the subject of this LGIA; provided, however, that Partial Termination may occur only with respect to those Electric Generating Units for which the Interconnection Customer has previously provided Partial Termination Charge Security, such that no Partial Termination of an Electric Generating Unit may occur for which the Partial Termination right has not been secured.
- 2.4.4.1** Except as set forth in Appendix B, Table 3B, in the event of Partial Termination, the Interconnection Customer shall pay a Partial Termination Charge. The Partial Termination Charge shall be payable to the CAISO and shall be secured by the Partial Termination Charge Security. The amount of the Partial Termination Charge shall be an amount equal to the product of ten percent (10%) of the dollar amount of the Interconnection Customer's cost responsibility for the Network Upgrades for the entire Phased Generating Facility times (multiplied by) the ratio of the megawatt capacity of the portion of the Phased Generating Facility that is terminated to the megawatt capacity of the entire Phased Generating Facility. The following specific items related to Partial Termination are set forth in Appendix C, Section 7: the amount of the Partial Termination Charge and Partial Termination Charge Security; the timing for posting of the security,

and the details for reduction of the security for Electric Generating Units that achieve Commercial Operation prior to Partial Termination.

**2.4.4.2** Partial Termination may be exercised following the delivery of the Partial Termination Charge Security for the Electric Generating Units for which the Interconnection Customer has elected to make the Partial Termination available either: (i) at the option of the Interconnection Customer, exercisable in its sole discretion; or, (ii) at the mutual discretion of the Participating TO's and the CAISO, upon the failure of the Interconnection Customer to meet any of the milestones set forth in Appendix B. The notice referenced in this Article may run concurrently with any other notice provided by the Party under this LGIA (including notices pertaining to Default, or failure to meet milestones relating to decision points) and shall not provide the noticed Parties with any additional period of time for cure in such other notices.

**2.4.4.3** Upon written notice by either (i) the Interconnection Customer to the other Parties; or (ii) the Participating TO and the CAISO to the Interconnection Customer; that the noticing Party has invoked Partial Termination, the Partial Termination Charge shall become immediately due and owing, and the CAISO shall liquidate the Partial Termination Charge Security for collection of the applicable Partial Termination Charge, and apply the Partial Termination funds as specified in Section 2.4.4.5.

**2.4.4.4** Upon Partial Termination, the Parties shall amend this LGIA to remove from this LGIA the terms and conditions specifying continuing rights and obligations of the Parties with respect to the applicable Electric Generating Unit(s) of the Phased Generating Facility which have been the subject of the Partial Termination, and to specify the continuing rights and obligations of the Parties with respect to the Electric Generating Units which remain the subject of the LGIA. The amended LGIA shall reflect that the Parties have partially terminated the LGIA as to the terminated Electric Generating Unit(s), but not as to any provisions relevant to the Electric Generating Unit(s) for which Partial Termination has not been exercised. The amended LGIA shall further reflect the lower generation capacity of the Generating Facility in its new condition following Partial Termination, and, to the extent that the interconnection configuration that has been modified as a result of the Partial Termination, shall set forth the modified configuration in the amended and restated Appendices to this LGIA.

- 2.4.4.5** After written notice of Partial Termination under Article 2.4.4.5, and the expiration of any opportunity to cure relating to any concurrent notices (such as notices of Default or notices relating to milestones and decision points) the CAISO shall cause the Partial Termination Charge funds to be applied and disbursed in such a manner as to cause a credit toward the Transmission Revenue Balancing Account ("TRBA") of the Participating TO. The Parties agree to cooperate and execute such agreements and undertake such actions as may be necessary to apply the funds to credit this account.
- 2.4.4.6** If this LGIA is terminated in its entirety prior to any event of Partial Termination, then any Partial Termination Charge Security which was provided to the CAISO prior to the Partial Termination shall be returned to the Interconnection Customer. The Parties acknowledge that there could be a situation where the LGIA was partially terminated in one transaction, followed by a termination of the entire LGIA in a subsequent transaction, in that event, the amount of Partial Termination Charge Security associated with such previous Partial Termination shall not be returned to the Interconnection Customer.
- 2.4.4.7** In the event of Partial Termination, the Partial Termination Charge and application of such charge as a credit to the Participating TO's TRBA shall serve as the recourse of the CAISO and the Participating TO for any costs associated with the Network Upgrades as described in this LGIA, and the Interconnection Customer shall not be responsible for payment to the CAISO or the Participating TO for any further costs, charges or expenses attributable to the Network Upgrades.
- 2.5 Disconnection.** Upon termination of this LGIA, the Parties will take all appropriate steps to disconnect the Large Generating Facility from the Participating TO's Transmission System. All costs required to effectuate such disconnection shall be borne by the terminating Party, unless such termination resulted from the non-terminating Party's Default of this LGIA or such non-terminating Party otherwise is responsible for these costs under this LGIA.
- 2.6 Survival.** This LGIA shall continue in effect after termination to the extent necessary to provide for final billings and payments and for costs incurred hereunder, including billings and payments pursuant to this LGIA; to permit the determination and enforcement of liability and indemnification obligations arising from acts or events that occurred while this LGIA was in effect; and to permit each Party to have access to the lands of the other Parties pursuant to this LGIA or other applicable agreements, to disconnect, remove or salvage its own facilities and equipment.

**ARTICLE 3. REGULATORY FILINGS AND CAISO TARIFF COMPLIANCE**

- 3.1 Filing.** The Participating TO and the CAISO shall file this LGIA (and any amendment hereto) with the appropriate Governmental Authority(ies), if required. The Interconnection Customer may request that any information so provided be subject to the confidentiality provisions of Article 22. If the Interconnection Customer has executed this LGIA, or any amendment thereto, the Interconnection Customer shall reasonably cooperate with the Participating TO and CAISO with respect to such filing and to provide any information reasonably requested by the Participating TO or CAISO needed to comply with applicable regulatory requirements.
- 3.2 Agreement Subject to CAISO Tariff.** The Interconnection Customer will comply with all applicable provisions of the CAISO Tariff, including the GIP.
- 3.3 Relationship Between this LGIA and the CAISO Tariff.** With regard to rights and obligations between the Participating TO and the Interconnection Customer, if and to the extent a matter is specifically addressed by a provision of this LGIA (including any appendices, schedules or other attachments to this LGIA), the provisions of this LGIA shall govern. If and to the extent a provision of this LGIA is inconsistent with the CAISO Tariff and dictates rights and obligations between the CAISO and the Participating TO or the CAISO and the Interconnection Customer, the CAISO Tariff shall govern.
- 3.4 Relationship Between this LGIA and the QF PGA.** With regard to the rights and obligations of a Qualifying Facility that has entered into a QF PGA with the CAISO and has entered into this LGIA, if and to the extent a matter is specifically addressed by a provision of the QF PGA that is inconsistent with this LGIA, the terms of the QF PGA shall govern.

**ARTICLE 4. SCOPE OF SERVICE**

- 4.1 Interconnection Service.** Interconnection Service allows the Interconnection Customer to connect the Large Generating Facility to the Participating TO's Transmission System and be eligible to deliver the Large Generating Facility's output using the available capacity of the CAISO Controlled Grid. To the extent the Interconnection Customer wants to receive Interconnection Service, the Participating TO shall construct facilities identified in Appendices A and C that the Participating TO is responsible to construct.

Interconnection Service does not necessarily provide the Interconnection Customer with the capability to physically deliver the output of its Large Generating Facility to any particular load on the CAISO Controlled Grid without

incurring congestion costs. In the event of transmission constraints on the CAISO Controlled Grid, the Interconnection Customer's Large Generating Facility shall be subject to the applicable congestion management procedures in the CAISO Tariff in the same manner as all other resources.

- 4.2 Provision of Service.** The Participating TO and the CAISO shall provide Interconnection Service for the Large Generating Facility.
- 4.3 Performance Standards.** Each Party shall perform all of its obligations under this LGIA in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice, and to the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in Breach of this LGIA for its compliance therewith. If such Party is the CAISO or Participating TO, then that Party shall amend the LGIA and submit the amendment to FERC for approval.
- 4.4 No Transmission Service.** The execution of this LGIA does not constitute a request for, nor the provision of, any transmission service under the CAISO Tariff, and does not convey any right to deliver electricity to any specific customer or point of delivery.
- 4.5 Interconnection Customer Provided Services.** The services provided by Interconnection Customer under this LGIA are set forth in Article 9.6 and Article 13.5.1. Interconnection Customer shall be paid for such services in accordance with Article 11.6.

## **ARTICLE 5. FACILITIES ENGINEERING, PROCUREMENT, AND CONSTRUCTION**

Interconnection Facilities, Network Upgrades, and Distribution Upgrades shall be studied, designed, and constructed pursuant to Good Utility Practice. Such studies, design and construction shall be based on the assumed accuracy and completeness of all technical information received by the Participating TO and the CAISO from the Interconnection Customer associated with interconnecting the Large Generating Facility.

- 5.1 Options.** Unless otherwise mutually agreed among the Parties, the Interconnection Customer shall select the In-Service Date, Initial Synchronization Date, and Commercial Operation Date; and either Standard Option or Alternate Option set forth below for completion of the Participating TO's Interconnection Facilities and Network Upgrades as set forth in Appendix A, Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and such dates and selected option shall be set forth in Appendix B, Milestones.

**5.1.1 Standard Option.** The Participating TO shall design, procure, and construct the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, using Reasonable Efforts to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the dates set forth in Appendix B, Milestones. The Participating TO shall not be required to undertake any action which is inconsistent with its standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and Applicable Laws and Regulations. In the event the Participating TO reasonably expects that it will not be able to complete the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades by the specified dates, the Participating TO shall promptly provide written notice to the Interconnection Customer and the CAISO and shall undertake Reasonable Efforts to meet the earliest dates thereafter.

**5.1.2 Alternate Option.** If the dates designated by the Interconnection Customer are acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities by the designated dates.

If the Participating TO subsequently fails to complete the Participating TO's Interconnection Facilities by the In-Service Date, to the extent necessary to provide back feed power; or fails to complete Network Upgrades by the Initial Synchronization Date to the extent necessary to allow for Trial Operation at full power output, unless other arrangements are made by the Parties for such Trial Operation; or fails to complete the Network Upgrades by the Commercial Operation Date, as such dates are reflected in Appendix B, Milestones; the Participating TO shall pay the Interconnection Customer liquidated damages in accordance with Article 5.3, Liquidated Damages, provided, however, the dates designated by the Interconnection Customer shall be extended day for day for each day that the CAISO refuses to grant clearances to install equipment.

**5.1.3 Option to Build.** If the dates designated by the Interconnection Customer are not acceptable to the Participating TO, the Participating TO shall so notify the Interconnection Customer within thirty (30) Calendar Days, and unless the Parties agree otherwise, the Interconnection Customer shall have the option to assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades. If the Interconnection Customer elects to exercise its option to assume responsibility for the design, procurement

and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, it shall so notify the Participating TO within thirty (30) Calendar Days of receipt of the Participating TO's notification that the designated dates are not acceptable to the Participating TO. The Participating TO, CAISO, and Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify such Stand Alone Network Upgrades in Appendix A to this LGIA. Except for Stand Alone Network Upgrades, the Interconnection Customer shall have no right to construct Network Upgrades under this option.

**5.1.4 Negotiated Option.** If the Interconnection Customer elects not to exercise its option under Article 5.1.3, Option to Build, the Interconnection Customer shall so notify the Participating TO within thirty (30) Calendar Days of receipt of the Participating TO's notification that the designated dates are not acceptable to the Participating TO, and the Parties shall in good faith attempt to negotiate terms and conditions (including revision of the specified dates and liquidated damages, the provision of incentives or the procurement and construction of a portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades by the Interconnection Customer) pursuant to which the Participating TO is responsible for the design, procurement and construction of the Participating TO's Interconnection Facilities and Network Upgrades. If the Parties are unable to reach agreement on such terms and conditions, the Participating TO shall assume responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Network Upgrades pursuant to Article 5.1.1, Standard Option.

**5.2 General Conditions Applicable to Option to Build.** If the Interconnection Customer assumes responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades,

(1) The Interconnection Customer shall engineer, procure equipment, and construct the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades (or portions thereof) using Good Utility Practice and using standards and specifications provided in advance by the Participating TO;

(2) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of law to which the Participating TO would be subject in the engineering,

procurement or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(3) the Participating TO shall review, and the Interconnection Customer shall obtain the Participating TO's approval of, the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, which approval shall not be unreasonably withheld, and the CAISO may, at its option, review the engineering design, equipment acceptance tests, and the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(4) prior to commencement of construction, the Interconnection Customer shall provide to the Participating TO, with a copy to the CAISO for informational purposes, a schedule for construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, and shall promptly respond to requests for information from the Participating TO;

(5) at any time during construction, the Participating TO shall have the right to gain unrestricted access to the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades and to conduct inspections of the same;

(6) at any time during construction, should any phase of the engineering, equipment procurement, or construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades not meet the standards and specifications provided by the Participating TO, the Interconnection Customer shall be obligated to remedy deficiencies in that portion of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades;

(7) The Interconnection Customer shall indemnify the CAISO and Participating TO for claims arising from the Interconnection Customer's construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades under the terms and procedures applicable to Article 18.1 Indemnity;

(8) The Interconnection Customer shall transfer control of the Participating TO's Interconnection Facilities to the Participating TO and shall transfer Operational Control of Stand Alone Network Upgrades to the CAISO;

(9) Unless the Parties otherwise agree, the Interconnection Customer shall transfer ownership of the Participating TO's Interconnection Facilities

and Stand Alone Network Upgrades to the Participating TO. As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades, the Interconnection Customer shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the Participating TO, which invoice shall set forth such costs in sufficient detail to enable the Participating TO to reflect the proper costs of such facilities in its transmission rate base and to identify the investment upon which refunds will be provided;

(10) the Participating TO shall accept for operation and maintenance the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades to the extent engineered, procured, and constructed in accordance with this Article 5.2; and

(11) The Interconnection Customer's engineering, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades shall comply with all requirements of the "Option to Build" conditions set forth in Appendix C. Interconnection Customer shall deliver to the Participating TO "as-built" drawings, information, and any other documents that are reasonably required by the Participating TO to assure that the Interconnection Facilities and Stand-Alone Network Upgrades are built to the standards and specifications required by the Participating TO.

**5.3 Liquidated Damages.** The actual damages to the Interconnection Customer, in the event the Participating TO's Interconnection Facilities or Network Upgrades are not completed by the dates designated by the Interconnection Customer and accepted by the Participating TO pursuant to subparagraphs 5.1.2 or 5.1.4, above, may include Interconnection Customer's fixed operation and maintenance costs and lost opportunity costs. Such actual damages are uncertain and impossible to determine at this time. Because of such uncertainty, any liquidated damages paid by the Participating TO to the Interconnection Customer in the event that the Participating TO does not complete any portion of the Participating TO's Interconnection Facilities or Network Upgrades by the applicable dates, shall be an amount equal to  $\frac{1}{2}$  of 1 percent per day of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades, in the aggregate, for which the Participating TO has assumed responsibility to design, procure and construct.

However, in no event shall the total liquidated damages exceed 20 percent of the actual cost of the Participating TO's Interconnection Facilities and Network Upgrades for which the Participating TO has assumed responsibility to design,

procure, and construct. The foregoing payments will be made by the Participating TO to the Interconnection Customer as just compensation for the damages caused to the Interconnection Customer, which actual damages are uncertain and impossible to determine at this time, and as reasonable liquidated damages, but not as a penalty or a method to secure performance of this LGIA. Liquidated damages, when the Parties agree to them, are the exclusive remedy for the Participating TO's failure to meet its schedule.

No liquidated damages shall be paid to the Interconnection Customer if: (1) the Interconnection Customer is not ready to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for the Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit on the specified dates, unless the Interconnection Customer would have been able to commence use of the Participating TO's Interconnection Facilities or Network Upgrades to take the delivery of power for Electric Generating Unit's Trial Operation or to export power from the Electric Generating Unit, but for the Participating TO's delay; (2) the Participating TO's failure to meet the specified dates is the result of the action or inaction of the Interconnection Customer or any other interconnection customer who has entered into an interconnection agreement with the CAISO and/or Participating TO, action or inaction by the CAISO, or any cause beyond the Participating TO's reasonable control or reasonable ability to cure; (3) the Interconnection Customer has assumed responsibility for the design, procurement and construction of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades; or (4) the Parties have otherwise agreed.

In no event shall the CAISO have any responsibility or liability to the Interconnection Customer for liquidated damages pursuant to the provisions of this Article 5.3.

- 5.4 Power System Stabilizers.** The Interconnection Customer shall procure, install, maintain and operate Power System Stabilizers in accordance with Applicable Reliability Standards, the guidelines and procedures established by the Applicable Reliability Council, and the provisions of Section 4.6.5.1 of the CAISO Tariff. The CAISO reserves the right to establish reasonable minimum acceptable settings for any installed Power System Stabilizers, subject to the design and operating limitations of the Large Generating Facility. If the Large Generating Facility's Power System Stabilizers are removed from service or not capable of automatic operation, the Interconnection Customer shall immediately notify the CAISO and the Participating TO and restore the Power System Stabilizers to operation as soon as possible. The CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected as a result of improperly tuned Power System Stabilizers. The requirements of this

Article 5.4 shall apply to Asynchronous Generating Facilities in accordance with Appendix H.

**5.5 Equipment Procurement.** If responsibility for construction of the Participating TO's Interconnection Facilities or Network Upgrades is to be borne by the Participating TO, then the Participating TO shall commence design of the Participating TO's Interconnection Facilities or Network Upgrades and procure necessary equipment as soon as practicable after all of the following conditions are satisfied, unless the Parties otherwise agree in writing:

**5.5.1** The CAISO, in coordination with the applicable Participating TO(s), has completed the Phase II Interconnection Study or Governing Independent Study Process Interconnection Study pursuant to the applicable Generator Interconnection Facilities Study Process Agreement or other applicable study process agreement;

**5.5.2** The Participating TO has received written authorization to proceed with design and procurement from the Interconnection Customer by the date specified in Appendix B, Milestones; and

**5.5.3** The Interconnection Customer has provided security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

**5.6 Construction Commencement.** The Participating TO shall commence construction of the Participating TO's Interconnection Facilities and Network Upgrades for which it is responsible as soon as practicable after the following additional conditions are satisfied:

**5.6.1** Approval of the appropriate Governmental Authority has been obtained for any facilities requiring regulatory approval;

**5.6.2** Necessary real property rights and rights-of-way have been obtained, to the extent required for the construction of a discrete aspect of the Participating TO's Interconnection Facilities and Network Upgrades;

**5.6.3** The Participating TO has received written authorization to proceed with construction from the Interconnection Customer by the date specified in Appendix B, Milestones; and

**5.6.4** The Interconnection Customer has provided payment and security to the Participating TO in accordance with Article 11.5 by the dates specified in Appendix B, Milestones.

- 5.7 Work Progress.** The Parties will keep each other advised periodically as to the progress of their respective design, procurement and construction efforts. Any Party may, at any time, request a progress report from another Party. If, at any time, the Interconnection Customer determines that the completion of the Participating TO's Interconnection Facilities will not be required until after the specified In-Service Date, the Interconnection Customer will provide written notice to the Participating TO and CAISO of such later date upon which the completion of the Participating TO's Interconnection Facilities will be required.
- 5.8 Information Exchange.** As soon as reasonably practicable after the Effective Date, the Parties shall exchange information regarding the design and compatibility of the Interconnection Customer's Interconnection Facilities and Participating TO's Interconnection Facilities and compatibility of the Interconnection Facilities with the Participating TO's Transmission System, and shall work diligently and in good faith to make any necessary design changes.
- 5.9 Limited Operation.** If any of the Participating TO's Interconnection Facilities or Network Upgrades are not reasonably expected to be completed prior to the Commercial Operation Date of the Electric Generating Unit, the Participating TO and/or CAISO, as applicable, shall, upon the request and at the expense of the Interconnection Customer, perform operating studies on a timely basis to determine the extent to which the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities may operate prior to the completion of the Participating TO's Interconnection Facilities or Network Upgrades consistent with Applicable Laws and Regulations, Applicable Reliability Standards, Good Utility Practice, and this LGIA. The Participating TO and CAISO shall permit Interconnection Customer to operate the Electric Generating Unit and the Interconnection Customer's Interconnection Facilities in accordance with the results of such studies.
- 5.10 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall, at its expense, design, procure, construct, own and install the Interconnection Customer's Interconnection Facilities, as set forth in Appendix A.
- 5.10.1 Large Generating Facility and Interconnection Customer's Interconnection Facilities Specifications.** In addition to the Interconnection Customer's responsibility to submit technical data with its Interconnection Request as required by Section 3.5.1 of the GIP, the Interconnection Customer shall submit all remaining necessary specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO at least one hundred eighty (180) Calendar Days prior to the Initial Synchronization Date; and final specifications for review and comment at least ninety (90) Calendar Days

prior to the Initial Synchronization Date. The Participating TO and the CAISO shall review such specifications pursuant to this LGIA and the GIP to ensure that the Interconnection Customer's Interconnection Facilities and Large Generating Facility are compatible with the technical specifications, operational control, safety requirements, and any other applicable requirements of the Participating TO and the CAISO and comment on such specifications within thirty (30) Calendar Days of the Interconnection Customer's submission. All specifications provided hereunder shall be deemed confidential.

**5.10.2 Participating TO's and CAISO's Review.** The Participating TO's and the CAISO's review of the Interconnection Customer's final specifications shall not be construed as confirming, endorsing, or providing a warranty as to the design, fitness, safety, durability or reliability of the Large Generating Facility, or the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall make such changes to the Interconnection Customer's Interconnection Facilities as may reasonably be required by the Participating TO or the CAISO, in accordance with Good Utility Practice, to ensure that the Interconnection Customer's Interconnection Facilities are compatible with the technical specifications, Operational Control, and safety requirements of the Participating TO or the CAISO.

**5.10.3 Interconnection Customer's Interconnection Facilities Construction.** The Interconnection Customer's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Interconnection Customer shall deliver to the Participating TO and CAISO "as-built" drawings, information and documents for the Interconnection Customer's Interconnection Facilities and the Electric Generating Unit(s), such as: a one-line diagram, a site plan showing the Large Generating Facility and the Interconnection Customer's Interconnection Facilities, plan and elevation drawings showing the layout of the Interconnection Customer's Interconnection Facilities, a relay functional diagram, relaying AC and DC schematic wiring diagrams and relay settings for all facilities associated with the Interconnection Customer's step-up transformers, the facilities connecting the Large Generating Facility to the step-up transformers and the Interconnection Customer's Interconnection Facilities, and the impedances (determined by factory tests) for the associated step-up transformers and the Electric Generating Units. The Interconnection Customer shall provide the Participating TO and the CAISO specifications for the excitation system, automatic voltage regulator, Large Generating Facility control and protection settings, transformer tap settings, and

communications, if applicable. Any deviations from the relay settings, machine specifications, and other specifications originally submitted by the Interconnection Customer shall be assessed by the Participating TO and the CAISO pursuant to the appropriate provisions of this LGIA and the GIP.

**5.10.4 Interconnection Customer to Meet Requirements of the Participating TO's Interconnection Handbook.** The Interconnection Customer shall comply with the Participating TO's Interconnection Handbook.

**5.11 Participating TO's Interconnection Facilities Construction.** The Participating TO's Interconnection Facilities shall be designed and constructed in accordance with Good Utility Practice. Upon request, within one hundred twenty (120) Calendar Days after the Commercial Operation Date, unless the Participating TO and Interconnection Customer agree on another mutually acceptable deadline, the Participating TO shall deliver to the Interconnection Customer and the CAISO the following "as-built" drawings, information and documents for the Participating TO's Interconnection Facilities. No as-built drawings will be provided.

The Participating TO will obtain control for operating and maintenance purposes of the Participating TO's Interconnection Facilities and Stand Alone Network Upgrades upon completion of such facilities. Pursuant to Article 5.2, the CAISO will obtain Operational Control of the Stand Alone Network Upgrades prior to the Commercial Operation Date.

**5.12 Access Rights.** Upon reasonable notice and supervision by a Party, and subject to any required or necessary regulatory approvals, a Party ("Granting Party") shall furnish at no cost to the other Party ("Access Party") any rights of use, licenses, rights of way and easements with respect to lands owned or controlled by the Granting Party, its agents (if allowed under the applicable agency agreement), or any Affiliate, that are necessary to enable the Access Party to obtain ingress and egress to construct, operate, maintain, repair, test (or witness testing), inspect, replace or remove facilities and equipment to: (i) interconnect the Large Generating Facility with the Participating TO's Transmission System; (ii) operate and maintain the Large Generating Facility, the Interconnection Facilities and the Participating TO's Transmission System; and (iii) disconnect or remove the Access Party's facilities and equipment upon termination of this LGIA. In exercising such licenses, rights of way and easements, the Access Party shall not unreasonably disrupt or interfere with normal operation of the Granting Party's business and shall adhere to the safety rules and procedures established in advance, as may be changed from time to time, by the Granting Party and provided to the Access Party.

- 5.13 Lands of Other Property Owners.** If any part of the Participating TO's Interconnection Facilities and/or Network Upgrades are to be installed on property owned by persons other than the Interconnection Customer or Participating TO, the Participating TO shall at the Interconnection Customer's expense use efforts, similar in nature and extent to those that it typically undertakes on its own behalf or on behalf of its Affiliates, including use of its eminent domain authority, and to the extent consistent with state law, to procure from such persons any rights of use, licenses, rights of way and easements that are necessary to construct, operate, maintain, test, inspect, replace or remove the Participating TO's Interconnection Facilities and/or Network Upgrades upon such property.
- 5.14 Permits.** Participating TO and Interconnection Customer shall cooperate with each other in good faith in obtaining all permits, licenses and authorization that are necessary to accomplish the interconnection in compliance with Applicable Laws and Regulations. With respect to this paragraph, the Participating TO shall provide permitting assistance to the Interconnection Customer comparable to that provided to the Participating TO's own, or an Affiliate's generation.
- 5.15 Early Construction of Base Case Facilities.** The Interconnection Customer may request the Participating TO to construct, and the Participating TO shall construct, using Reasonable Efforts to accommodate Interconnection Customer's In-Service Date, all or any portion of any Network Upgrades required for Interconnection Customer to be interconnected to the Participating TO's Transmission System which are included in the Base Case of the Interconnection Studies for the Interconnection Customer, and which also are required to be constructed for another interconnection customer, but where such construction is not scheduled to be completed in time to achieve Interconnection Customer's In-Service Date.
- 5.16 Suspension.** The Interconnection Customer reserves the right, upon written notice to the Participating TO and the CAISO, to suspend at any time all work associated with the construction and installation of the Participating TO's Interconnection Facilities, Network Upgrades, and/or Distribution Upgrades required under this LGIA, other than Network Upgrades identified in the Phase II Interconnection Study as common to multiple Generating Facilities, with the condition that the Participating TO's electrical system and the CAISO Controlled Grid shall be left in a safe and reliable condition in accordance with Good Utility Practice and the Participating TO's safety and reliability criteria and the CAISO's Applicable Reliability Standards. In such event, the Interconnection Customer shall be responsible for all reasonable and necessary costs which the Participating TO (i) has incurred pursuant to this LGIA prior to the suspension and (ii) incurs in suspending such work, including any costs incurred to perform such work as may be necessary to ensure the safety of persons and property

and the integrity of the Participating TO's electric system during such suspension and, if applicable, any costs incurred in connection with the cancellation or suspension of material, equipment and labor contracts which the Participating TO cannot reasonably avoid; provided, however, that prior to canceling or suspending any such material, equipment or labor contract, the Participating TO shall obtain Interconnection Customer's authorization to do so.

The Participating TO shall invoice the Interconnection Customer for such costs pursuant to Article 12 and shall use due diligence to minimize its costs. In the event Interconnection Customer suspends work required under this LGIA pursuant to this Article 5.16, and has not requested the Participating TO to recommence the work or has not itself recommenced work required under this LGIA in time to ensure that the new projected Commercial Operation Date for the full Generating Facility Capacity of the Large Generating Facility is no more than three (3) years from the Commercial Operation Date identified in Appendix B hereto, this LGIA shall be deemed terminated and the Interconnection Customer's responsibility for costs will be determined in accordance with Article 2.4 of this LGIA. The suspension period shall begin on the date the suspension is requested, or the date of the written notice to the Participating TO and the CAISO, if no effective date is specified.

## **5.17 Taxes.**

**5.17.1 Interconnection Customer Payments Not Taxable.** The Parties intend that all payments or property transfers made by the Interconnection Customer to the Participating TO for the installation of the Participating TO's Interconnection Facilities and the Network Upgrades shall be non-taxable, either as contributions to capital, or as a refundable advance, in accordance with the Internal Revenue Code and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the Internal Revenue Code and any applicable state income tax laws.

**5.17.2 Representations And Covenants.** In accordance with IRS Notice 2001-82 and IRS Notice 88-129, the Interconnection Customer represents and covenants that (i) ownership of the electricity generated at the Large Generating Facility will pass to another party prior to the transmission of the electricity on the CAISO Controlled Grid, (ii) for income tax purposes, the amount of any payments and the cost of any property transferred to the Participating TO for the Participating TO's Interconnection Facilities will be capitalized by the Interconnection Customer as an intangible asset and recovered using the straight-line method over a useful life of twenty (20) years, and (iii) any portion of the Participating TO's Interconnection Facilities that is a "dual-use intertie," within the meaning of IRS Notice 88-

129, is reasonably expected to carry only a de minimis amount of electricity in the direction of the Large Generating Facility. For this purpose, “de minimis amount” means no more than 5 percent of the total power flows in both directions, calculated in accordance with the “5 percent test” set forth in IRS Notice 88-129. This is not intended to be an exclusive list of the relevant conditions that must be met to conform to IRS requirements for non-taxable treatment.

At the Participating TO’s request, the Interconnection Customer shall provide the Participating TO with a report from an independent engineer confirming its representation in clause (iii), above. The Participating TO represents and covenants that the cost of the Participating TO’s Interconnection Facilities paid for by the Interconnection Customer without the possibility of refund or credit will have no net effect on the base upon which rates are determined.

**5.17.3 Indemnification for the Cost Consequence of Current Tax Liability Imposed Upon the Participating TO.** Notwithstanding Article 5.17.1, the Interconnection Customer shall protect, indemnify and hold harmless the Participating TO from the cost consequences of any current tax liability imposed against the Participating TO as the result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA for Interconnection Facilities, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by the Participating TO.

The Participating TO shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges the Interconnection Customer under this LGIA unless (i) the Participating TO has determined, in good faith, that the payments or property transfers made by the Interconnection Customer to the Participating TO should be reported as income subject to taxation or (ii) any Governmental Authority directs the Participating TO to report payments or property as income subject to taxation; provided, however, that the Participating TO may require the Interconnection Customer to provide security for Interconnection Facilities, in a form reasonably acceptable to the Participating TO (such as a parental guarantee or a letter of credit), in an amount equal to the cost consequences of any current tax liability under this Article 5.17. The Interconnection Customer shall reimburse the Participating TO for such costs on a fully grossed-up basis, in accordance with Article 5.17.4, within thirty (30) Calendar Days of receiving written notification from the Participating TO of the amount due, including detail about how the amount was calculated.

The indemnification obligation shall terminate at the earlier of (1) the expiration of the ten year testing period and the applicable statute of limitation, as it may be extended by the Participating TO upon request of the IRS, to keep these years open for audit or adjustment, or (2) the occurrence of a subsequent taxable event and the payment of any related indemnification obligations as contemplated by this Article 5.17.

**5.17.4 Tax Gross-Up Amount.** The Interconnection Customer's liability for the cost consequences of any current tax liability under this Article 5.17 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the parties, this means that the Interconnection Customer will pay the Participating TO, in addition to the amount paid for the Interconnection Facilities and Network Upgrades, an amount equal to (1) the current taxes imposed on the Participating TO ("Current Taxes") on the excess of (a) the gross income realized by the Participating TO as a result of payments or property transfers made by the Interconnection Customer to the Participating TO under this LGIA (without regard to any payments under this Article 5.17) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments or property transfers (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit the Participating TO to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on the Participating TO's composite federal and state tax rates at the time the payments or property transfers are received and the Participating TO will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting the Participating TO's anticipated tax depreciation deductions as a result of such payments or property transfers by the Participating TO's current weighted average cost of capital. Thus, the formula for calculating the Interconnection Customer's liability to the Participating TO pursuant to this Article 5.17.4 can be expressed as follows:  $(\text{Current Tax Rate} \times (\text{Gross Income Amount} - \text{Present Value of Tax Depreciation})) / (1 - \text{Current Tax Rate})$ . Interconnection Customer's estimated tax liability in the event taxes are imposed shall be stated in Appendix A, Interconnection Facilities, Network Upgrades and Distribution Upgrades.

**5.17.5 Private Letter Ruling or Change or Clarification of Law.** At the Interconnection Customer's request and expense, the Participating TO shall file with the IRS a request for a private letter ruling as to whether any

property transferred or sums paid, or to be paid, by the Interconnection Customer to the Participating TO under this LGIA are subject to federal income taxation. The Interconnection Customer will prepare the initial draft of the request for a private letter ruling, and will certify under penalties of perjury that all facts represented in such request are true and accurate to the best of the Interconnection Customer's knowledge. The Participating TO and Interconnection Customer shall cooperate in good faith with respect to the submission of such request, provided, however, the Interconnection Customer and the Participating TO explicitly acknowledge (and nothing herein is intended to alter) Participating TO's obligation under law to certify that the facts presented in the ruling request are true, correct and complete.

The Participating TO shall keep the Interconnection Customer fully informed of the status of such request for a private letter ruling and shall execute either a privacy act waiver or a limited power of attorney, in a form acceptable to the IRS, that authorizes the Interconnection Customer to participate in all discussions with the IRS regarding such request for a private letter ruling. The Participating TO shall allow the Interconnection Customer to attend all meetings with IRS officials about the request and shall permit the Interconnection Customer to prepare the initial drafts of any follow-up letters in connection with the request.

**5.17.6 Subsequent Taxable Events.** If, within 10 years from the date on which the relevant Participating TO's Interconnection Facilities are placed in service, (i) the Interconnection Customer Breaches the covenants contained in Article 5.17.2, (ii) a "disqualification event" occurs within the meaning of IRS Notice 88-129, or (iii) this LGIA terminates and the Participating TO retains ownership of the Interconnection Facilities and Network Upgrades, the Interconnection Customer shall pay a tax gross-up for the cost consequences of any current tax liability imposed on the Participating TO, calculated using the methodology described in Article 5.17.4 and in accordance with IRS Notice 90-60.

**5.17.7 Contests.** In the event any Governmental Authority determines that the Participating TO's receipt of payments or property constitutes income that is subject to taxation, the Participating TO shall notify the Interconnection Customer, in writing, within thirty (30) Calendar Days of receiving notification of such determination by a Governmental Authority. Upon the timely written request by the Interconnection Customer and at the Interconnection Customer's sole expense, the Participating TO may appeal, protest, seek abatement of, or otherwise oppose such determination. Upon the Interconnection Customer's written request and sole expense, the Participating TO may file a claim for refund with respect

to any taxes paid under this Article 5.17, whether or not it has received such a determination. The Participating TO reserve the right to make all decisions with regard to the prosecution of such appeal, protest, abatement or other contest, including the selection of counsel and compromise or settlement of the claim, but the Participating TO shall keep the Interconnection Customer informed, shall consider in good faith suggestions from the Interconnection Customer about the conduct of the contest, and shall reasonably permit the Interconnection Customer or an Interconnection Customer representative to attend contest proceedings.

The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement or other contest, including any costs associated with obtaining the opinion of independent tax counsel described in this Article 5.17.7. The Participating TO may abandon any contest if the Interconnection Customer fails to provide payment to the Participating TO within thirty (30) Calendar Days of receiving such invoice.

At any time during the contest, the Participating TO may agree to a settlement either with the Interconnection Customer's consent or, if such consent is refused, after obtaining written advice from independent nationally-recognized tax counsel, selected by the Participating TO, but reasonably acceptable to the Interconnection Customer, that the proposed settlement represents a reasonable settlement given the hazards of litigation. The Interconnection Customer's obligation shall be based on the amount of the settlement agreed to by the Interconnection Customer, or if a higher amount, so much of the settlement that is supported by the written advice from nationally-recognized tax counsel selected under the terms of the preceding paragraph. The settlement amount shall be calculated on a fully grossed-up basis to cover any related cost consequences of the current tax liability. The Participating TO may also settle any tax controversy without receiving the Interconnection Customer's consent or any such written advice; however, any such settlement will relieve the Interconnection Customer from any obligation to indemnify the Participating TO for the tax at issue in the contest (unless the failure to obtain written advice is attributable to the Interconnection Customer's unreasonable refusal to the appointment of independent tax counsel).

**5.17.8 Refund.** In the event that (a) a private letter ruling is issued to the Participating TO which holds that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not subject to federal income taxation,

(b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to the Participating TO in good faith that any amount paid or the value of any property transferred by the Interconnection Customer to the Participating TO under the terms of this LGIA is not taxable to the Participating TO, (c) any abatement, appeal, protest, or other contest results in a determination that any payments or transfers made by the Interconnection Customer to the Participating TO are not subject to federal income tax, or (d) if the Participating TO receives a refund from any taxing authority for any overpayment of tax attributable to any payment or property transfer made by the Interconnection Customer to the Participating TO pursuant to this LGIA, the Participating TO shall promptly refund to the Interconnection Customer the following:

(i) any payment made by Interconnection Customer under this Article 5.17 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon,

(ii) interest on any amounts paid by the Interconnection Customer to the Participating TO for such taxes which the Participating TO did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date payment was made by the Interconnection Customer to the date the Participating TO refunds such payment to the Interconnection Customer, and

(iii) with respect to any such taxes paid by the Participating TO, any refund or credit the Participating TO receives or to which it may be entitled from any Governmental Authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to the Participating TO for such overpayment of taxes (including any reduction in interest otherwise payable by the Participating TO to any Governmental Authority resulting from an offset or credit); provided, however, that the Participating TO will remit such amount promptly to the Interconnection Customer only after and to the extent that the Participating TO has received a tax refund, credit or offset from any Governmental Authority for any applicable overpayment of income tax related to the Participating TO's Interconnection Facilities.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for Interconnection Facilities and Network Upgrades hereunder, in the same position they would have been in had no such tax payments been made.

**5.17.9 Taxes Other Than Income Taxes.** Upon the timely request by the Interconnection Customer, and at the Interconnection Customer's sole expense, the CAISO or Participating TO may appeal, protest, seek abatement of, or otherwise contest any tax (other than federal or state income tax) asserted or assessed against the CAISO or Participating TO for which the Interconnection Customer may be required to reimburse the CAISO or Participating TO under the terms of this LGIA. The Interconnection Customer shall pay to the Participating TO on a periodic basis, as invoiced by the Participating TO, the Participating TO's documented reasonable costs of prosecuting such appeal, protest, abatement, or other contest. The Interconnection Customer, the CAISO, and the Participating TO shall cooperate in good faith with respect to any such contest. Unless the payment of such taxes is a prerequisite to an appeal or abatement or cannot be deferred, no amount shall be payable by the Interconnection Customer to the CAISO or Participating TO for such taxes until they are assessed by a final, non-appealable order by any court or agency of competent jurisdiction. In the event that a tax payment is withheld and ultimately due and payable after appeal, the Interconnection Customer will be responsible for all taxes, interest and penalties, other than penalties attributable to any delay caused by the Participating TO.

**5.18 Tax Status.** Each Party shall cooperate with the others to maintain the other Parties' tax status. Nothing in this LGIA is intended to adversely affect the CAISO's or any Participating TO's tax exempt status with respect to the issuance of bonds including, but not limited to, Local Furnishing Bonds.

**5.19 Modification.**

**5.19.1 General.** The Interconnection Customer or the Participating TO may undertake modifications to its facilities, subject to the provisions of this LGIA and the CAISO Tariff. If a Party plans to undertake a modification that reasonably may be expected to affect the other Parties' facilities, that Party shall provide to the other Parties sufficient information regarding such modification so that the other Parties may evaluate the potential impact of such modification prior to commencement of the work. Such information shall be deemed to be confidential hereunder and shall include information concerning the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the Large Generating Facility. The Party desiring to perform such work shall provide the relevant drawings, plans, and specifications to the other Parties at least ninety (90) Calendar Days in advance of the commencement of the work or such shorter period upon which the Parties

may agree, which agreement shall not unreasonably be withheld, conditioned or delayed.

In the case of Large Generating Facility modifications that do not require the Interconnection Customer to submit an Interconnection Request, the CAISO or Participating TO shall provide, within thirty (30) Calendar Days (or such other time as the Parties may agree), an estimate of any additional modifications to the CAISO Controlled Grid, Participating TO's Interconnection Facilities, Network Upgrades or Distribution Upgrades necessitated by such Interconnection Customer modification and a good faith estimate of the costs thereof. The Participating TO and the CAISO shall determine if a Large Generating Facility modification is a Material Modification in accordance with the GIP.

**5.19.2 Standards.** Any additions, modifications, or replacements made to a Party's facilities shall be designed, constructed and operated in accordance with this LGIA and Good Utility Practice.

**5.19.3 Modification Costs.** The Interconnection Customer shall not be directly assigned the costs of any additions, modifications, or replacements that the Participating TO makes to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System to facilitate the interconnection of a third party to the Participating TO's Interconnection Facilities or the Participating TO's Transmission System, or to provide transmission service to a third party under the CAISO Tariff. The Interconnection Customer shall be responsible for the costs of any additions, modifications, or replacements to the Interconnection Facilities that may be necessary to maintain or upgrade such Interconnection Facilities consistent with Applicable Laws and Regulations, Applicable Reliability Standards or Good Utility Practice.

## ARTICLE 6. TESTING AND INSPECTION

**6.1 Pre-Commercial Operation Date Testing and Modifications.** Prior to the Commercial Operation Date, the Participating TO shall test the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades and the Interconnection Customer shall test the Large Generating Facility and the Interconnection Customer's Interconnection Facilities to ensure their safe and reliable operation. Similar testing may be required after initial operation. Each Party shall make any modifications to its facilities that are found to be necessary as a result of such testing. The Interconnection Customer shall bear the cost of all such testing and modifications. The Interconnection Customer shall not commence initial parallel operation of an Electric Generating Unit with the

Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit. The Interconnection Customer shall generate test energy at the Large Generating Facility only if it has arranged for the delivery of such test energy.

- 6.2 Post-Commercial Operation Date Testing and Modifications.** Each Party shall at its own expense perform routine inspection and testing of its facilities and equipment in accordance with Good Utility Practice as may be necessary to ensure the continued interconnection of the Large Generating Facility with the Participating TO's Transmission System in a safe and reliable manner. Each Party shall have the right, upon advance written notice, to require reasonable additional testing of the other Party's facilities, at the requesting Party's expense, as may be in accordance with Good Utility Practice.
- 6.3 Right to Observe Testing.** Each Party shall notify the other Parties at least fourteen (14) Calendar Days in advance of its performance of tests of its Interconnection Facilities or Generating Facility. The other Parties have the right, at their own expense, to observe such testing.
- 6.4 Right to Inspect.** Each Party shall have the right, but shall have no obligation to: (i) observe another Party's tests and/or inspection of any of its System Protection Facilities and other protective equipment, including Power System Stabilizers; (ii) review the settings of another Party's System Protection Facilities and other protective equipment; and (iii) review another Party's maintenance records relative to the Interconnection Facilities, the System Protection Facilities and other protective equipment. A Party may exercise these rights from time to time as it deems necessary upon reasonable notice to the other Party. The exercise or non-exercise by a Party of any such rights shall not be construed as an endorsement or confirmation of any element or condition of the Interconnection Facilities or the System Protection Facilities or other protective equipment or the operation thereof, or as a warranty as to the fitness, safety, desirability, or reliability of same. Any information that a Party obtains through the exercise of any of its rights under this Article 6.4 shall be deemed to be Confidential Information and treated pursuant to Article 22 of this LGIA.

## ARTICLE 7. METERING

- 7.1 General.** Each Party shall comply with any Applicable Reliability Standards and the Applicable Reliability Council requirements. The Interconnection Customer and CAISO shall comply with the provisions of the CAISO Tariff regarding metering, including Section 10 of the CAISO Tariff. Unless otherwise agreed by the Participating TO and the Interconnection Customer, the Participating TO may

install additional Metering Equipment at the Point of Interconnection prior to any operation of any Electric Generating Unit and shall own, operate, test and maintain such Metering Equipment. Power flows to and from the Large Generating Facility shall be measured at or, at the CAISO's or Participating TO's option for its respective Metering Equipment, compensated to, the Point of Interconnection. The CAISO shall provide metering quantities to the Interconnection Customer upon request in accordance with the CAISO Tariff by directly polling the CAISO's meter data acquisition system. The Interconnection Customer shall bear all reasonable documented costs associated with the purchase, installation, operation, testing and maintenance of the Metering Equipment.

- 7.2 Check Meters.** The Interconnection Customer, at its option and expense, may install and operate, on its premises and on its side of the Point of Interconnection, one or more check meters to check the CAISO-pollled meters or the Participating TO's meters. Such check meters shall be for check purposes only and shall not be used for the measurement of power flows for purposes of this LGIA, except in the case that no other means are available on a temporary basis at the option of the CAISO or the Participating TO. The check meters shall be subject at all reasonable times to inspection and examination by the CAISO or Participating TO or their designees. The installation, operation and maintenance thereof shall be performed entirely by the Interconnection Customer in accordance with Good Utility Practice.
- 7.3 Participating TO Retail Metering.** The Participating TO may install retail revenue quality meters and associated equipment, pursuant to the Participating TO's applicable retail tariffs.

## ARTICLE 8. COMMUNICATIONS

- 8.1 Interconnection Customer Obligations.** The Interconnection Customer shall maintain satisfactory operating communications with the CAISO in accordance with the provisions of the CAISO Tariff and with the Participating TO's dispatcher or representative designated by the Participating TO. The Interconnection Customer shall provide standard voice line, dedicated voice line and facsimile communications at its Large Generating Facility control room or central dispatch facility through use of either the public telephone system, or a voice communications system that does not rely on the public telephone system. The Interconnection Customer shall also provide the dedicated data circuit(s) necessary to provide Interconnection Customer data to the CAISO and Participating TO as set forth in Appendix D, Security Arrangements Details. The data circuit(s) shall extend from the Large Generating Facility to the location(s) specified by the CAISO and Participating TO. Any required maintenance of such communications equipment shall be performed by the Interconnection Customer.

Operational communications shall be activated and maintained under, but not be limited to, the following events: system paralleling or separation, scheduled and unscheduled shutdowns, equipment clearances, and hourly and daily load data.

- 8.2 Remote Terminal Unit.** Prior to the Initial Synchronization Date of each Electric Generating Unit, a Remote Terminal Unit, or equivalent data collection and transfer equipment acceptable to the Parties, shall be installed by the Interconnection Customer, or by the Participating TO at the Interconnection Customer's expense, to gather accumulated and instantaneous data to be telemetered to the location(s) designated by the CAISO and by the Participating TO through use of a dedicated point-to-point data circuit(s) as indicated in Article 8.1.

Telemetry to the CAISO shall be provided in accordance with the CAISO's technical standards for direct telemetry. For telemetry to the Participating TO, the communication protocol for the data circuit(s) shall be specified by the Participating TO. Instantaneous bi-directional real power and reactive power flow and any other required information must be telemetered directly to the location(s) specified by the Participating TO.

Each Party will promptly advise the other Parties if it detects or otherwise learns of any metering, telemetry or communications equipment errors or malfunctions that require the attention and/or correction by another Party. The Party owning such equipment shall correct such error or malfunction as soon as reasonably feasible.

- 8.3 No Annexation.** Any and all equipment placed on the premises of a Party shall be and remain the property of the Party providing such equipment regardless of the mode and manner of annexation or attachment to real property, unless otherwise mutually agreed by the Parties.

## ARTICLE 9. OPERATIONS

- 9.1 General.** Each Party shall comply with Applicable Reliability Standards and the Applicable Reliability Council requirements. Each Party shall provide to the other Party all information that may reasonably be required by the other Party to comply with Applicable Laws and Regulations and Applicable Reliability Standards.
- 9.2 Balancing Authority Area Notification.** At least three months before Initial Synchronization Date, the Interconnection Customer shall notify the CAISO and Participating TO in writing of the Balancing Authority Area in which the Large Generating Facility intends to be located. If the Interconnection Customer

intends to locate the Large Generating Facility in a Balancing Authority Area other than the Balancing Authority Area within whose electrically metered boundaries the Large Generating Facility is located, and if permitted to do so by the relevant transmission tariffs, all necessary arrangements, including but not limited to those set forth in Article 7 and Article 8 of this LGIA, and remote Balancing Authority Area generator interchange agreements, if applicable, and the appropriate measures under such agreements, shall be executed and implemented prior to the placement of the Large Generating Facility in the other Balancing Authority Area.

- 9.3 CAISO and Participating TO Obligations.** The CAISO and Participating TO shall cause the Participating TO's Transmission System to be operated and controlled in a safe and reliable manner and in accordance with this LGIA. The Participating TO at the Interconnection Customer's expense shall cause the Participating TO's Interconnection Facilities to be operated, maintained and controlled in a safe and reliable manner and in accordance with this LGIA. The CAISO and Participating TO may provide operating instructions to the Interconnection Customer consistent with this LGIA and Participating TO and CAISO operating protocols and procedures as they may change from time to time. The Participating TO and CAISO will consider changes to their operating protocols and procedures proposed by the Interconnection Customer.
- 9.4 Interconnection Customer Obligations.** The Interconnection Customer shall at its own expense operate, maintain and control the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA. The Interconnection Customer shall operate the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in accordance with all applicable requirements of the Balancing Authority Area of which it is part, including such requirements as set forth in Appendix C, Interconnection Details, of this LGIA. Appendix C, Interconnection Details, will be modified to reflect changes to the requirements as they may change from time to time. A Party may request that another Party provide copies of the requirements set forth in Appendix C, Interconnection Details, of this LGIA. The Interconnection Customer shall not commence Commercial Operation of an Electric Generating Unit with the Participating TO's Transmission System until the Participating TO provides prior written approval, which approval shall not be unreasonably withheld, for operation of such Electric Generating Unit.
- 9.5 Start-Up and Synchronization.** Consistent with the Parties' mutually acceptable procedures, the Interconnection Customer is responsible for the proper synchronization of each Electric Generating Unit to the CAISO Controlled Grid.

## 9.6 Reactive Power.

**9.6.1 Power Factor Design Criteria.** For all Generating Facilities other than Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain a composite power delivery at continuous rated power output at the terminals of the Electric Generating Unit at a power factor within the range of 0.95 leading to 0.90 lagging, unless the CAISO has established different requirements that apply to all generators in the Balancing Authority Area on a comparable basis. For Asynchronous Generating Facilities, the Interconnection Customer shall design the Large Generating Facility to maintain power factor criteria in accordance with Appendix H of this LGIA.

**9.6.2 Voltage Schedules.** Once the Interconnection Customer has synchronized an Electric Generating Unit with the CAISO Controlled Grid, the CAISO or Participating TO shall require the Interconnection Customer to maintain a voltage schedule by operating the Electric Generating Unit to produce or absorb reactive power within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria). CAISO's voltage schedules shall treat all sources of reactive power in the Balancing Authority Area in an equitable and not unduly discriminatory manner. The Participating TO shall exercise Reasonable Efforts to provide the Interconnection Customer with such schedules at least one (1) day in advance, and the CAISO or Participating TO may make changes to such schedules as necessary to maintain the reliability of the CAISO Controlled Grid or the Participating TO's electric system. The Interconnection Customer shall operate the Electric Generating Unit to maintain the specified output voltage or power factor within the design limitations of the Electric Generating Unit set forth in Article 9.6.1 (Power Factor Design Criteria), and as may be required by the CAISO to operate the Electric Generating Unit at a specific voltage schedule within the design limitations set forth in Article 9.6.1. If the Interconnection Customer is unable to maintain the specified voltage or power factor, it shall promptly notify the CAISO and the Participating TO.

**9.6.2.1 Governors and Regulators.** Whenever an Electric Generating Unit is operated in parallel with the CAISO Controlled Grid and the speed governors (if installed on the Electric Generating Unit pursuant to Good Utility Practice) and voltage regulators are capable of operation, the Interconnection Customer shall operate the Electric Generating Unit with its speed governors and voltage regulators in automatic operation. If the Electric Generating Unit's speed governors and voltage regulators are not capable of such automatic operation, the Interconnection Customer

shall immediately notify the CAISO and the Participating TO and ensure that the Electric Generating Unit operates as specified in Article 9.6.2 through manual operation and that such Electric Generating Unit's reactive power production or absorption (measured in MVARs) are within the design capability of the Electric Generating Unit(s) and steady state stability limits. The Interconnection Customer shall restore the speed governors and voltage regulators to automatic operation as soon as possible. If the Large Generating Facility's speed governors and voltage regulators are improperly tuned or malfunctioning, the CAISO shall have the right to order the reduction in output or disconnection of the Large Generating Facility if the reliability of the CAISO Controlled Grid would be adversely affected. The Interconnection Customer shall not cause its Large Generating Facility to disconnect automatically or instantaneously from the CAISO Controlled Grid or trip any Electric Generating Unit comprising the Large Generating Facility for an under or over frequency condition unless the abnormal frequency condition persists for a time period beyond the limits set forth in ANSI/IEEE Standard C37.106, or such other standard as applied to other generators in the Balancing Authority Area on a comparable basis.

**9.6.3 Payment for Reactive Power.** CAISO is required to pay the Interconnection Customer for reactive power that Interconnection Customer provides or absorbs from an Electric Generating Unit when the CAISO requests the Interconnection Customer to operate its Electric Generating Unit outside the range specified in Article 9.6.1, provided that if the CAISO pays other generators for reactive power service within the specified range, it must also pay the Interconnection Customer. Payments shall be pursuant to Article 11.6 or such other agreement to which the CAISO and Interconnection Customer have otherwise agreed.

## **9.7 Outages and Interruptions.**

### **9.7.1 Outages.**

**9.7.1.1 Outage Authority and Coordination.** Each Party may in accordance with Good Utility Practice in coordination with the other Parties remove from service any of its respective Interconnection Facilities or Network Upgrades that may impact another Party's facilities as necessary to perform maintenance or testing or to install or replace equipment. Absent an Emergency Condition, the Party scheduling a removal of such facility(ies) from service will use Reasonable Efforts to schedule such removal on a date and time

mutually acceptable to all Parties. In all circumstances any Party planning to remove such facility(ies) from service shall use Reasonable Efforts to minimize the effect on the other Parties of such removal.

**9.7.1.2 Outage Schedules.** The CAISO shall post scheduled outages of CAISO Controlled Grid facilities in accordance with the provisions of the CAISO Tariff. The Interconnection Customer shall submit its planned maintenance schedules for the Large Generating Facility to the CAISO in accordance with the CAISO Tariff. The Interconnection Customer shall update its planned maintenance schedules in accordance with the CAISO Tariff. The CAISO may request the Interconnection Customer to reschedule its maintenance as necessary to maintain the reliability of the CAISO Controlled Grid in accordance with the CAISO Tariff. Such planned maintenance schedules and updates and changes to such schedules shall be provided by the Interconnection Customer to the Participating TO concurrently with their submittal to the CAISO. The CAISO shall compensate the Interconnection Customer for any additional direct costs that the Interconnection Customer incurs as a result of having to reschedule maintenance in accordance with the CAISO Tariff. The Interconnection Customer will not be eligible to receive compensation, if during the twelve (12) months prior to the date of the scheduled maintenance, the Interconnection Customer had modified its schedule of maintenance activities.

**9.7.1.3 Outage Restoration.** If an outage on a Party's Interconnection Facilities or Network Upgrades adversely affects another Party's operations or facilities, the Party that owns or controls the facility that is out of service shall use Reasonable Efforts to promptly restore such facility(ies) to a normal operating condition consistent with the nature of the outage. The Party that owns or controls the facility that is out of service shall provide the other Parties, to the extent such information is known, information on the nature of the Emergency Condition, if the outage is caused by an Emergency Condition, an estimated time of restoration, and any corrective actions required. Initial verbal notice shall be followed up as soon as practicable with written notice explaining the nature of the outage, if requested by a Party, which may be provided by e-mail or facsimile.

**9.7.2 Interruption of Service.** If required by Good Utility Practice to do so, the CAISO or the Participating TO may require the Interconnection Customer to interrupt or reduce deliveries of electricity if such delivery of electricity

could adversely affect the CAISO's or the Participating TO's ability to perform such activities as are necessary to safely and reliably operate and maintain the Participating TO's electric system or the CAISO Controlled Grid. The following provisions shall apply to any interruption or reduction permitted under this Article 9.7.2:

**9.7.2.1** The interruption or reduction shall continue only for so long as reasonably necessary under Good Utility Practice;

**9.7.2.2** Any such interruption or reduction shall be made on an equitable, non-discriminatory basis with respect to all generating facilities directly connected to the CAISO Controlled Grid, subject to any conditions specified in this LGIA;

**9.7.2.3** When the interruption or reduction must be made under circumstances which do not allow for advance notice, the CAISO or Participating TO, as applicable, shall notify the Interconnection Customer by telephone as soon as practicable of the reasons for the curtailment, interruption, or reduction, and, if known, its expected duration. Telephone notification shall be followed by written notification, if requested by the Interconnection Customer, as soon as practicable;

**9.7.2.4** Except during the existence of an Emergency Condition, the CAISO or Participating TO shall notify the Interconnection Customer in advance regarding the timing of such interruption or reduction and further notify the Interconnection Customer of the expected duration. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the interruption or reduction during periods of least impact to the Interconnection Customer, the CAISO, and the Participating TO;

**9.7.2.5** The Parties shall cooperate and coordinate with each other to the extent necessary in order to restore the Large Generating Facility, Interconnection Facilities, the Participating TO's Transmission System, and the CAISO Controlled Grid to their normal operating state, consistent with system conditions and Good Utility Practice.

**9.7.3 Under-Frequency and Over Frequency Conditions.** The CAISO Controlled Grid is designed to automatically activate a load-shed program as required by Applicable Reliability Standards and the Applicable Reliability Council in the event of an under-frequency system disturbance.

The Interconnection Customer shall implement under-frequency and over-frequency protection set points for the Large Generating Facility as required by Applicable Reliability Standards and the Applicable Reliability Council to ensure “ride through” capability. Large Generating Facility response to frequency deviations of pre-determined magnitudes, both under-frequency and over-frequency deviations, shall be studied and coordinated with the Participating TO and CAISO in accordance with Good Utility Practice. The term “ride through” as used herein shall mean the ability of a Generating Facility to stay connected to and synchronized with the CAISO Controlled Grid during system disturbances within a range of under-frequency and over-frequency conditions, in accordance with Good Utility Practice. Asynchronous Generating Facilities shall be subject to frequency ride through capability requirements in accordance with Appendix H to this LGIA.

#### **9.7.4 System Protection and Other Control Requirements.**

**9.7.4.1 System Protection Facilities.** The Interconnection Customer shall, at its expense, install, operate and maintain System Protection Facilities as a part of the Large Generating Facility or the Interconnection Customer’s Interconnection Facilities. The Participating TO shall install at the Interconnection Customer’s expense any System Protection Facilities that may be required on the Participating TO’s Interconnection Facilities or the Participating TO’s Transmission System as a result of the interconnection of the Large Generating Facility and the Interconnection Customer’s Interconnection Facilities.

**9.7.4.2** The Participating TO’s and Interconnection Customer’s protection facilities shall be designed and coordinated with other systems in accordance with Applicable Reliability Standards, Applicable Reliability Council criteria, and Good Utility Practice.

**9.7.4.3** The Participating TO and Interconnection Customer shall each be responsible for protection of its facilities consistent with Good Utility Practice.

**9.7.4.4** The Participating TO’s and Interconnection Customer’s protective relay design shall incorporate the necessary test switches to perform the tests required in Article 6. The required test switches will be placed such that they allow operation of lockout relays while preventing breaker failure schemes from operating and causing unnecessary breaker operations and/or the

tripping of the Interconnection Customer's Electric Generating Units.

**9.7.4.5** The Participating TO and Interconnection Customer will test, operate and maintain System Protection Facilities in accordance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook.

**9.7.4.6** Prior to the in-service date, and again prior to the Commercial Operation Date, the Participating TO and Interconnection Customer or their agents shall perform a complete calibration test and functional trip test of the System Protection Facilities. At intervals suggested by Good Utility Practice, the standards and procedures of the Participating TO, including, if applicable, the requirements of the Participating TO's Interconnection Handbook, and following any apparent malfunction of the System Protection Facilities, each Party shall perform both calibration and functional trip tests of its System Protection Facilities. These tests do not require the tripping of any in-service generation unit. These tests do, however, require that all protective relays and lockout contacts be activated.

**9.7.5 Requirements for Protection.** In compliance with Good Utility Practice and, if applicable, the requirements of the Participating TO's Interconnection Handbook, the Interconnection Customer shall provide, install, own, and maintain relays, circuit breakers and all other devices necessary to remove any fault contribution of the Large Generating Facility to any short circuit occurring on the Participating TO's Transmission System not otherwise isolated by the Participating TO's equipment, such that the removal of the fault contribution shall be coordinated with the protective requirements of the Participating TO's Transmission System. Such protective equipment shall include, without limitation, a disconnecting device with fault current-interrupting capability located between the Large Generating Facility and the Participating TO's Transmission System at a site selected upon mutual agreement (not to be unreasonably withheld, conditioned or delayed) of the Parties. The Interconnection Customer shall be responsible for protection of the Large Generating Facility and the Interconnection Customer's other equipment from such conditions as negative sequence currents, over- or under-frequency, sudden load rejection, over- or under-voltage, and generator loss-of-field. The Interconnection Customer shall be solely responsible to disconnect the Large Generating Facility and the Interconnection Customer's other equipment if conditions on the CAISO Controlled Grid could adversely affect the Large Generating Facility.

- 9.7.6 Power Quality.** Neither the Participating TO's nor the Interconnection Customer's facilities shall cause excessive voltage flicker nor introduce excessive distortion to the sinusoidal voltage or current waves as defined by ANSI Standard C84.1-1989, in accordance with IEEE Standard 519, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard. In the event of a conflict among ANSI Standard C84.1-1989, any applicable superseding electric industry standard, or any alternative Applicable Reliability Standard or Applicable Reliability Council standard, the alternative Applicable Reliability Standard or Applicable Reliability Council standard shall control.
- 9.8 Switching and Tagging Rules.** Each Party shall provide the other Parties a copy of its switching and tagging rules that are applicable to the other Parties' activities. Such switching and tagging rules shall be developed on a non-discriminatory basis. The Parties shall comply with applicable switching and tagging rules, as amended from time to time, in obtaining clearances for work or for switching operations on equipment.
- 9.9 Use of Interconnection Facilities by Third Parties.**
- 9.9.1 Purpose of Interconnection Facilities.** Except as may be required by Applicable Laws and Regulations, or as otherwise agreed to among the Parties, the Interconnection Facilities shall be constructed for the sole purpose of interconnecting the Large Generating Facility to the Participating TO's Transmission System and shall be used for no other purpose.
- 9.9.2 Third Party Users.** If required by Applicable Laws and Regulations or if the Parties mutually agree, such agreement not to be unreasonably withheld, to allow one or more third parties to use the Participating TO's Interconnection Facilities, or any part thereof, the Interconnection Customer will be entitled to compensation for the capital expenses it incurred in connection with the Interconnection Facilities based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually-agreed upon methodology. In addition, cost responsibility for ongoing costs, including operation and maintenance costs associated with the Interconnection Facilities, will be allocated between the Interconnection Customer and any third party users based upon the pro rata use of the Interconnection Facilities by the Participating TO, all third party users, and the Interconnection Customer, in accordance with Applicable Laws and Regulations or upon some other mutually agreed upon methodology. If

the issue of such compensation or allocation cannot be resolved through such negotiations, it shall be submitted to FERC for resolution.

- 9.10 Disturbance Analysis Data Exchange.** The Parties will cooperate with one another in the analysis of disturbances to either the Large Generating Facility or the CAISO Controlled Grid by gathering and providing access to any information relating to any disturbance, including information from oscillography, protective relay targets, breaker operations and sequence of events records, and any disturbance information required by Good Utility Practice.

## ARTICLE 10. MAINTENANCE

- 10.1 Participating TO Obligations.** The Participating TO shall maintain the Participating TO's Transmission System and the Participating TO's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.
- 10.2 Interconnection Customer Obligations.** The Interconnection Customer shall maintain the Large Generating Facility and the Interconnection Customer's Interconnection Facilities in a safe and reliable manner and in accordance with this LGIA.
- 10.3 Coordination.** The Parties shall confer regularly to coordinate the planning, scheduling and performance of preventive and corrective maintenance on the Large Generating Facility and the Interconnection Facilities.
- 10.4 Secondary Systems.** The Participating TO and Interconnection Customer shall cooperate with the other Parties in the inspection, maintenance, and testing of control or power circuits that operate below 600 volts, AC or DC, including, but not limited to, any hardware, control or protective devices, cables, conductors, electric raceways, secondary equipment panels, transducers, batteries, chargers, and voltage and current transformers that directly affect the operation of a Party's facilities and equipment which may reasonably be expected to impact the other Parties. Each Party shall provide advance notice to the other Parties before undertaking any work on such circuits, especially on electrical circuits involving circuit breaker trip and close contacts, current transformers, or potential transformers.
- 10.5 Operating and Maintenance Expenses.** Subject to the provisions herein addressing the use of facilities by others, and except for operations and maintenance expenses associated with modifications made for providing interconnection or transmission service to a third party and such third party pays for such expenses, the Interconnection Customer shall be responsible for all reasonable expenses including overheads, associated with: (1) owning,

operating, maintaining, repairing, and replacing the Interconnection Customer's Interconnection Facilities; and (2) operation, maintenance, repair and replacement of the Participating TO's Interconnection Facilities.

## **ARTICLE 11. PERFORMANCE OBLIGATION**

- 11.1 Interconnection Customer's Interconnection Facilities.** The Interconnection Customer shall design, procure, construct, install, own and/or control the Interconnection Customer's Interconnection Facilities described in Appendix A at its sole expense.
- 11.2 Participating TO's Interconnection Facilities.** The Participating TO shall design, procure, construct, install, own and/or control the Participating TO's Interconnection Facilities described in Appendix A at the sole expense of the Interconnection Customer. Unless the Participating TO elects to fund the capital for the Participating TO's Interconnection Facilities, they shall be solely funded by the Interconnection Customer.
- 11.3 Network Upgrades and Distribution Upgrades.** The Participating TO shall design, procure, construct, install, and own the Network Upgrades and Distribution Upgrades described in Appendix A. The Interconnection Customer shall be responsible for all costs related to Distribution Upgrades. Unless the Participating TO elects to fund the capital for the Distribution Upgrades and Network Upgrades, they shall be funded by the Interconnection Customer, which, for Interconnection Customers processed under the Section 6 of the GIP (in Queue Clusters), shall be in an amount determined pursuant to the methodology set forth in Section 6.5 of the GIP. This specific amount is set forth in Appendix G to this LGIA.
- 11.4 Transmission Credits.** No later than thirty (30) Calendar Days prior to the Commercial Operation Date, the Interconnection Customer may make a one-time election by written notice to the CAISO and the Participating TO to receive Congestion Revenue Rights as defined in and as available under the CAISO Tariff at the time of the election in accordance with the CAISO Tariff, in lieu of a refund of the cost of Network Upgrades in accordance with Article 11.4.1.
- 11.4.1 Repayment of Amounts Advanced for Network Upgrades.** Upon the Commercial Operation Date, the Interconnection Customer shall be entitled to a repayment, equal to the total amount paid to the Participating TO for the costs of Network Upgrades for which it is responsible, as set forth in Appendix G. Such amount shall include any tax gross-up or other tax-related payments associated with Network Upgrades not refunded to the Interconnection Customer pursuant to Article 5.17.8 or otherwise, and

shall be paid to the Interconnection Customer by the Participating TO on a dollar-for-dollar basis either through (1) direct payments made on a levelized basis over the five-year period commencing on the Commercial Operation Date; or (2) any alternative payment schedule that is mutually agreeable to the Interconnection Customer and Participating TO, provided that such amount is paid within five (5) years from the Commercial Operation Date. Notwithstanding the foregoing, if this LGIA terminates within five (5) years from the Commercial Operation Date, the Participating TO's obligation to pay refunds to the Interconnection Customer shall cease as of the date of termination. Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for Network Upgrades through the date on which the Interconnection Customer receives a repayment of such payment. Interest shall continue to accrue on the repayment obligation so long as this LGIA is in effect. The Interconnection Customer may assign such repayment rights to any person.

If the Large Generating Facility fails to achieve Commercial Operation, but it or another Generating Facility is later constructed and makes use of the Network Upgrades, the Participating TO shall at that time reimburse Interconnection Customer for the amounts advanced for the Network Upgrades. Before any such reimbursement can occur, the Interconnection Customer, or the entity that ultimately constructs the Generating Facility, if different, is responsible for identifying and demonstrating to the Participating TO the appropriate entity to which reimbursement must be made in order to implement the intent of this reimbursement obligation.

**11.4.2 Special Provisions for Affected Systems.** The Interconnection Customer shall enter into an agreement with the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid, as applicable, in accordance with the GIP. Such agreement shall specify the terms governing payments to be made by the Interconnection Customer to the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid as well as the repayment by the owner of the Affected System and/or other affected owners of portions of the CAISO Controlled Grid. In no event shall the Participating TO be responsible for the repayment for any facilities that are not part of the Participating TO's Transmission System. In the event the Participating TO is a joint owner with an Affected System or with any other co-owner of a facility affected by the Large Generating Facility, the Participating TO's obligation to reimburse the Interconnection Customer for payments made to address the impacts of the Large Generating Facility on the system

shall not exceed the proportionate amount of the cost of any upgrades attributable to the proportion of the jointly-owned facility owned by the Participating TO.

**11.4.3** Notwithstanding any other provision of this LGIA, nothing herein shall be construed as relinquishing or foreclosing any rights, including but not limited to firm transmission rights, capacity rights, Congestion Revenue Rights, or transmission credits, that the Interconnection Customer shall be entitled to, now or in the future under any other agreement or tariff as a result of, or otherwise associated with, the transmission capacity, if any, created by the Network Upgrades, including the right to obtain cash reimbursements, merchant transmission Congestion Revenue Rights in accordance with Section 36.11 of the CAISO Tariff, or transmission credits for transmission service that is not associated with the Large Generating Facility.

**11.5 Provision of Interconnection Financial Security.** The Interconnection Customer is obligated to provide all necessary Interconnection Financial Security required under Section 9 of the GIP in a manner acceptable under Section 9 of the GIP. Failure by the Interconnection Customer to timely satisfy the GIP's requirements for the provision of Interconnection Financial Security shall be deemed a Breach of this agreement and a condition of Default of this agreement.

**11.5.1** Notwithstanding any other provision in this agreement for notice of Default and opportunity to cure such Default, the CAISO or the Participating TO shall provide Interconnection Customer with written notice of any Default due to timely failure to post Financial Security, and the Interconnection Customer shall have five (5) Business Days from the date of such notice to cure such Default by posting the required Interconnection Financial Security. If the Interconnection Customer fails to cure the Default, then this Agreement shall be deemed terminated.

**11.6 Interconnection Customer Compensation.** If the CAISO requests or directs the Interconnection Customer to provide a service pursuant to Articles 9.6.3 (Payment for Reactive Power) or 13.5.1 of this LGIA, the CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff.

**11.6.1 Interconnection Customer Compensation for Actions During Emergency Condition.** The CAISO shall compensate the Interconnection Customer in accordance with the CAISO Tariff for its provision of real and reactive power and other Emergency Condition services that the Interconnection Customer provides to support the CAISO Controlled Grid during an Emergency Condition in accordance with Article 11.6.

**ARTICLE 12. INVOICE**

- 12.1 General.** The Participating TO shall submit to the Interconnection Customer, on a monthly basis, invoices of amounts due pursuant to this LGIA for the preceding month. Each invoice shall state the month to which the invoice applies and fully describe the services and equipment provided. The Parties may discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all amounts a Party owes to the other Party under this LGIA, including interest payments or credits, shall be netted so that only the net amount remaining due shall be paid by the owing Party. Notwithstanding the foregoing, any invoices between the CAISO and another Party shall be submitted and paid in accordance with the CAISO Tariff.
- 12.2 Final Invoice.** As soon as reasonably practicable, but within twelve months after completion of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, the Participating TO shall provide an invoice of the final cost of the construction of the Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades, and shall set forth such costs in sufficient detail to enable the Interconnection Customer to compare the actual costs with the estimates and to ascertain deviations, if any, from the cost estimates. With respect to costs associated with the Participating TO's Interconnection Facilities and Distribution Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction within thirty (30) Calendar Days of the issuance of such final construction invoice; or, in the event the actual costs of construction exceed the Interconnection Customer's actual payment for estimated costs, then the Interconnection Customer shall pay to the Participating TO any amount by which the actual costs of construction exceed the actual payment by the Interconnection Customer for estimated costs within thirty (30) Calendar Days of the issuance of such final construction invoice. With respect to costs associated with Network Upgrades, the Participating TO shall refund to the Interconnection Customer any amount by which the actual payment by the Interconnection Customer for estimated costs exceeds the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs, as set forth in Appendix G to this LGIA within thirty (30) Calendar Days of the issuance of such final construction invoice. In the event the actual costs of construction multiplied by the Interconnection Customer's percentage share of those costs exceed the Interconnection Customer's actual payment for estimated costs, then the Participating TO shall recover such difference through its transmission service rates.
- 12.3 Payment.** Invoices shall be rendered to the Interconnection Customer at the address specified in Appendix F. The Interconnection Customer shall pay, or

Participating TO shall refund, the amounts due within thirty (30) Calendar Days of the Interconnection Customer's receipt of the invoice. All payments shall be made in immediately available funds payable to the Interconnection Customer or Participating TO, or by wire transfer to a bank named and account designated by the invoicing Interconnection Customer or Participating TO. Payment of invoices by any Party will not constitute a waiver of any rights or claims any Party may have under this LGIA.

- 12.4 Disputes.** In the event of a billing dispute between the Interconnection Customer and the Participating TO, the Participating TO and the CAISO shall continue to provide Interconnection Service under this LGIA as long as the Interconnection Customer: (i) continues to make all payments not in dispute; and (ii) pays to the Participating TO or into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Interconnection Customer fails to meet these two requirements for continuation of service, then the Participating TO may provide notice to the Interconnection Customer of a Default pursuant to Article 17. Within thirty (30) Calendar Days after the resolution of the dispute, the Party that owes money to the other Party shall pay the amount due with interest calculated in accordance with the methodology set forth in FERC's Regulations at 18 C.F.R. § 35.19a(a)(2)(iii). Notwithstanding the foregoing, any billing dispute between the CAISO and another Party shall be resolved in accordance with the provisions of Article 27 of this LGIA.

## ARTICLE 13. EMERGENCIES

- 13.1 [Reserved]**
- 13.2 Obligations.** Each Party shall comply with the Emergency Condition procedures of the CAISO, NERC, the Applicable Reliability Council, Applicable Reliability Standards, Applicable Laws and Regulations, and any emergency procedures set forth in this LGIA.
- 13.3 Notice.** The Participating TO or the CAISO shall notify the Interconnection Customer promptly when it becomes aware of an Emergency Condition that affects the Participating TO's Interconnection Facilities or Distribution System or the CAISO Controlled Grid, respectively, that may reasonably be expected to affect the Interconnection Customer's operation of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Interconnection Customer shall notify the Participating TO and the CAISO promptly when it becomes aware of an Emergency Condition that affects the Large Generating Facility or the Interconnection Customer's Interconnection Facilities that may reasonably be expected to affect the CAISO Controlled Grid or the Participating

TO's Interconnection Facilities. To the extent information is known, the notification shall describe the Emergency Condition, the extent of the damage or deficiency, the expected effect on the operation of the Interconnection Customer's or Participating TO's facilities and operations, its anticipated duration and the corrective action taken and/or to be taken. The initial notice shall be followed as soon as practicable with written notice, if requested by a Party, which may be provided by electronic mail or facsimile, or in the case of the CAISO may be publicly posted on the CAISO's internet web site.

**13.4 Immediate Action.** Unless, in the Interconnection Customer's reasonable judgment, immediate action is required, the Interconnection Customer shall obtain the consent of the CAISO and the Participating TO, such consent to not be unreasonably withheld, prior to performing any manual switching operations at the Large Generating Facility or the Interconnection Customer's Interconnection Facilities in response to an Emergency Condition declared by the Participating TO or CAISO or in response to any other emergency condition.

**13.5 CAISO and Participating TO Authority.**

**13.5.1 General.** The CAISO and Participating TO may take whatever actions or inactions, including issuance of dispatch instructions, with regard to the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System they deem necessary during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the CAISO Controlled Grid or the Participating TO's Interconnection Facilities or Distribution System, and (iii) limit or prevent damage, and (iv) expedite restoration of service.

The Participating TO and the CAISO shall use Reasonable Efforts to minimize the effect of such actions or inactions on the Large Generating Facility or the Interconnection Customer's Interconnection Facilities. The Participating TO or the CAISO may, on the basis of technical considerations, require the Large Generating Facility to mitigate an Emergency Condition by taking actions necessary and limited in scope to remedy the Emergency Condition, including, but not limited to, directing the Interconnection Customer to shut-down, start-up, increase or decrease the real or reactive power output of the Large Generating Facility; implementing a reduction or disconnection pursuant to Article 13.5.2; directing the Interconnection Customer to assist with black start (if available) or restoration efforts; or altering the outage schedules of the Large Generating Facility and the Interconnection Customer's Interconnection Facilities. Interconnection Customer shall comply with all of the CAISO's and Participating TO's operating instructions concerning Large Generating Facility real power and reactive power output within the

manufacturer's design limitations of the Large Generating Facility's equipment that is in service and physically available for operation at the time, in compliance with Applicable Laws and Regulations.

**13.5.2 Reduction and Disconnection.** The Participating TO or the CAISO may reduce Interconnection Service or disconnect the Large Generating Facility or the Interconnection Customer's Interconnection Facilities when such reduction or disconnection is necessary under Good Utility Practice due to Emergency Conditions. These rights are separate and distinct from any right of curtailment of the CAISO pursuant to the CAISO Tariff. When the CAISO or Participating TO can schedule the reduction or disconnection in advance, the CAISO or Participating TO shall notify the Interconnection Customer of the reasons, timing and expected duration of the reduction or disconnection. The CAISO or Participating TO shall coordinate with the Interconnection Customer using Good Utility Practice to schedule the reduction or disconnection during periods of least impact to the Interconnection Customer and the CAISO and Participating TO. Any reduction or disconnection shall continue only for so long as reasonably necessary under Good Utility Practice. The Parties shall cooperate with each other to restore the Large Generating Facility, the Interconnection Facilities, and the CAISO Controlled Grid to their normal operating state as soon as practicable consistent with Good Utility Practice.

**13.6 Interconnection Customer Authority.** Consistent with Good Utility Practice, this LGIA, and the CAISO Tariff, the Interconnection Customer may take actions or inactions with regard to the Large Generating Facility or the Interconnection Customer's Interconnection Facilities during an Emergency Condition in order to (i) preserve public health and safety, (ii) preserve the reliability of the Large Generating Facility or the Interconnection Customer's Interconnection Facilities, (iii) limit or prevent damage, and (iv) expedite restoration of service. Interconnection Customer shall use Reasonable Efforts to minimize the effect of such actions or inactions on the CAISO Controlled Grid and the Participating TO's Interconnection Facilities. The CAISO and Participating TO shall use Reasonable Efforts to assist Interconnection Customer in such actions.

**13.7 Limited Liability.** Except as otherwise provided in Article 11.6.1 of this LGIA, no Party shall be liable to any other Party for any action it takes in responding to an Emergency Condition so long as such action is made in good faith and is consistent with Good Utility Practice.

**ARTICLE 14. REGULATORY REQUIREMENTS AND GOVERNING LAW**

**14.1 Regulatory Requirements.** Each Party's obligations under this LGIA shall be subject to its receipt of any required approval or certificate from one or more Governmental Authorities in the form and substance satisfactory to the applying Party, or the Party making any required filings with, or providing notice to, such Governmental Authorities, and the expiration of any time period associated therewith. Each Party shall in good faith seek and use its Reasonable Efforts to obtain such other approvals. Nothing in this LGIA shall require the Interconnection Customer to take any action that could result in its inability to obtain, or its loss of, status or exemption under the Federal Power Act or the Public Utility Holding Company Act of 1935, as amended, or the Public Utility Regulatory Policies Act of 1978, or the Energy Policy Act of 2005.

**14.2 Governing Law.**

**14.2.1** The validity, interpretation and performance of this LGIA and each of its provisions shall be governed by the laws of the state where the Point of Interconnection is located, without regard to its conflicts of law principles.

**14.2.2** This LGIA is subject to all Applicable Laws and Regulations.

**14.2.3** Each Party expressly reserves the right to seek changes in, appeal, or otherwise contest any laws, orders, rules, or regulations of a Governmental Authority.

**ARTICLE 15. NOTICES**

**15.1 General.** Unless otherwise provided in this LGIA, any notice, demand or request required or permitted to be given by a Party to another and any instrument required or permitted to be tendered or delivered by a Party in writing to another shall be effective when delivered and may be so given, tendered or delivered, by recognized national courier, or by depositing the same with the United States Postal Service with postage prepaid, for delivery by certified or registered mail, addressed to the Party, or personally delivered to the Party, at the address set out in Appendix F, Addresses for Delivery of Notices and Billings.

A Party must update the information in Appendix F as information changes. A Party may change the notice information in this LGIA by giving five (5) Business Days written notice prior to the effective date of the change. Such changes shall not constitute an amendment to this LGIA.

- 15.2 Billings and Payments.** Billings and payments shall be sent to the addresses set out in Appendix F.
- 15.3 Alternative Forms of Notice.** Any notice or request required or permitted to be given by a Party to another and not required by this LGIA to be given in writing may be so given by telephone, facsimile or e-mail to the telephone numbers and e-mail addresses set out in Appendix F.
- 15.4 Operations and Maintenance Notice.** Each Party shall notify the other Parties in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to the implementation of Articles 9 and 10.

## ARTICLE 16. FORCE MAJEURE

### 16.1 Force Majeure.

**16.1.1** Economic hardship is not considered a Force Majeure event.

**16.1.2** No Party shall be considered to be in Default with respect to any obligation hereunder, (including obligations under Article 4), other than the obligation to pay money when due, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

## ARTICLE 17. DEFAULT

### 17.1 Default.

**17.1.1 General.** No Default shall exist where such failure to discharge an obligation (other than the payment of money) is the result of Force Majeure as defined in this LGIA or the result of an act or omission of the other Party. Upon a Breach, the affected non-Breaching Party(ies) shall

give written notice of such Breach to the Breaching Party. Except as provided in Article 17.1.2, and in Article 11.5.1, the Breaching Party shall have thirty (30) Calendar Days from receipt of the Default notice within which to cure such Breach; provided however, if such Breach is not capable of cure within thirty (30) Calendar Days, the Breaching Party shall commence such cure within thirty (30) Calendar Days after notice and continuously and diligently complete such cure within ninety (90) Calendar Days from receipt of the Default notice; and, if cured within such time, the Breach specified in such notice shall cease to exist.

**17.1.2 Right to Terminate.** If a Breach is not cured as provided in this Article, or if a Breach is not capable of being cured within the period provided for herein, the affected non-Breaching Party(ies) shall have the right to declare a Default and terminate this LGIA by written notice at any time until cure occurs, and be relieved of any further obligation hereunder and, whether or not such Party(ies) terminates this LGIA, to recover from the Breaching Party all amounts due hereunder, plus all other damages and remedies to which it is entitled at law or in equity. The provisions of this Article will survive termination of this LGIA.

## **ARTICLE 18. INDEMNITY, CONSEQUENTIAL DAMAGES AND INSURANCE**

**18.1 Indemnity.** Each Party shall at all times indemnify, defend, and hold the other Parties harmless from, any and all Losses arising out of or resulting from another Party's action or inactions of its obligations under this LGIA on behalf of the indemnifying Party, except in cases of gross negligence or intentional wrongdoing by the Indemnified Party.

**18.1.1 Indemnified Party.** If an Indemnified Party is entitled to indemnification under this Article 18 as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Article 18.1, to assume the defense of such claim, such Indemnified Party may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

**18.1.2 Indemnifying Party.** If an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article 18, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Loss, net of any insurance or other recovery.

**18.1.3 Indemnity Procedures.** Promptly after receipt by an Indemnified Party of any claim or notice of the commencement of any action or administrative

or legal proceeding or investigation as to which the indemnity provided for in Article 18.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party's indemnification obligation unless such failure or delay is materially prejudicial to the indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Party. If the defendants in any such action include one or more Indemnified Parties and the Indemnifying Party and if the Indemnified Party reasonably concludes that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on its own behalf. In such instances, the Indemnifying Party shall only be required to pay the fees and expenses of one additional attorney to represent an Indemnified Party or Indemnified Parties having such differing or additional legal defenses.

The Indemnified Party shall be entitled, at its expense, to participate in any such action, suit or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and control the defense of any such action, suit or proceedings if and to the extent that, in the opinion of the Indemnified Party and its counsel, such action, suit or proceeding involves the potential imposition of criminal liability on the Indemnified Party, or there exists a conflict or adversity of interest between the Indemnified Party and the Indemnifying Party, in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified Party, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or proceeding without the consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed.

**18.2 Consequential Damages.** Other than the liquidated damages heretofore described in Article 5.3, in no event shall any Party be liable under any provision of this LGIA for any losses, damages, costs or expenses for any special, indirect, incidental, consequential, or punitive damages, including but not limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost of temporary equipment or services, whether based in whole or in part in contract, in tort, including negligence, strict liability, or any other theory of liability; provided, however, that damages for which a Party may be liable to another Party under

another agreement will not be considered to be special, indirect, incidental, or consequential damages hereunder.

**18.3 Insurance.** Each Party shall, at its own expense, maintain in force throughout the period of this LGIA, and until released by the other Parties, the following minimum insurance coverages, with insurers rated no less than A- (with a minimum size rating of VII) by Bests' Insurance Guide and Key Ratings and authorized to do business in the state where the Point of Interconnection is located, except in the case of the CAISO, the State of California:

**18.3.1** Employer's Liability and Workers' Compensation Insurance providing statutory benefits in accordance with the laws and regulations of the state in which the Point of Interconnection is located, except in the case of the CAISO, the State of California.

**18.3.2** Commercial General Liability Insurance including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of One Million Dollars (\$1,000,000) per occurrence/One Million Dollars (\$1,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.

**18.3.3** Business Automobile Liability Insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, including death, and property damage.

**18.3.4** Excess Public Liability Insurance over and above the Employer's Liability Commercial General Liability and Business Automobile Liability Insurance coverage, with a minimum combined single limit of Twenty Million Dollars (\$20,000,000) per occurrence/Twenty Million Dollars (\$20,000,000) aggregate.

**18.3.5** The Commercial General Liability Insurance, Business Automobile Insurance and Excess Public Liability Insurance policies shall name the other Parties, their parents, associated and Affiliate companies and their respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions

whereby the insurers waive all rights of subrogation in accordance with the provisions of this LGIA against the Other Party Group and provide thirty (30) Calendar Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.

- 18.3.6** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Public Liability Insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.
- 18.3.7** The Commercial General Liability Insurance, Business Automobile Liability Insurance and Excess Public Liability Insurance policies, if written on a Claims First Made Basis, shall be maintained in full force and effect for two (2) years after termination of this LGIA, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 18.3.8** The requirements contained herein as to the types and limits of all insurance to be maintained by the Parties are not intended to and shall not in any manner, limit or qualify the liabilities and obligations assumed by the Parties under this LGIA.
- 18.3.9** Within ten (10) Calendar Days following execution of this LGIA, and as soon as practicable after the end of each fiscal year or at the renewal of the insurance policy and in any event within ninety (90) Calendar Days thereafter, each Party shall provide certification of all insurance required in this LGIA, executed by each insurer or by an authorized representative of each insurer.
- 18.3.10** Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Articles 18.3.2 through 18.3.8 to the extent it maintains a self-insurance program; provided that, such Party's senior unsecured debt or issuer rating is BBB-, or better, as rated by Standard & Poor's and that its self-insurance program meets the minimum insurance requirements of Articles 18.3.2 through 18.3.8. For any period of time that a Party's senior unsecured debt rating and issuer rating are both unrated by Standard & Poor's or are both rated at less than BBB- by Standard & Poor's, such Party shall comply with the

insurance requirements applicable to it under Articles 18.3.2 through 18.3.9. In the event that a Party is permitted to self-insure pursuant to this Article 18.3.10, it shall notify the other Parties that it meets the requirements to self-insure and that its self-insurance program meets the minimum insurance requirements in a manner consistent with that specified in Article 18.3.9.

**18.3.11** The Parties agree to report to each other in writing as soon as practical all accidents or occurrences resulting in injuries to any person, including death, and any property damage arising out of this LGIA.

### **ARTICLE 19. ASSIGNMENT**

**19.1 Assignment.** This LGIA may be assigned by a Party only with the written consent of the other Parties; provided that a Party may assign this LGIA without the consent of the other Parties to any Affiliate of the assigning Party with an equal or greater credit rating and with the legal authority and operational ability to satisfy the obligations of the assigning Party under this LGIA; and provided further that the Interconnection Customer shall have the right to assign this LGIA, without the consent of the CAISO or Participating TO, for collateral security purposes to aid in providing financing for the Large Generating Facility, provided that the Interconnection Customer will promptly notify the CAISO and Participating TO of any such assignment. Any financing arrangement entered into by the Interconnection Customer pursuant to this Article will provide that prior to or upon the exercise of the secured party's, trustee's or mortgagee's assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the CAISO and Participating TO of the date and particulars of any such exercise of assignment right(s), including providing the CAISO and Participating TO with proof that it meets the requirements of Articles 11.5 and 18.3. Any attempted assignment that violates this Article is void and ineffective. Any assignment under this LGIA shall not relieve a Party of its obligations, nor shall a Party's obligations be enlarged, in whole or in part, by reason thereof. Where required, consent to assignment will not be unreasonably withheld, conditioned or delayed.

### **ARTICLE 20. SEVERABILITY**

**20.1 Severability.** If any provision in this LGIA is finally determined to be invalid, void or unenforceable by any court or other Governmental Authority having jurisdiction, such determination shall not invalidate, void or make unenforceable any other provision, agreement or covenant of this LGIA; provided that if the Interconnection Customer (or any third party, but only if such third party is not

acting at the direction of the Participating TO or CAISO) seeks and obtains such a final determination with respect to any provision of the Alternate Option (Article 5.1.2), or the Negotiated Option (Article 5.1.4), then none of the provisions of Article 5.1.2 or 5.1.4 shall thereafter have any force or effect and the Parties' rights and obligations shall be governed solely by the Standard Option (Article 5.1.1).

## ARTICLE 21. COMPARABILITY

- 21.1 Comparability.** The Parties will comply with all applicable comparability and code of conduct laws, rules and regulations, as amended from time to time.

## ARTICLE 22. CONFIDENTIALITY

- 22.1 Confidentiality.** Confidential Information shall include, without limitation, all information relating to a Party's technology, research and development, business affairs, and pricing, and any information supplied by any of the Parties to the other Parties prior to the execution of this LGIA.

Information is Confidential Information only if it is clearly designated or marked in writing as confidential on the face of the document, or, if the information is conveyed orally or by inspection, if the Party providing the information orally informs the Parties receiving the information that the information is confidential.

If requested by any Party, the other Parties shall provide in writing, the basis for asserting that the information referred to in this Article 22 warrants confidential treatment, and the requesting Party may disclose such writing to the appropriate Governmental Authority. Each Party shall be responsible for the costs associated with affording confidential treatment to its information.

- 22.1.1 Term.** During the term of this LGIA, and for a period of three (3) years after the expiration or termination of this LGIA, except as otherwise provided in this Article 22, each Party shall hold in confidence and shall not disclose to any person Confidential Information.

- 22.1.2 Scope.** Confidential Information shall not include information that the receiving Party can demonstrate: (1) is generally available to the public other than as a result of a disclosure by the receiving Party; (2) was in the lawful possession of the receiving Party on a non-confidential basis before receiving it from the disclosing Party; (3) was supplied to the receiving Party without restriction by a third party, who, to the knowledge of the

receiving Party after due inquiry, was under no obligation to the disclosing Party to keep such information confidential; (4) was independently developed by the receiving Party without reference to Confidential Information of the disclosing Party; (5) is, or becomes, publicly known, through no wrongful act or omission of the receiving Party or Breach of this LGIA; or (6) is required, in accordance with Article 22.1.7 of this LGIA, Order of Disclosure, to be disclosed by any Governmental Authority or is otherwise required to be disclosed by law or subpoena, or is necessary in any legal proceeding establishing rights and obligations under this LGIA. Information designated as Confidential Information will no longer be deemed confidential if the Party that designated the information as confidential notifies the other Parties that it no longer is confidential.

**22.1.3 Release of Confidential Information.** No Party shall release or disclose Confidential Information to any other person, except to its employees, consultants, Affiliates (limited by the Standards of Conduct requirements set forth in Part 358 of FERC's Regulations, 18 C.F.R. 358), subcontractors, or to parties who may be or considering providing financing to or equity participation with the Interconnection Customer, or to potential purchasers or assignees of the Interconnection Customer, on a need-to-know basis in connection with this LGIA, unless such person has first been advised of the confidentiality provisions of this Article 22 and has agreed to comply with such provisions. Notwithstanding the foregoing, a Party providing Confidential Information to any person shall remain primarily responsible for any release of Confidential Information in contravention of this Article 22.

**22.1.4 Rights.** Each Party retains all rights, title, and interest in the Confidential Information that each Party discloses to the other Parties. The disclosure by each Party to the other Parties of Confidential Information shall not be deemed a waiver by a Party or any other person or entity of the right to protect the Confidential Information from public disclosure.

**22.1.5 No Warranties.** The mere fact that a Party has provided Confidential Information does not constitute a warranty or representation as to its accuracy or completeness. In addition, by supplying Confidential Information, no Party obligates itself to provide any particular information or Confidential Information to the other Parties nor to enter into any further agreements or proceed with any other relationship or joint venture.

**22.1.6 Standard of Care.** Each Party shall use at least the same standard of care to protect Confidential Information it receives as it uses to protect its own Confidential Information from unauthorized disclosure, publication or dissemination. Each Party may use Confidential Information solely to fulfill

its obligations to the other Parties under this LGIA or its regulatory requirements.

**22.1.7 Order of Disclosure.** If a court or a Government Authority or entity with the right, power, and apparent authority to do so requests or requires any Party, by subpoena, oral deposition, interrogatories, requests for production of documents, administrative order, or otherwise, to disclose Confidential Information, that Party shall provide the other Parties with prompt notice of such request(s) or requirement(s) so that the other Parties may seek an appropriate protective order or waive compliance with the terms of this LGIA. Notwithstanding the absence of a protective order or waiver, the Party may disclose such Confidential Information which, in the opinion of its counsel, the Party is legally compelled to disclose. Each Party will use Reasonable Efforts to obtain reliable assurance that confidential treatment will be accorded any Confidential Information so furnished.

**22.1.8 Termination of Agreement.** Upon termination of this LGIA for any reason, each Party shall, within ten (10) Calendar Days of receipt of a written request from another Party, use Reasonable Efforts to destroy, erase, or delete (with such destruction, erasure, and deletion certified in writing to the other Party) or return to the other Party, without retaining copies thereof, any and all written or electronic Confidential Information received from the other Party.

**22.1.9 Remedies.** The Parties agree that monetary damages would be inadequate to compensate a Party for another Party's Breach of its obligations under this Article 22. Each Party accordingly agrees that the other Parties shall be entitled to equitable relief, by way of injunction or otherwise, if the first Party Breaches or threatens to Breach its obligations under this Article 22, which equitable relief shall be granted without bond or proof of damages, and the receiving Party shall not plead in defense that there would be an adequate remedy at law. Such remedy shall not be deemed an exclusive remedy for the Breach of this Article 22, but shall be in addition to all other remedies available at law or in equity. The Parties further acknowledge and agree that the covenants contained herein are necessary for the protection of legitimate business interests and are reasonable in scope. No Party, however, shall be liable for indirect, incidental, or consequential or punitive damages of any nature or kind resulting from or arising in connection with this Article 22.

**22.1.10 Disclosure to FERC, its Staff, or a State.** Notwithstanding anything in this Article 22 to the contrary, and pursuant to 18 C.F.R. section 1b.20, if FERC or its staff, during the course of an investigation or otherwise,

requests information from one of the Parties that is otherwise required to be maintained in confidence pursuant to this LGIA, the Party shall provide the requested information to FERC or its staff, within the time provided for in the request for information. In providing the information to FERC or its staff, the Party must, consistent with 18 C.F.R. section 388.112, request that the information be treated as confidential and non-public by FERC and its staff and that the information be withheld from public disclosure. Parties are prohibited from notifying the other Parties to this LGIA prior to the release of the Confidential Information to FERC or its staff. The Party shall notify the other Parties to the LGIA when it is notified by FERC or its staff that a request to release Confidential Information has been received by FERC, at which time any of the Parties may respond before such information would be made public, pursuant to 18 C.F.R. section 388.112. Requests from a state regulatory body conducting a confidential investigation shall be treated in a similar manner if consistent with the applicable state rules and regulations.

**22.1.11** Subject to the exception in Article 22.1.10, Confidential Information shall not be disclosed by the other Parties to any person not employed or retained by the other Parties, except to the extent disclosure is (i) required by law; (ii) reasonably deemed by the disclosing Party to be required to be disclosed in connection with a dispute between or among the Parties, or the defense of litigation or dispute; (iii) otherwise permitted by consent of the other Parties, such consent not to be unreasonably withheld; or (iv) necessary to fulfill its obligations under this LGIA or as a transmission service provider or a Balancing Authority including disclosing the Confidential Information to an RTO or ISO or to a regional or national reliability organization. The Party asserting confidentiality shall notify the other Parties in writing of the information it claims is confidential. Prior to any disclosures of another Party's Confidential Information under this subparagraph, or if any third party or Governmental Authority makes any request or demand for any of the information described in this subparagraph, the disclosing Party agrees to promptly notify the other Party in writing and agrees to assert confidentiality and cooperate with the other Party in seeking to protect the Confidential Information from public disclosure by confidentiality agreement, protective order or other reasonable measures.

## **ARTICLE 23. ENVIRONMENTAL RELEASES**

**23.1** Each Party shall notify the other Parties, first orally and then in writing, of the release of any Hazardous Substances, any asbestos or lead abatement activities, or any type of remediation activities related to the Large Generating

Facility or the Interconnection Facilities, each of which may reasonably be expected to affect the other Parties. The notifying Party shall: (i) provide the notice as soon as practicable, provided such Party makes a good faith effort to provide the notice no later than twenty-four hours after such Party becomes aware of the occurrence; and (ii) promptly furnish to the other Parties copies of any publicly available reports filed with any Governmental Authorities addressing such events.

## **ARTICLE 24. INFORMATION REQUIREMENTS**

- 24.1 Information Acquisition.** The Participating TO and the Interconnection Customer shall submit specific information regarding the electrical characteristics of their respective facilities to each other as described below and in accordance with Applicable Reliability Standards.
- 24.2 Information Submission by Participating TO.** The initial information submission by the Participating TO shall occur no later than one hundred eighty (180) Calendar Days prior to Trial Operation and shall include the Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment and meet any system protection and stability requirements, unless otherwise agreed to by the Participating TO and the Interconnection Customer. On a monthly basis the Participating TO shall provide the Interconnection Customer and the CAISO a status report on the construction and installation of the Participating TO's Interconnection Facilities and Network Upgrades, including, but not limited to, the following information: (1) progress to date; (2) a description of the activities since the last report; (3) a description of the action items for the next period; and (4) the delivery status of equipment ordered.
- 24.3 Updated Information Submission by Interconnection Customer.** The updated information submission by the Interconnection Customer, including manufacturer information, shall occur no later than one hundred eighty (180) Calendar Days prior to the Trial Operation. The Interconnection Customer shall submit a completed copy of the Electric Generating Unit data requirements contained in Appendix 1 to the GIP. It shall also include any additional information provided to the Participating TO and the CAISO for the Interconnection Studies. Information in this submission shall be the most current Electric Generating Unit design or expected performance data. Information submitted for stability models shall be compatible with the Participating TO and CAISO standard models. If there is no compatible model, the Interconnection Customer will work with a consultant mutually agreed to by the Parties to develop and supply a standard model and associated information.

If the Interconnection Customer's data is materially different from what was originally provided to the Participating TO and the CAISO for the Interconnection Studies, then the Participating TO and the CAISO will conduct appropriate studies pursuant to the GIP to determine the impact on the Participating TO's Transmission System and affected portions of the CAISO Controlled Grid based on the actual data submitted pursuant to this Article 24.3. The Interconnection Customer shall not begin Trial Operation until such studies are completed and all other requirements of this LGIA are satisfied.

**24.4 Information Supplementation.** Prior to the Trial Operation date, the Parties shall supplement their information submissions described above in this Article 24 with any and all "as-built" Electric Generating Unit information or "as-tested" performance information that differs from the initial submissions or, alternatively, written confirmation that no such differences exist. The Interconnection Customer shall conduct tests on the Electric Generating Unit as required by Good Utility Practice such as an open circuit "step voltage" test on the Electric Generating Unit to verify proper operation of the Electric Generating Unit's automatic voltage regulator.

Unless otherwise agreed, the test conditions shall include: (1) Electric Generating Unit at synchronous speed; (2) automatic voltage regulator on and in voltage control mode; and (3) a five percent (5 percent) change in Electric Generating Unit terminal voltage initiated by a change in the voltage regulators reference voltage. The Interconnection Customer shall provide validated test recordings showing the responses of Electric Generating Unit terminal and field voltages. In the event that direct recordings of these voltages is impractical, recordings of other voltages or currents that mirror the response of the Electric Generating Unit's terminal or field voltage are acceptable if information necessary to translate these alternate quantities to actual Electric Generating Unit terminal or field voltages is provided. Electric Generating Unit testing shall be conducted and results provided to the Participating TO and the CAISO for each individual Electric Generating Unit in a station.

Subsequent to the Commercial Operation Date, the Interconnection Customer shall provide the Participating TO and the CAISO any information changes due to equipment replacement, repair, or adjustment. The Participating TO shall provide the Interconnection Customer any information changes due to equipment replacement, repair or adjustment in the directly connected substation or any adjacent Participating TO-owned substation that may affect the Interconnection Customer's Interconnection Facilities equipment ratings, protection or operating requirements. The Parties shall provide such information pursuant to Article 5.19.

**ARTICLE 25. INFORMATION ACCESS AND AUDIT RIGHTS**

- 25.1 Information Access.** Each Party (the “disclosing Party”) shall make available to the other Party information that is in the possession of the disclosing Party and is necessary in order for the other Party to: (i) verify the costs incurred by the disclosing Party for which the other Party is responsible under this LGIA; and (ii) carry out its obligations and responsibilities under this LGIA. The Parties shall not use such information for purposes other than those set forth in this Article 25.1 and to enforce their rights under this LGIA. Nothing in this Article 25 shall obligate the CAISO to make available to a Party any third party information in its possession or control if making such third party information available would violate a CAISO Tariff restriction on the use or disclosure of such third party information.
- 25.2 Reporting of Non-Force Majeure Events.** Each Party (the “notifying Party”) shall notify the other Parties when the notifying Party becomes aware of its inability to comply with the provisions of this LGIA for a reason other than a Force Majeure event. The Parties agree to cooperate with each other and provide necessary information regarding such inability to comply, including the date, duration, reason for the inability to comply, and corrective actions taken or planned to be taken with respect to such inability to comply. Notwithstanding the foregoing, notification, cooperation or information provided under this Article shall not entitle the Party receiving such notification to allege a cause for anticipatory breach of this LGIA.
- 25.3 Audit Rights.** Subject to the requirements of confidentiality under Article 22 of this LGIA, the Parties’ audit rights shall include audits of a Party’s costs pertaining to such Party’s performance or satisfaction of obligations owed to the other Party under this LGIA, calculation of invoiced amounts, the CAISO’s efforts to allocate responsibility for the provision of reactive support to the CAISO Controlled Grid, the CAISO’s efforts to allocate responsibility for interruption or reduction of generation on the CAISO Controlled Grid, and each such Party’s actions in an Emergency Condition.
- 25.3.1** The Interconnection Customer and the Participating TO shall each have the right, during normal business hours, and upon prior reasonable notice to the other Party, to audit at its own expense the other Party’s accounts and records pertaining to either such Party’s performance or either such Party’s satisfaction of obligations owed to the other Party under this LGIA. Subject to Article 25.3.2, any audit authorized by this Article shall be performed at the offices where such accounts and records are maintained and shall be limited to those portions of such accounts and records that relate to each such Party’s performance and satisfaction of obligations

under this LGIA. Each such Party shall keep such accounts and records for a period equivalent to the audit rights periods described in Article 25.4.

**25.3.2** Notwithstanding anything to the contrary in Article 25.3, each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

## **25.4 Audit Rights Periods.**

### **25.4.1 Audit Rights Period for Construction-Related Accounts and Records.**

Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities, Network Upgrades, and Distribution Upgrades constructed by the Participating TO shall be subject to audit for a period of twenty-four months following the Participating TO's issuance of a final invoice in accordance with Article 12.2. Accounts and records related to the design, engineering, procurement, and construction of Participating TO's Interconnection Facilities and/or Stand Alone Network Upgrades constructed by the Interconnection Customer shall be subject to audit and verification by the Participating TO and the CAISO for a period of twenty-four months following the Interconnection Customer's issuance of a final invoice in accordance with Article 5.2(8).

**25.4.2 Audit Rights Period for All Other Accounts and Records.** Accounts and records related to a Party's performance or satisfaction of all obligations under this LGIA other than those described in Article 25.4.1 shall be subject to audit as follows: (i) for an audit relating to cost obligations, the applicable audit rights period shall be twenty-four months after the auditing Party's receipt of an invoice giving rise to such cost obligations; and (ii) for an audit relating to all other obligations, the applicable audit rights period shall be twenty-four months after the event for which the audit is sought; provided that each Party's rights to audit the CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff.

**25.5 Audit Results.** If an audit by the Interconnection Customer or the Participating TO determines that an overpayment or an underpayment has occurred with respect to the other Party, a notice of such overpayment or underpayment shall be given to the other Party together with those records from the audit which supports such determination. The Party that is owed payment shall render an invoice to the other Party and such invoice shall be paid pursuant to Article 12 hereof.

**25.5.1** Notwithstanding anything to the contrary in Article 25.5, the Interconnection Customer's and Participating TO's rights to audit the

CAISO's accounts and records shall be as set forth in Section 22.1 of the CAISO Tariff, and the CAISO's process for remedying an overpayment or underpayment shall be as set forth in the CAISO Tariff.

## ARTICLE 26. SUBCONTRACTORS

- 26.1 General.** Nothing in this LGIA shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this LGIA; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this LGIA in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- 26.2 Responsibility of Principal.** The creation of any subcontract relationship shall not relieve the hiring Party of any of its obligations under this LGIA. The hiring Party shall be fully responsible to the other Parties for the acts or omissions of any subcontractor the hiring Party hires as if no subcontract had been made; provided, however, that in no event shall the CAISO or Participating TO be liable for the actions or inactions of the Interconnection Customer or its subcontractors with respect to obligations of the Interconnection Customer under Article 5 of this LGIA. Any applicable obligation imposed by this LGIA upon the hiring Party shall be equally binding upon, and shall be construed as having application to, any subcontractor of such Party.
- 26.3 No Limitation by Insurance.** The obligations under this Article 26 will not be limited in any way by any limitation of subcontractor's insurance.

## ARTICLE 27. DISPUTES

All disputes arising out of or in connection with this LGIA whereby relief is sought by or from the CAISO shall be settled in accordance with the provisions of Article 13 of the CAISO Tariff, except that references to the CAISO Tariff in such Article 13 of the CAISO Tariff shall be read as references to this LGIA. Disputes arising out of or in connection with this LGIA not subject to provisions of Article 13 of the CAISO Tariff shall be resolved as follows:

- 27.1 Submission.** In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this LGIA or its performance, such Party (the "disputing Party") shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the

claim or dispute through unassisted or assisted negotiations within thirty (30) Calendar Days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in equity or at law consistent with the terms of this LGIA.

- 27.2 External Arbitration Procedures.** Any arbitration initiated under this LGIA shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) Calendar Days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) Calendar Days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("Arbitration Rules") and any applicable FERC regulations; provided, however, in the event of a conflict between the Arbitration Rules and the terms of this Article 27, the terms of this Article 27 shall prevail.
- 27.3 Arbitration Decisions.** Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) Calendar Days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this LGIA and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator(s) must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service, Interconnection Facilities, or Network Upgrades.
- 27.4 Costs.** Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

**ARTICLE 28. REPRESENTATIONS, WARRANTIES AND COVENANTS**

**28.1 General.** Each Party makes the following representations, warranties and covenants:

**28.1.1 Good Standing.** Such Party is duly organized, validly existing and in good standing under the laws of the state in which it is organized, formed, or incorporated, as applicable; that it is qualified to do business in the state or states in which the Large Generating Facility, Interconnection Facilities and Network Upgrades owned by such Party, as applicable, are located; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this LGIA and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this LGIA.

**28.1.2 Authority.** Such Party has the right, power and authority to enter into this LGIA, to become a Party hereto and to perform its obligations hereunder. This LGIA is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

**28.1.3 No Conflict.** The execution, delivery and performance of this LGIA does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

**28.1.4 Consent and Approval.** Such Party has sought or obtained, or, in accordance with this LGIA will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this LGIA, and it will provide to any Governmental Authority notice of any actions under this LGIA that are required by Applicable Laws and Regulations.

**ARTICLE 29. [RESERVED]**

**ARTICLE 30. MISCELLANEOUS**

- 30.1 Binding Effect.** This LGIA and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto.
- 30.2 Conflicts.** In the event of a conflict between the body of this LGIA and any attachment, appendices or exhibits hereto, the terms and provisions of the body of this LGIA shall prevail and be deemed the final intent of the Parties.
- 30.3 Rules of Interpretation.** This LGIA, unless a clear contrary intention appears, shall be construed and interpreted as follows: (1) the singular number includes the plural number and vice versa; (2) reference to any person includes such person's successors and assigns but, in the case of a Party, only if such successors and assigns are permitted by this LGIA, and reference to a person in a particular capacity excludes such person in any other capacity or individually; (3) reference to any agreement (including this LGIA), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (4) reference to any Applicable Laws and Regulations means such Applicable Laws and Regulations as amended, modified, codified, or reenacted, in whole or in part, and in effect from time to time, including, if applicable, rules and regulations promulgated thereunder; (5) unless expressly stated otherwise, reference to any Article, Section or Appendix means such Article of this LGIA or such Appendix to this LGIA, or such Section to the GIP or such Appendix to the GIP, as the case may be; (6) "hereunder", "hereof", "herein", "hereto" and words of similar import shall be deemed references to this LGIA as a whole and not to any particular Article or other provision hereof or thereof; (7) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and (8) relative to the determination of any period of time, "from" means "from and including", "to" means "to but excluding" and "through" means "through and including".
- 30.4 Entire Agreement.** This LGIA, including all Appendices and Schedules attached hereto, constitutes the entire agreement among the Parties with reference to the subject matter hereof, and supersedes all prior and contemporaneous understandings or agreements, oral or written, between or among the Parties with respect to the subject matter of this LGIA. There are no other agreements, representations, warranties, or covenants which constitute any part of the consideration for, or any condition to, any Party's compliance with its obligations under this LGIA.
- 30.5 No Third Party Beneficiaries.** This LGIA is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons,

corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and, where permitted, their assigns.

- 30.6 Waiver.** The failure of a Party to this LGIA to insist, on any occasion, upon strict performance of any provision of this LGIA will not be considered a waiver of any obligation, right, or duty of, or imposed upon, such Party.

Any waiver at any time by either Party of its rights with respect to this LGIA shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this LGIA. Termination or Default of this LGIA for any reason by the Interconnection Customer shall not constitute a waiver of the Interconnection Customer's legal rights to obtain an interconnection from the Participating TO. Any waiver of this LGIA shall, if requested, be provided in writing.

- 30.7 Headings.** The descriptive headings of the various Articles of this LGIA have been inserted for convenience of reference only and are of no significance in the interpretation or construction of this LGIA.

- 30.8 Multiple Counterparts.** This LGIA may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

- 30.9 Amendment.** The Parties may by mutual agreement amend this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

- 30.10 Modification by the Parties.** The Parties may by mutual agreement amend the Appendices to this LGIA by a written instrument duly executed by all of the Parties. Such amendment shall become effective and a part of this LGIA upon satisfaction of all Applicable Laws and Regulations.

- 30.11 Reservation of Rights.** The CAISO and Participating TO shall each have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

Recitals, 1, 2.1, 2.2, 2.3, 2.4, 2.6, 3.1, 3.3, 4.1, 4.2, 4.3, 4.4, 5 preamble, 5.4, 5.7, 5.8, 5.9, 5.12, 5.13, 5.18, 5.19.1, 7.1, 7.2, 8, 9.1, 9.2, 9.3, 9.5,

9.6, 9.7, 9.8, 9.10, 10.3, 11.4, 12.1, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24.3, 24.4, 25.1, 25.2, 25.3 (excluding subparts), 25.4.2, 26, 28, 29, 30, Appendix D, Appendix F, Appendix G, and any other Article not reserved exclusively to the Participating TO or the CAISO below.

The Participating TO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles and Appendices of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles and Appendices:

2.5, 5.1, 5.2, 5.3, 5.5, 5.6, 5.10, 5.11, 5.14, 5.15, 5.16, 5.17, 5.19 (excluding 5.19.1), 6, 7.3, 9.4, 9.9, 10.1, 10.2, 10.4, 10.5, 11.1, 11.2, 11.3, 11.5, 12.2, 12.3, 12.4, 24.1, 24.2, 25.3.1, 25.4.1, 25.5 (excluding 25.5.1), 27 (excluding preamble), Appendix A, Appendix B, Appendix C, and Appendix E.

The CAISO shall have the exclusive right to make a unilateral filing with FERC to modify this LGIA pursuant to section 205 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder with respect to the following Articles of this LGIA and with respect to any rates, terms and conditions, charges, classifications of service, rule or regulation covered by these Articles:

3.2, 4.5, 11.6, 25.3.2, 25.5.1, and 27 preamble.

The Interconnection Customer, the CAISO, and the Participating TO shall have the right to make a unilateral filing with FERC to modify this LGIA pursuant to section 206 or any other applicable provision of the Federal Power Act and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by another Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this LGIA shall limit the rights of the Parties or of FERC under sections 205 or 206 of the Federal Power Act and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.

**30.12 No Partnership.** This LGIA shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership among the Parties or to impose any partnership obligation or partnership liability upon any Party. No Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, another Party.

**30.13 Joint and Several Obligations.** Except as otherwise provided in this LGIA, the obligations of the CAISO, the Participating TO, and the Interconnection Customer are several, and are neither joint nor joint and several.

**IN WITNESS WHEREOF**, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

**CSOLAR IV South, LLC**

By: Scott M. Huff

Title: Vice President, Transmission

Date: 10/21/11

**CSOLAR IV East, LLC**

By: Scott M. Huff

Title: Vice President, Transmission

Date: 10/21/11

**Tenaska Solar Management, LLC**

By: Scott M. Huff

Title: Vice President, Transmission

Date: 10/21/11

**San Diego Gas & Electric Company**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**IN WITNESS WHEREOF**, the Parties have executed this LGIA in multiple originals, each of which shall constitute and be an original effective agreement among the Parties.

**CSOLAR IV South, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CSOLAR IV East, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

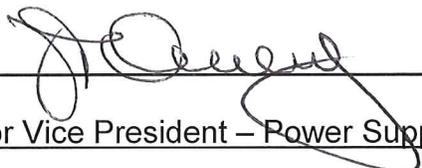
**Tenaska Solar Management, LLC**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**San Diego Gas & Electric Company**

By: \_\_\_\_\_ 

Title: Senior Vice President – Power Supply

Date: October 21, 2011

**California Independent System Operator Corporation**

By: 

Title: KEITH E. CASEY, PH.D., VICE PRESIDENT  
MARKET & INFRASTRUCTURE DEVELOPMENT

Date: 10/21/11

## **Appendices to LGIA**

**Appendix A** Interconnection Facilities, Network Upgrades and Distribution Upgrades

**Appendix B** Milestones

**Appendix C** Interconnection Details

**Appendix D** Security Arrangements Details

**Appendix E** Commercial Operation Date

**Appendix F** Addresses for Delivery of Notices and Billings

**Appendix G** Interconnection Customer's Proportional Share of Costs of Network Upgrades for Applicable Project Group

**Appendix H** Interconnection Requirements for Asynchronous Generating Facilities

## **Appendix A To LGIA**

### **Interconnection Facilities, Network Upgrades and Distribution Upgrades**

Appendix A describes and indicates the estimated costs of the facilities for the Interconnection Facilities work and Network Upgrade work for the Imperial Valley (IV) Substation South (the “Project”), identified as position #510 in the CAISO’s Controlled Grid Generation Queue, as presented in the final Cluster 1 Phase II Interconnection report issued on August 24, 2011 to CSOLAR Development, LLC (“CSOLAR”).

#### **Point of Interconnection (“POI”)**

The Point of Interconnection is at the 230 kV bus in Imperial Valley (IV) Substation. (See Appendix C, Figure 2)

#### **Point of Change of Ownership (“POCO”)**

The Point of Change of Ownership is where the 230 kV Interconnection Customer Interconnection Facilities cross the vertical plane between the Interconnection Customer’s property and the Participating TO’s right-of-way.

### **A.1 Interconnection Facilities<sup>1</sup>:**

#### **A.1.1 Interconnection Customer's Interconnection Facilities**

The Interconnection Customer’s Interconnection Facilities are all the sole use facilities and equipment owned, controlled, or operated by the Interconnection Customer from the Generating Facility to the Point of Change of Ownership that are required to establish this interconnection and shall include the revenue meter to be located at the Project switchyard facilities.

#### **A.1.2 Participating TO’s Interconnection Facilities**

The Participating TO’s Interconnection Facilities are all the sole use facilities and equipment owned, controlled, or operated by Participating TO from the Point of

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<sup>1</sup> The final scope, cost and schedule details for the Interconnection Facilities are being developed between the Interconnection Customer and Participating TO. The Participating TO is to submit the 230kV Interconnection Facilities from the POI to the POCO as Location Constrained Resource Interconnection Facilities (LCRIF) to the CAISO. Upon approval by the CAISO of LCRIF treatment for those Interconnection Facilities, the Parties hereto agree to accept such LCRIF treatment consistent with the CAISO approval, provided that the financial impact of LCRIF treatment on the Interconnection Customer is positive on a cash flow and net present value basis, as determined by the Interconnection Customer in its sole discretion, reasonably exercised. Upon such determination by the Interconnection Customer, the Parties hereto shall amend this LGIA as appropriate to reflect LCRIF treatment of those facilities.

Interconnection to the Point of Change of Ownership that are required to establish this interconnection. The Participating TO's Interconnection Facilities necessary to interconnect the Project to the Imperial Valley Substation at 230 kV include:

**(i) Within the IV Substation:**

The facilities necessary for the 230 kV interconnection at IV substation include the extension of the Project's Interconnection Facilities from the Participating TO property line to the 230 kV bus inside the IV substation.

- Approximately, 900 circuit feet of bundled 900 ACSS/AW conductor from the dead-end structure #Z46474 (located outside substation fence) to the open bay position # 11
- Required relay protection equipment
- Two (2) 400 foot spans of Overhead Optical Ground Wire (OPGW) shield wire with two (2) dead-ends each.

**(ii) Outside the IV Substation:**

**A. North – South Connector**

The north-south (N-S) connector refers to the existing transmission line on the western-end arm of the existing double circuit SDG&E transmission line structures from the first dead-end structure (#Z46474) located outside the IV substation fence to the southernmost structure # Z46499 (connection point with the East West Connector).

- The existing 900 ACSS/AW conductor on the western-end arms of double circuit structures (approximately 24,400 feet) on existing double circuit SDG&E transmission line structures from structure #Z46474 to #Z46499. The existing conductor is to be used as the North- South connector which is part of the Participating TO Interconnection Facilities necessary to interconnect the project.
- Participating TO's Interconnection Facilities fifty percent (50%) allocation of:
  - Remove existing single circuit wooden pole design (5 structures) from and including structure # Z46474 (located outside the IV substation fence) up to and including structure # Z46478 (first structure south of the 500 kV line crossing)
  - Install five (5) new double circuit steel pole structures.
  - Install new OPGW from the first dead-end structure located outside the IV substation fence (#Z46474) to structure #Z46477 (last structure north of the 500 kV line crossing) and from structure #Z46478 (first structure south of the 500 kV line crossing) to structure #Z46503 (last dead-end structure north of the US border)

with Mexico).

- Install new ADSS fiber optic wire from structure #Z46477 (last structure north of the 500 kV line crossing) to structure #Z46478 (first structure south of the 500 kV line crossing).

### **B. East – West Connector**

The east-west (E-W) connector includes the transmission line from the Point of Change of Ownership (POCO) outside the Generating Facility to structure #Z46499 of the existing TL 23050 SDG&E transmission line and will cross underneath all existing overhead lines to connect to the western arm of structure #Z46499 (connection point with the North-South Connector). The total length of east-west connector is approximately 8,500 feet of overhead circuit and 500 feet of underground duct bank. (Approximately 3,700 feet of E-W connector will be located on privately owned lands).

- Overhead portion: includes running angle/tangent and dead-end cable terminating structures at both ends of underground duct bank. All overhead structures will be of monopole design.
- Conductor will be bundled 636 kcmil ACSS/AW “Rook”
- Undergrounding duct banks (approximately 500 feet in length) for crossing under the existing 230kV transmission lines. The East-West Connector will be designed and emanate from the POCO and will cross underneath all existing overhead lines to connect to the western arm of structure #Z46499 (connection point with the North-South Connector). The underground duct bank will be sized to carry one (1) bundled circuit as per above specifications.
- New dead-end structure required before connecting to existing SDG&E structure # Z46499. After U/G crossing of the existing 230kV transmission lines, the East-West connector transmission line will be connected to western-end arm of existing (North-South) double circuit SDG&E transmission line structures (TL 23050).

Interconnection Customer shall design and construct the East-West Connector in consultation with Participating TO and shall assure that the design, engineering and construction of the East-West Connector complies with Participating TO’s design and facility standards. Upon completion of the East-West Connector, Interconnection Customer shall convey such facility to Participating TO. Such conveyance shall be subject to normal and customary documentation and shall be subject to Participating TO’s right to verify that title, form of easements, design and construction of such East-West Connector is satisfactory to Participating TO in its sole discretion, reasonably exercised.

## A.2 Network Upgrades

### A.2.1 Participating TO's Reliability Network Upgrades

#### (i) Within the IV Substation:

##### **A. Modification of the existing Special Protection System ("SPS") at Imperial Valley ("IV") to include the Project.**

- SDG&E communication interface for IV SPS
- Communication equipment between SDG&E and the Project

##### **B. Implement SPS to protect Bernardo-Felicita Tap 69kV line.**

- SDG&E protection and communication interface for Bernardo Substation, Escondido Substation and Palomar Energy Center SPS
- Communication equipment between SDG&E and the Project

##### **C. Implement SPS to protect Mission-Old Town 230kV line.**

- SDG&E communication interface for Mission Substation, Old Town Substation and Silvergate Substation SPS
- Communication equipment between SDG&E and the Project

#### (ii) Outside the IV Substation North – South Connector

The existing transmission line on western-end arm of the existing double circuit SDG&E transmission line structures from the first dead-end structure (#Z46474) located outside the IV substation fence to the southernmost structure # Z46499 (connection point with the East West Connector).

- Participating TO's Reliability Network Upgrade fifty percent (50%) allocation of:
  - Remove existing single circuit wooden pole design (5 structures) from and including structure # Z46474 (located outside the IV substation fence) up to and including structure # Z46478 (first structure south of the 500 kV line crossing)
  - Install five (5) new double circuit engineered steel pole structures.
  - Install new OPGW from the first dead-end structure located outside the IV substation fence (#Z46474) to structure #Z46477 (last structure north of the 500 kV line crossing) and from structure #Z46478 (first structure south of the 500 kV line crossing) to structure #Z46503 (last dead-end structure north of the US border with Mexico).
  - Install new ADSS fiber optic wire from structure #Z46477 (last structure north of the 500 kV line crossing) to structure #Z46478 (first structure south of the 500 kV line crossing).
- Construct two (2) new dead-end structures to transition from the east side to the west side where TL23050 connects to CFE at structure #Z46503

- String new bundled 900 ACSS/AW conductor to construct a new 230 kV transmission circuit (approximately 5.4 miles) on the vacant side (eastern-end arms ) of the double circuit structures from the first dead-end structure #Z46474 located outside the IV substation fence to last dead-end structure #Z46503 north of the US border with Mexico.

### **A.2.2 Delivery Network Upgrades (DNU)**

- (i) Reconfigure TL23041 and TL23042 at Miguel Substation to create two Otay Mesa-Miguel 230 kV lines
  - For TL23041, Otay Mesa-Miguel-Sycamore 230 kV line::
    - Install 1-230 kV breaker, 2-230 kV disconnects, and relaying
    - Install a new anchor-bolted dead end steel pole
    - Install approximately 600 feet of bundled 900 ACSS/AW
  - For TL23042, Miguel-Otay Mesa-Bay Boulevard 230 kV line:
    - Install 1-230 kV breaker and relaying
- (ii) Reconductor Escondido-Palomar Energy 230 kV lines #1 and #2
  - Reconductor the spans of 605 ACSS/AW to 900 ACSS/AW on Escondido-Palomar Energy 230 kV lines #1 and #2
  - Install new cross arms for 230 kV pole Z202015
  - Relocate two overhead 69 kV circuits and convert to underground
  - Remove one existing 69 kV cable pole, extend the underground trench package 600 feet into the substation, remove cable and splice in new cable, terminate at two underground rack positions in Escondido Substation
  - Install 8-230 kV disconnects and adjust relaying at Escondido

### **A.3 Distribution Upgrades:**

None

#### A.4 Cost Estimates:

The estimated cost for the Participating TO's Interconnection Facilities, Delivery Network Upgrades, and Reliability Network Upgrades are shown in Table 1. Descriptions of these facilities are provided in Appendix C.

Table 1: Cost Estimates for Facilities Necessary to Interconnect the Project

Type	Description	Estimated Cost <sup>2</sup> x \$1000
Participating TO's Interconnection Facilities	<b>Within the IV Substation:</b> Extend Interconnection Facilities from the Participating TO property line to the 230 kV bus <ul style="list-style-type: none"> <li>• Install approximately 900 circuit feet of bundled 900 ACSS/AW from the substation rack to the property line</li> <li>• Install two (2)-200 feet spans of shield wire with two (2) dead-ends each</li> <li>• Required relay protection</li> </ul>	211
Participating TO's Interconnection Facilities	<b>Outside the IV Substation: North – South Connector</b> <ul style="list-style-type: none"> <li>• Depreciated cost of the existing transmission conductor on the western-end arms of double circuit structures (approximately 5.4 miles) on existing double circuit SDG&amp;E transmission line structures from structure #Z46474 to #Z46499.<sup>3</sup></li> </ul>	1,439
Participating TO's Interconnection Facilities	<b>Outside the IV Substation: North – South Connector</b> <ul style="list-style-type: none"> <li>• Participating TO Interconnection Facilities 50% allocation of:               <ul style="list-style-type: none"> <li>○ Remove existing single circuit wooden structure design (5 structures)</li> <li>○ Install five (5) new double circuit engineered steel pole structures.</li> <li>○ Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV line crossing) and from the first structure</li> </ul> </li> </ul>	5,869

<sup>2</sup> Estimated costs in “as year spent” dollars and in thousands of \$ dollars, excluding Allowance for Funds Used During Construction (AFUDC). Taxes, landscaping, under grounding, walls, gates, driveways, CAISO and environmental and licensing related costs are not included.

<sup>3</sup> The depreciated cost of the existing conductor represents the cost value of the North- South connector which is part of the Participating TO's Interconnection Facilities necessary to interconnect the project.

	<p>south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico.</p> <ul style="list-style-type: none"> <li>○ Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.</li> <li>○ Construct two (2) new dead-end structures to transition from the east side to the west side where TL23050 connects to CFE at structure <b>#Z46503</b></li> </ul>	
Participating TO's Interconnection Facilities	<p><b>Outside the IV Substation: East – West Connector<sup>4</sup></b></p> <p>Transmission line (approximately 8,500 feet of overhead circuit and 500 feet of underground duct bank) from the Point of Change of Ownership (outside the Generating Facility) to the tower #Z46499 of the existing TL23050</p> <ul style="list-style-type: none"> <li>• Overhead portion: includes steel monopole and/or H-frame and dead-end structures</li> <li>• Undergrounding duct banks (approximately 500 feet) for crossing the existing 230kV transmission lines</li> <li>• New dead-end structure - required before connecting to the SDG&amp;E North-South Connector</li> </ul>	4,800
Reliability Network Upgrade	<p><b>Within the IV Substation:</b></p> <p>Modification of the existing IV SPS to include the Project</p> <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication interface for IV SPS</li> </ul>	46
	<p><b>Within the IV Substation:</b></p> <p>Modification of the existing IV SPS to include the Project</p> <ul style="list-style-type: none"> <li>• Protection and communication equipment between SDG&amp;E and the Project</li> </ul>	200

<sup>4</sup> The Interconnection Customer will acquire the necessary permits and Right Of Ways and construct the E-W Connector.

Reliability Network Upgrade	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Bernardo-Felicita Tap 69kV line</p> <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Bernardo Substation, Escondido Substation and Palomar Energy Center</li> </ul>	36
	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Bernardo-Felicita Tap 69kV line</p> <ul style="list-style-type: none"> <li>• Communication equipment between SDG&amp;E and the Project (included in IV SPS costs above)</li> </ul>	0
Reliability Network Upgrade	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Mission-Old Town 230kV line</p> <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Mission Substation, Old Town Substation and Silvergate Substation</li> </ul>	50
	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Mission-Old Town 230kV line</p> <ul style="list-style-type: none"> <li>• Communication equipment between SDG&amp;E and the Project (included in IV SPS costs above)</li> </ul>	0
Reliability Network Upgrade	<p><b>Outside the IV Substation: North – South Connector</b></p> <ul style="list-style-type: none"> <li>• String new bundled 900 ACSS/AW conductor (approximately 24,400 feet) on the eastern-end arms of the new double circuit SDG&amp;E transmission line structures from the first dead-end structure located outside the IV substation fence, #Z46474, to the last dead-end structure north of the US border with Mexico, #Z46503.</li> <li>• <u>Reliability Network Upgrades 50% allocation of:</u> <ul style="list-style-type: none"> <li>○ Remove existing single circuit wooden structure design (5 structures)</li> <li>○ Install five (5) new double circuit steel pole structures. Construct two (2) new dead-end structures to transition from the east side to</li> </ul> </li> </ul>	9,459

	<p>the west side where TL23050 connects to CFE at structure #Z46503</p> <ul style="list-style-type: none"> <li>○ Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV line crossing) and from the first structure south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico.</li> <li>○ Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.</li> </ul>	
Delivery Network Upgrade	Reconfigure TL23041 and TL23042 at Miguel Substation to create two Otay Mesa-Miguel 230 kV lines	156
Delivery Network Upgrade	Reconductor Escondido-Palomar Energy 230 kV lines #1 and #2	482
<b>Total: Interconnection Costs to Interconnection Customer</b>		<b>22,748</b>
<b>Total: Up Front Costs to Interconnection Customer</b>	<p>= Total Interconnection Costs excluding Depreciated Cost of existing North-South Conductor (existing facility) <b>AND</b> excluding East West Connector (IC will incur cost to construct)</p> <p>= 22,748 - 1,439 - 4,800</p>	<b>16,509</b>
<b>Total: Participating TO Reimbursement to IC upon COD</b>	<p>= Network Upgrade Costs excluding Depreciated Cost of existing North-South Conductor (Participating TO expensed)</p> <p>= 10,429 - 1,439</p>	<b>8,990</b>

#### A.4.1 Licensing and Permitting

The Interconnection Customer will be responsible for obtaining all permits necessary for the Project and the Interconnection Customer's Interconnection Facilities including the E-W Connector.

The Participating TO will be responsible for obtaining all permits and licenses necessary for the Participating TO Interconnection Facilities, including the N-S Connector, and Delivery Network Upgrades.

#### **A.4.2 Affected Systems:**

- (i) Southern California Edison
- (ii) Imperial Irrigation District (IID)
- (iii) Comision Federal de Electricidad (CFE) in Mexico. <sup>5</sup>

#### **A.4.3 Monthly Cost of Ownership Charge for Operation and Maintenance (“O&M”)**

In accordance with the billing and payment procedures commencing with the In-Service Date, the Participating TO shall bill annually, and the Interconnection Customer shall pay annually, an operation and maintenance (“O&M”) charge to compensate the Participating TO for the operation and maintenance associated with the Participating TO’s Interconnection Facilities that are operated and maintained by the Participating TO on behalf of the Interconnection Customer that are not part of network facilities.

When the Interconnection Facilities are placed In-Service, the monthly O&M charges shall be equal to the Participating TO’s transmission O&M rate<sup>6</sup> (currently “0.0051417”) multiplied by the installed cost of the Interconnection Facilities that are identified as the Participating TO’s Interconnection Facilities and a portion of the IC’s Interconnection Facilities from the POCO to the first transmission structure outside the POCO which the Participating TO will maintain on behalf of the Interconnection Customer.

Participating TO will own and install the Interconnection Facilities conductor from the POCO located at the Participating TO’s property line, to the POI located inside the Imperial Valley Substation.

When completed, the Participating TO will operate and maintain the Interconnection Facilities between the POI and the POCO and also the segment of Interconnection Facilities conductor between the Interconnection Customer’s

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<sup>5</sup> CFE in Mexico is affected by this project interconnection at the Imperial Valley substation. However the addition of the IV Substation South project to the existing IV SPS will mitigate the impact to CFE. (See Appendix C.3).

<sup>6</sup> SDG&E may make revisions to the SDG&E transmission O&M rate via a FERC 205 filing, as necessary to adjust for significant changes in actual O&M costs and shall make such revisions available to CSOLAR in a prompt and timely manner. SDG&E’s Transmission O&M rate does not include replacement cost.

(IC's) first overhead structure located outside the Participating TO's property line up to the POCO. The operating and maintenance activities shall apply to the conductor, insulators and the termination hardware and fittings located at the Interconnection Customer's first overhead structure outside the POCO.

The Monthly Cost of Ownership for operations and maintenance (O&M) charge applied to the Interconnection Facilities that the Participating TO will maintain includes maintenance and trouble shooting of these Interconnection Facilities. The Interconnection Customer shall be solely responsible for all costs of any future replacement of the Interconnection Facilities that the Participating TO will maintain on behalf of the Interconnection Customer unless the replacement of such Interconnection Facilities is required as of the result of SDG&E's failure to properly operate or maintain such Interconnection Facilities, or such Interconnection Facilities are required to be replaced due to the interconnection or upgrade of any other facility located beyond the POCO.

The following *example*, using costs from Table 1, illustrates how the monthly O&M charge is calculated.

Cost of the Interconnection Facilities which the Participating TO will maintain	\$12,329,000 <sup>7</sup>
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The resulting monthly O&M charge is calculated as follows:

$$0.0051417 \times (\$12,329,000) = \$63,392$$

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<sup>7</sup> The installed cost of the Interconnection Facilities which the Participating TO will maintain are equivalent to the estimated cost of the Participating TO's Interconnection Facilities in Table 1, plus \$10,000, which is the exemplary cost to purchase and install the section of conductor between the POCO and the first overhead structure outside SDG&E's property line (\$12,319,000 plus \$10,000 equates to \$12,329,000). This segment of conductor is owned by the Interconnection Customer but operated and maintained by the Participating TO.

### **A.5 Local Furnishing Bonds:**

The Participating TO is the sole owner of a system of electric utility facilities which are directly connected to retail customers who receive electric energy supply service and/or electric energy delivery service from the Participating TO (such customers, the “Local Retail Customers”; such facilities, the “Local System Facilities”). The Participating TO has financed or refinanced substantial portions of its Local System Facilities with proceeds from \$686,000,000 of outstanding Local Furnishing Bonds (LFBs) issued by the City of Chula Vista. This includes approximately \$168 million that financed the costs of the Participating TO’s wholly-owned electric transmission facilities located in San Diego, Orange and Imperial Counties, and approximately \$518 million of Participating TO’s wholly-owned electric distribution facilities located in San Diego and Orange Counties. Interest on these LFBs is tax-exempt and the Participating TO claims income tax deductions for interest expense on the LFBs.

If the proposed Project (identified as position #510 in the CAISO’s Controlled Grid Generation Queue) would impair the tax-exempt status of interest on these LFBs or the deductibility of interest expense on the LFBs to the Participating TO under the Internal Revenue Code, Treasury Regulations and/or applicable IRS rulings (“Impairment”), the Interconnection Customer will be required to pay the costs properly allocable to the proposed Project that the Participating TO necessarily and prudently incurs in mitigating such an Impairment if the Interconnection Customer fails for any reason to follow the CAISO-directed remedial measure, if any, applicable to the Interconnection Customer to avoid or mitigate an Impairment.

Under existing IRS rulings issued to the Participating TO, a proposed interconnection might result in an Impairment if the proposed interconnection either (1) will cause the Participating TO to fail to be an annual net importer of electric energy (the “Annual Net Importer Test”), or (2) will require the Participating TO to acquire any component of the Local System Facilities sooner, or will cause any component of the Local System Facilities to be built larger, more costly or with a different design than is reasonably expected to be needed to provide reliable service to Local Retail Customers (the “Character Test”). The CAISO Tariff Section 3 states that:

Nothing in this CAISO Tariff or the TCA shall compel (and the CAISO is not authorized to request) any Local Furnishing Participating TO or other Tax Exempt Participating TO to violate: (1) restrictions applicable to facilities which are part of a system that was financed in whole or part with Local Furnishing Bonds or other Tax Exempt Debt or (2) the contractual restrictions and covenants regarding the use of any transmission facilities specified in Appendix B to the TCA.

The Transmission Control Agreement provides at Appendix B, Section A that:

Notwithstanding anything to the contrary contained in the Agreement, including SDG&E's agreement to be bound by the terms of the ... ISO Tariff and the ... TO Tariff, SDG&E may not take (nor may SDG&E allow the ISO to take) any action that would jeopardize the tax-exempt status of interest on Local Furnishing Bonds issued or to be issued for its benefit, including (without limitation) the actions specified below.

The Transmission Control Agreement provides at Appendix B, Section B that:

Absent an approving written opinion of nationally recognized bond counsel selected by SDG&E, taking into account the adjustments outlined in paragraph C below, SDG&E will not operate its facilities (or allow its facilities to be operated) so as to cause or permit a cumulative annual net outbound flow of electric energy during any year from the point of interconnection . . .

The Transmission Control Agreement provides at Appendix B, Section E that:

Upon SDG&E's receipt of a written request by the ISO to take (or to refrain from taking) any action that SDG&E believes might jeopardize the tax-exempt status of interest on Local Furnishing Bonds issued for benefit, SDG&E in good faith shall promptly seek to obtain an opinion (of the type generally regarded in the municipal bond market as unqualified) from a nationally recognized bond counsel selected by SDG&E that the requested action (or inaction) will not adversely affect such tax-exempt status. Until the opinion of bond counsel described above is obtained, SDG&E shall not be required to take (or to refrain from taking) the specified action, and the ISO shall exercise its Operation Control consistent with such limitation.

### **(1) Annual Net Importer Test**

In conjunction with studies the Participating TO completed on behalf of the CAISO pursuant to the LGIP, a GridView production modeling analysis was undertaken. Based on this analysis, and applying the annual net importer methodology set forth in a supplemental IRS letter ruling issued to the Participating TO dated July 7, 2009, the Participating TO has determined that the Project does not appear at this time to cause an Impairment by reason of the Annual Net Importer Test. This was determined by considering, *inter alia*, the following:

The Participating TO has no direct or indirect ownership interest in the Project.

The Project does not connect directly to the Local System Facilities and thus is not considered internal generation to the Local System Facilities and does not contribute to the Participating TO's calculated outbound flow.

Even if the Participating TO enters into a contract to purchase all electric energy produced by the Project, the Participating TO presently anticipates that electric energy from the Project and other electric generating resources which are owned or controlled by or for the benefit of the Participating TO in each calendar year will not exceed the total amount of electric energy supplied by the Participating TO to Local Retail Customers, adjusted as set forth in the supplemental IRS letter ruling issued to the Participating TO dated July 7, 2009.

The Interconnection Customer is subject to all applicable and lawful tariffs, protocols, orders, and directives of the CAISO issued pursuant to the terms of its Tariff to protect the exclusion from gross income of interest on the LFBs.

If in the future the Participating TO acquires an ownership interest in the Project for federal tax purposes or the Project comes to connect directly to the Local System Facilities, these events will impact the analysis of the Annual Net Importer Test. If either event occurs, The Participating TO will monitor the Project's output of electric energy and other matters to determine if an Impairment may arise by reason of the Participating TO's failure to meet the Amended Annual Net Importer Test set forth in the IRS supplemental letter ruling dated July 7, 2009. If, contrary to the Participating TO's current expectations, the Participating TO otherwise might fail to meet the Amended Annual Net Importer Test set forth in the IRS supplemental letter ruling dated July 7, 2009, at any time after the Project is placed in service, the means by which such Impairment will be resolved is set forth in "SDG&E Appendix B (SDG&E Encumbrances)" to the Transmission Control Agreement.

## **(2) Character Test**

Even if the Annual Net Importer Test is met, an Impairment can arise if additions or improvements are made to the Local System Facilities sooner, larger, more costly or built with a different design than is reasonably expected to be needed to provide reliable service to the Local Retail Customers. This Character Test generally will be met so long as (i) the Project never connects directly to the Participating TO's Local System Facilities, and (ii) the Participating TO never acquires an ownership interest in the Project for federal tax purposes. Presently, the Participating TO has no ownership interest in the Project for federal tax purposes, and the Project does not connect directly to the Local System Facilities. Thus, consideration of the Character Test presently is not required.

If in the future the Participating TO acquires an ownership interest in the Project for federal tax purposes or the Project comes to connect directly to the Local System Facilities, then an Impairment might arise unless electric energy from the Project is sold exclusively to the Participating TO. The means by which such an Impairment will be

resolved is set forth in “SDG&E Appendix B (SDG&E Encumbrances)” to the Transmission Control Agreement.

The Participating TO will provide timely notification to the Interconnection Customer of any assertion or determination that an Impairment pertaining wholly or in part to the Project has arisen or is likely to arise and provide to Interconnection Customer the Participating TO’s submissions to the CAISO and thereafter, if any, to the IRS pertaining to such Impairment. The Interconnection Customer agrees that it will treat any material provided by Participating TO to the IRS involving an Impairment as Confidential Information.

Presently, the Project does not connect directly to the Local System Facilities and, thus, consideration of the Character Test is not required.

#### **A.6 Insurance**

All certificates of insurance coverage, endorsements, cancellations, terminations, alterations, and material changes of such insurance shall be issued and submitted to the following:

For San Diego Gas & Electric Company:

Manager, Transmission Planning  
8316 Century Park Court CP52A  
San Diego, CA 92123-1593

For CSOLAR Development, LLC:

c/o Tenaska, Inc.  
Attention: Doug Troupe  
1044 N. 115th Street, Suite 400  
Omaha, NE 68154

For California ISO:

Judy Brown  
250 Outcropping Way  
Folsom, CA 95630

### **A.7 Future Use of Participating TO's Interconnection Facilities**

The Parties are aware of other interconnection customers with valid interconnection requests in the ISO's Controlled Grid Generation Queue which may request the use of the Participating TO's Interconnection Facilities. Should a Party receive such a request from a New Generator to use the Participating TO's Interconnection Facilities, the Party receiving such request will notify the other Parties within 30 days of receipt.

Parties must agree to allow the use of the Participating TO's Interconnection Facilities by such other interconnection customer. Should the ISO and Participating TO agree to allow the use of the Participating TO's Interconnection Facilities, the Parties shall amend this LGIA to accommodate use of the Participating TO Interconnection Facilities by such other interconnection customer. Such an amendment to this LGIA will include an obligation of the Participating TO to reimburse the Interconnection Customer a pro rata portion, as defined below, of the amount previously paid by Interconnection Customer under this Agreement for the Participating TO's Interconnection Facilities. Any repayment shall include interest calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. §35.19a(a)(2)(iii) from the date of any payment for the Participating TO's Interconnection Facilities through the date on which the Interconnection Customer receives a repayment of such payment (the "Reimbursable Costs").

Such pro-rata portion shall be calculated as follows: each time a New Generator interconnects utilizing the Participating TO's Interconnection Facilities, the Participating TO shall make a payment to Interconnection Customer such that after receipt of such payment the amount of total payments received by Interconnection Customer pursuant to the amendment then being entered into and all prior amendments entered into with previous New Generators, not taking into account any interest component of such payments, shall equal the Reimbursable Costs multiplied times a fraction the numerator of which is the aggregate capacity of all the New Generators in MW and the denominator of which is the aggregate capacity of all the New Generators in MW plus 200 MW (the IV Substation South project's capacity). The Reimbursable Costs amount shall be paid by the Participating TO to the Interconnection Customer within 30 days of the In-Service Date when any New Generator interconnects with the Participating TO's Interconnection Facilities, irrespective of whether the New Generator is assessed any charge by the Participating TO.

The calculation of the Monthly Cost of Ownership Charge for Operation and Maintenance ("O&M") as described at A.4.3 above will also adjusted to reflect the sharing of the Participating TO's Interconnection Facilities with the other Interconnection Customer(s).

## Appendix B To LGIA

### Milestones

#### B.1 Interconnection Customer's Selected Option:

The Interconnection Customer has selected the Standard Option in accordance with Article 5.1.1 of the LGIA.

#### B.2 Interconnection Milestones and Dates:

The milestones provided in Table 2 below shall apply to each phase of the Project unless specific dates are provided for each Phase.

**Table 2: Interconnection Milestones**

<u>Item</u>	<u>Milestone</u>	<u>Responsible Party</u>	<u>Due Date</u>
(a)	Submittal of approval from the appropriate Governmental Authority for any facilities requiring regulatory approval, as applicable, to Participating TO and CAISO, pursuant to Article 5.6.1 of the LGIA	Interconnection Customer	At least 30 Calendar Days prior to the commencement of Construction Activities of the Participating TO's Interconnection Facilities and Network Upgrades
(b)	Submittal of written authorization to proceed with design, procurement and construction of Participating TO's Interconnection Facilities and Network Upgrades, as applicable and identified in this Agreement, to Participating TO and CAISO pursuant to Articles 5.5.2 and 5.6.3 of the LGIA	Interconnection Customer	On or before March 31, 2012 <sup>8</sup> , and at least 30 Calendar Days prior to the commencement of the Construction Activities of the Participating TO's Interconnection Facilities and Network Upgrades
(c)	Submittal of security for Participating TO's	Interconnection Customer	On or before March 31, 2012 <sup>8</sup> , and at least

<sup>8</sup> On or before this date, the Interconnection Customer must provide the Participating TO with written authorization to proceed and financial security so the Participating TO can proceed with design, procurement, and Construction Activities necessary to complete the Interconnection Facilities and Network Upgrades to meet the proposed April 1, 2012 In-Service Date. Failure by the Interconnection Customer to comply with this milestone (provide written

<u>Item</u>	<u>Milestone</u>	<u>Responsible Party</u>	<u>Due Date</u>
	Interconnection Facilities and Network Upgrades, as applicable and as identified in this Agreement, to Participating TO pursuant to Articles 5.5.3, 5.6.4 and 11.5 of the LGIA and as outlined in Appendix A at A.4		30 Calendar Days prior to the commencement of the Construction Activities of the Participating TO's Interconnection Facilities and Network Upgrades
(d)	Submittal of security for the estimated tax liability, if necessary, to Participating TO pursuant to Article 5.17.4 of the LGIA	Interconnection Customer	At least 30 Calendar Days prior to the commencement of Construction Activities of the Participating TO's Interconnection Facilities and Network Upgrades
(e)	Completion of Participating TO's Interconnection Facilities, Reliability Network Upgrades and Delivery Network Upgrade facilities	Participating TO	Within <b>18</b> months after the completion of Items (b) and (c) above
(f)	Submittal of initial specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO as specified in Article 5.10.1 of the LGIA	Interconnection Customer	Within 180 Calendar Days prior to the Initial Synchronization date
(g)	Initial information submission, including Participating TO's Transmission System information necessary to allow the Interconnection Customer to select equipment, in accordance with Article 24.2 of the LGIA	Participating TO	Within 180 Calendar Days prior to the Trial Operation date
(h)	Updated information submission	Interconnection	Within 180 Calendar

authorization to proceed and security by this date) shall represent breach of this LGIA, and CAISO and the Participating TO will move to immediately terminate the LGIA.

<u>Item</u>	<u>Milestone</u>	<u>Responsible Party</u>	<u>Due Date</u>
	by Interconnection Customer, including manufacturer information in accordance with Article 24.3 of the LGIA	Customer	Days prior to the Trial Operation date
(i)	Review of and comment on Interconnection Customer's initial specifications as specified in Article 5.10.1 of the LGIA	Participating TO and ISO	Within 30 Calendar Days of the Interconnection Customer's submission of initial specifications
(j)	Submittal of final specifications for the Interconnection Customer's Interconnection Facilities and Large Generating Facility, including System Protection Facilities, to the Participating TO and the CAISO as specified in Article 5.10.1 of the LGIA	Interconnection Customer	Within 90 Calendar Days prior to the Initial Synchronization date

<u>Item</u>	<u>Milestone</u>	<u>Responsible Party</u>	<u>Due Date</u>
(k)	Review of and comment on Interconnection Customer's final specifications as specified in Article 5.10.1 of the LGIA	Participating TO and CAISO	Within 30 Calendar Days of the Interconnection Customer's submission of final specifications
(l)	Notification of Balancing Authority Area in which the Interconnection Customer intends to be located to Participating TO and CAISO pursuant to Article 9.2	Interconnection Customer	At least 90 Calendar Days prior to the Initial Synchronization Date
(m)	Performance of a complete calibration test and functional trip test of the System Protection Facilities prior to the In-Service Date, pursuant to Article 9.7.4.6 of the LGIA	Interconnection Customer and Participating TO	Within 60 Calendar Days prior to the In-Service Date,
(n)	In-Service Date	Interconnection Customer	<b>June 1, 2013,</b>
(o)	Performance of a complete calibration test and functional trip test of the System Protection Facilities prior to the Commercial Operation Date, pursuant to Article 9.7.4.6 of the LGIA	Interconnection Customer and Participating TO	Within 60 Calendar Days prior to the Commercial Operation Date
(p)	Testing of the Participating TO's Interconnection Facilities and Network Upgrades, and testing of the Interconnection Customer's Large Generating Facility and Interconnection Facilities in accordance with Article 6.1 of the LGIA	Interconnection Customer and Participating TO	Within 60 Calendar Days prior to the Commercial Operation Date
(q)	Provide written approval to Interconnection Customer for the operation of the Large Generating Facilities in accordance with Article 6.1 of the LGIA	Participating TO	Within 15 Calendar Days prior to the Commercial Operation Date
(r)	Phase I Initial Synchronization	Interconnection	<b>Phase I - October 1,</b>

<u>Item</u>	<u>Milestone</u>	<u>Responsible Party</u>	<u>Due Date</u>
	Date (Interconnection Customer to provide notification in writing to Participating TO) <sup>9</sup>	Customer	<b>2013</b>
(s)	Phase II Initial Synchronization Date (Interconnection Customer to provide notification in writing to Participating TO) <sup>9</sup>	Interconnection Customer	<b>Phase II – October 1, 2015</b>
(t)	Phase I Trial Operation date	Interconnection Customer	<b>Phase I - November 1, 2013</b>
(u)	Phase II Trial Operation date	Interconnection Customer	<b>Phase II – November 1, 2015</b>
(v)	Phase I Commercial Operation Date	Interconnection Customer	<b>December 31, 2013</b>
(w)	Phase II Commercial Operation Date	Interconnection Customer	<b>January 2, 2016</b>
(x)	Submittal of “as-built” drawings, information and documents for the Interconnection Customer’s Interconnection Facilities and the Electric Generating Units in accordance with Article 5.10.3 of the LGIA to the Participating TO and CAISO	Interconnection Customer	Within 120 Calendar Days after the Commercial Operation Date.

<sup>9</sup> The Parties recognize and agree that the Interconnection Customer will be allowed to synchronize, test, and declare Commercial Operation for any portions of the Project upon completion prior to the dates specified in Table 2, however the Participating TO will reimburse the Interconnection Customer for the actual cost of Network Upgrades upon the Commercial Operation Date of the project’s entire 200 MW capacity.

### B.3 Estimated Construction Schedule

**Table 3: Estimated Time to Design and Construct Participating TO's Interconnection Facilities and Reliability Network Upgrade**

Type	Description	Estimated time to Design & Construct <sup>10</sup>
Participating TO's Interconnection Facilities	<p><b>Within the IV Substation:</b>            Extend Interconnection Facilities from the Participating TO property line to the 230 kV bus</p> <ul style="list-style-type: none"> <li>• Install approximately 900 circuit feet of bundled 900ACSS/AW from the substation rack to the property line</li> <li>• Install two (2)-200 feet spans of shield wire with two (2) dead-ends each</li> <li>• Required relay protection</li> </ul>	6 Months
Participating TO's Interconnection Facilities	<p><b>Outside the IV Substation: North – South Connector</b></p> <ul style="list-style-type: none"> <li>• Participating TO Interconnection Facilities allocation of:               <ul style="list-style-type: none"> <li>○ Remove existing single circuit wooden structure design (5 structures)</li> <li>○ Install five (5) new double circuit steel pole structures.</li> <li>○ Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV line crossing) and from the first structure south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico.</li> <li>○ Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.</li> <li>○ Construct two (2) new dead-end structures to transition from the east side to the west side where TL23050 connects to CFE at structure #Z46503</li> </ul> </li> </ul>	16 Months

<sup>10</sup> Estimated time to construct includes time for design, equipment procurement, and construction. Excludes time for environmental review and permitting.

Reliability Network Upgrades	<p><b>Within the IV Substation:</b></p> <p>Modification of the existing SPS to include the Project</p> <ul style="list-style-type: none"> <li>• SDG&amp;E communication interface for IV SPS</li> <li>• Communication equipment between SDG&amp;E and the Project</li> </ul>	12 Months
Reliability Network Upgrades	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Bernardo-Felicita Tap 69kV line</p> <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Bernardo Substation, Escondido Substation and Palomar Energy Center</li> <li>• Communication equipment between SDG&amp;E and the Project</li> </ul>	12 Months
Reliability Network Upgrades	<p><b>Within the IV Substation:</b></p> <p>Implement SPS to protect Mission-Old Town 230kV line</p> <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Mission Substation, Old Town Substation and Silvergate Substation</li> <li>• Communication equipment between SDG&amp;E and the Project</li> </ul>	12 Months
Reliability Network Upgrades	<p><b>Outside the IV Substation: North – South Connector</b></p> <ul style="list-style-type: none"> <li>• String new bundled 900 ACSS/AW conductor (approximately 5.4 miles) on the eastern-end arms of the new double circuit SDG&amp;E transmission line structures from the first dead-end structure located outside the IV substation fence, #Z46474, to the last dead-end structure north of the US border with Mexico, #Z46503.</li> <li>• Reliability Network Upgrades portion of:           <ul style="list-style-type: none"> <li>○ Remove existing single circuit wooden structure design (5 structures)</li> <li>○ Install five (5) new double circuit steel pole structures.</li> <li>○ Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV</li> </ul> </li> </ul>	16 Months

	line crossing) and from the first structure south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico. <ul style="list-style-type: none"> <li>○ Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.</li> <li>○ Construct two (2) new dead-end structures to transition from the east side to the west side where TL23050 connects to CFE at structure #Z46503</li> </ul>	
Delivery Network Upgrades	Reconfigure TL23041 and TL23042 at Miguel Substation to create two Otay Mesa-Miguel 230 kV lines	18 Months
Delivery Network Upgrades	Reconductor Escondido-Palomar Energy 230 kV lines #1 and #2	12 Months

The construction schedule estimates to design, procure, and construct the facilities do not include the time required for environmental review and the permitting processes, if applicable.

**Table 4 – Estimated Project Timeline:**

Month	Date	Remarks
-1	January 1, 2012	IV Solar provides written notice to proceed and required security
0	February 1, 2012	SDG&E begins engineering.
2	April 1, 2012	SDG&E orders long lead equipment.
8	October 1, 2012	SDG&E begins construction.
16	June 1, 2013	SDG&E Construction Complete - In Service

#### **B.4 Suspension of the Work**

If the Interconnection Customer suspends work pursuant to Article 5.16 of the LGIA, then all milestones for each Party set forth in this Appendix B shall be suspended during the suspension period. Upon the Interconnection Customer's request to recommence the work, the Parties shall negotiate in good faith on revised milestone due dates for each milestone that takes into account the period of suspension. Appendix B and any terms and conditions associated with the estimated costs shall be amended following the establishment of such revised milestone due dates.

#### **B.5 Partial Termination**

In the event the IC exercises Partial Termination with regard to Phase II: (A) the LGIA shall remain in full force and effect with respect to Phase I; (B) the IC's eligibility for repayment pursuant to GIP Section 12.3.2 for Phase I shall not be diminished and (C) the Parties shall amend this LGIA to reflect the lower interconnection capacity.

The IC must exercise its Partial Termination Right within one hundred eighty (180) days after receipt of Notice from Southern California Edison Company ("SCE") who is the Participating TO whose Transmission System is part of the CAISO Controlled Grid and who is responsible for construction of the Network Upgrades necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid that: (A) SCE reasonably intends to commence Construction Activities in one hundred eighty (180) days of the Network Upgrades on SCE's Transmission System necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid or (B) SCE does not intend to construct Network Upgrades on SCE's Transmission System because they are not necessary for Phase II to obtain Full Capacity Deliverability Status to the CAISO Controlled Grid.

Under no circumstance shall the IC exercise its Partial Termination Right after commencement of the Construction Activities of the Network Upgrades on SCE's Transmission System.

Unless a date set forth in Table 2 or Table 3 above is otherwise extended per the terms of the LGIA, the following options apply:

**Table 3A- Participating TO General Option: The Participating TO has the following options:**

If the Interconnection Customer is not current in meeting its milestones as set forth in Table 2 (as such milestones may be adjusted due to the Interconnection Customer exercising Option 2 in Table 3B below or its suspension rights under Article 5.16 of this LGIA), the Participating TO has the following options:

1. Extend the applicable deadline for Interconnection Customer to satisfy the milestone requirement for the Electric Generating Units.
2. Terminate this LGIA, subject to the termination and Partial Termination provisions of this LGIA.
3. Other actions mutually agreeable to the Parties.

The Participating TO will provide written notification to the Interconnection Customer of the option selected.

With the exception of Interconnection Customer exercising its Partial Termination rights pursuant to Article 2.4.4, if the Interconnection Customer does not meet any one of the milestones specified in Table 2 above (as such milestones may be adjusted due to the Interconnection Customer exercising option 2 in Table 3B below or its suspension rights under Article 5.16 of this LGIA), this failure shall be considered a Breach of this LGIA, subject to the Default and Right to Terminate provisions under Article 17 of this LGIA.

**Table 3B – Interconnection Customer General Option: The Interconnection Customer has the following options:**

On each date set forth in Table 2 or Table 3 above, if the Participating TO is current in meeting its milestones in Table 2 or Table 3 above, the Interconnection Customer shall confirm its non-binding intention to develop the Electric Generating Units for which the milestone has been met.

If the Participating TO is not current in meeting its milestones as set forth in Table 2 or Table 3, the Interconnection Customer has the following options:

1. Continue to develop the Electric Generating Units for which the milestone has not been met (but have no obligation to do so).
2. Adjust its milestones for the applicable Electric Generating Units in Table 2 above, on a day-for-day basis, as appropriate, to the Participating TO's new timetable(s).

3. (a) If the Participating TO is not current in meeting its milestones with respect to Phase I which is 130 MW, the Interconnection Customer shall have the right to (1) terminate the LGIA in its entirety, with resulting disconnection of Phase I, and cause the refund of any Partial Termination Charge Security in full to Interconnection Customer, or (2) invoke Partial Termination of this LGIA with respect to Phase II which is 70 MW pursuant to Article 2.4.4, provided that the Interconnection Customer has previously posted Partial Termination Charge Security for Phase II.

(b) If the Participating TO is not current in meeting its milestones with respect to Phase II, the Interconnection Customer shall have the right to invoke Partial Termination of this LGIA in accordance with Article 2.4.4 with respect to Phase II.\*

4. Terminate this LGIA, subject to the termination and Partial Termination provisions of this LGIA.

5. Other actions mutually agreeable to the Parties.

The Interconnection Customer will provide written notification to both the CAISO and the Participating TO of the option selected.

If the Participating TO is unable to complete the Network Upgrades necessary to provide full deliverability to the entire Generating Facility, the Participating TO shall use commercially Reasonable Efforts to pursue alternatives to provide full deliverability to the entire Generating Facility.

\* The termination provisions provided above (Option 3(a) and (b)) reflect that the Interconnection Customer may invoke a Partial Termination under Section 2.4.4 with respect to those Electric Generating Units for which the Interconnection Customer has previously provided Partial Termination Charge Security, which right of Partial Termination is alternative to the Interconnection Customer's choice of termination of the entire LGIA under Article 2.3 of this LGIA.

If, by April 15, 2012, the Participating TO has not (i) commenced construction of the Network Upgrades or (ii) made commercially Reasonable Efforts to provide an alternative solution for ensuring timely full capacity deliverability status for the Generating Facility, and either (a) the Interconnection Customer (or an owner/lessee thereof who has signed the Co-Tenancy Agreement referred to in Appendix C, Section C.5) is in default of a power purchase agreement or cannot perform under a power purchase agreement as a result thereof, or (b) the Parties otherwise reasonably agree that the Interconnection Customer (or any owner/lessee thereof who has signed the Co-Tenancy Agreement referred to in Appendix C, Section C.5) has been harmed as a result of the Participating TO's failure to complete the Network Upgrades (or otherwise provide full capacity deliverability status for the Generating Facility) in a timely manner,

then the Interconnection Customer shall have the right to invoke a Partial Termination of this LGIA with respect to the Electric Generating Units that the Interconnection Customer reasonably demonstrates to the other Parties it is unable to construct. If Partial Termination is exercised under the terms of the foregoing sentence, the Participating TO and the CAISO shall return the Partial Termination Charge Security applicable to such terminated Electric Generating Units to the Interconnection Customer. Any Partial Termination exercised by the Interconnection Customer, other than in accordance with this paragraph, shall result in the CAISO and the Participating TO liquidating the Partial Termination Charge Security applicable to the terminated Electric Generating Units in accordance with Article 2.4.4.5 of this LGIA.

## **Appendix C To LGIA**

### **Interconnection Details**

Interconnection Customer proposes to interconnect its Project to the California Independent System Operator Corporation (“CAISO”) Controlled Grid at the 230 kV bus in SDG&E’s existing Imperial Valley Substation. The Project site is located near El Centro, California in the unincorporated area of Imperial County on properties located at the intersection of Pullman Road and Cook Road, and approximately seven miles southeast of the Imperial Valley Substation (IV). The Project will be interconnected via dedicated 230 kV interconnection facilities consisting of overhead and underground transmission line. The Project is a 200 MW nominal solar photovoltaic (PV) power generating facility, with a maximum net electrical output to grid of 200 MW, with 318 - 630 kW inverters, a 34.5 kV power collection system and a 230/34.5 kV project substation. The Project will be constructed in two phases with the output of each phase being:

Phase I – 130 MW  
Phase II – 70 MW

Based on a request from the El Centro Office of the Bureau of Land Management to minimize environmental impacts in the area, SDG&E will allow the Project to share part of existing SDG&E transmission line structures that run from Imperial Valley substation to Mexican Border. On the existing 230 kV Circuit TL23050 (that connects IV substation, El Centro, CA, to La Rosita substation in Mexico), SDG&E will allow the Interconnection Customer to use of the vacant side of the existing 230 kV transmission line structures. In order to accommodate the Project, SDG&E must complete the work to replace five (5) structures (of single circuit wooden pole design) outside of Imperial Valley substation within the existing IV-La Rosita 230 kV line with double circuit steel pole structures. By utilizing existing SDG&E transmission line structures, Interconnection Customer will be able to avoid building 24 new structures on BLM lands.

Prior to the Interconnection Customer’s request to interconnect the Project at the IV substation, the eastern-end arms of the existing SDG&E transmission line structures along the existing IV-La Rosita 230 kV line transmission line structures were not in use and open for future expansion. Based upon a previously approved SDG&E project, TL 23050 will be moved to bay position #11 at SDG&E’s IV substation.

SDG&E will change bay positions for the existing IV – La Rosita 230 kV Circuit TL23050 in the IV Substation. SDG&E will move the existing western-end arms 230 KV circuit TL23050 (from bay #11 at IV) to the open position of eastern-end arms (to bay#12 at IV). After installing the new double circuit steel pole structures, SDG&E will then string new conductor wire for the IV – La Rosita 230 kV Circuit transmission line TL23050 on the

eastern-end arm of existing SDG&E transmission line structures, approximately five (5) miles south from the IV Substation. SDG&E will then connect the existing conductor for the Project to bay 11 position of IV substation.

The new conductor for the IV – La Rosita 230 kV Circuit transmission line TL23050 will then occupy the eastern-end arms of the existing SDG&E transmission line structures which will transition back to western-end arms once it extends south beyond the proposed project's East-West connector. The existing vacated conductor on the western-end arms will then be used to connect the Project into the IV substation.

The POI and POCO are as defined in Appendix A of this Agreement. For the one-line diagrams, refer to Figure 1 below.

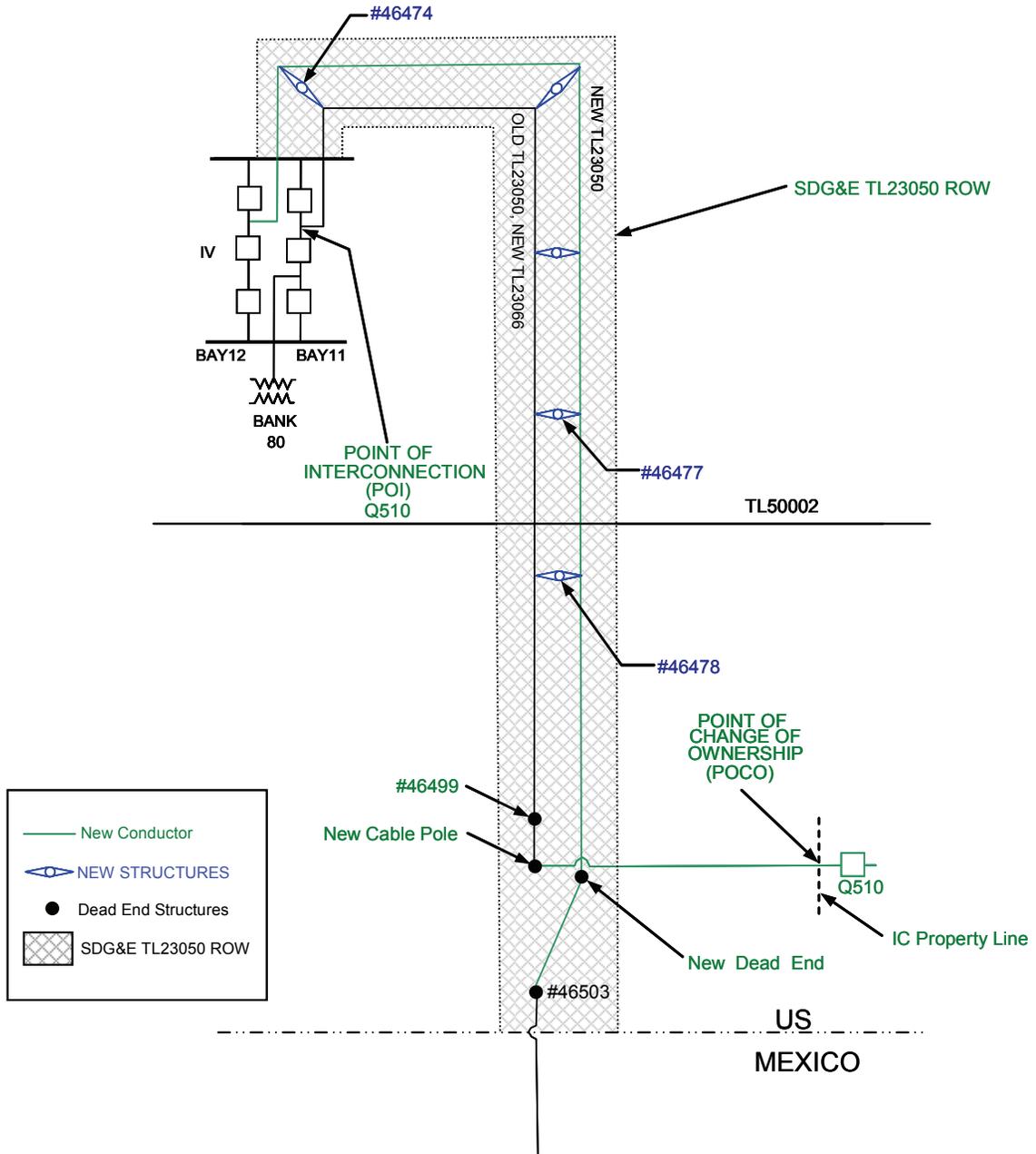
CSOLAR proposes the following dates for the Phase I portion of the Project:

Proposed In-Service Date for Interconnection Facilities (ISD):	June 1, 2013
Proposed Trial Operation date (TOD):	November 1, 2013
Proposed Commercial Operation Date (COD):	December 31, 2013

CSOLAR proposes the following dates for the Phase II portion of the Project:

Proposed In-Service Date for Interconnection Facilities (ISD):	N/A
Proposed Trial Operation date (TOD):	November 1, 2015
<b>Proposed Commercial Operation Date (COD):</b>	<b>January 2, 2016</b>

Figure 1: Project Point of Interconnection and Point of Change of Ownership



## C.1 Interconnection Facilities

### Imperial Valley (IV) Substation Interconnection Facilities

#### (i) Within the IV Substation:

The Participating TO will own a section of the Interconnection Facility conductor from the Point of Change of Ownership (POCO) to the Point of Interconnection (POI).

The facilities necessary for the 230 kV interconnection within the IV substation include the extension of the Project's Interconnection Facilities from dead-end structure located near the Participating TO property line at the IV Substation approximately 400 feet to bay position #11 on the 230 kV bus inside the IV substation using bundled 900 ACSS/AW conductor. The Participating TO will also install two (2) spans of Overhead Optical Ground Wire (OPGW) with one (1) dead-end each.

#### (ii) Outside the IV Substation:

##### A. North – South Connector

The North-South (N-S) connector refers to the transmission line that will be strung on existing double circuit SDG&E transmission line structures from #Z46474 to # Z46499. The portion of the N-S connector design, procurement and construction to interconnect the project is considered Interconnection Facilities. The length of N-S connector will be approximately 24,400 feet. Prior to the activities to interconnect the Project to the IV Substation, the previous existing SDG&E transmission line (outside IV) changed to a single circuit wooden pole design after the steel lattice structure # Z46479. Further, the single circuit pole structures ran under existing 500 KV Southwest Power link transmission line.

SDG&E will permit and construct the N-S Connector. SDG&E will replace the existing single circuit wooden pole design to a double circuit steel pole design. SDG&E will install five (5) new double circuit steel pole structures.

- The Participating TO's Interconnection Facilities will be allocated a 50 percent portion of the costs of the following activities:
  - Remove existing single circuit wooden structure design (5 structures)
  - Install five (5) new double circuit steel pole structures.
  - Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV line crossing) and from the first structure south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico.
  - Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.

After installing new double circuit structures, the existing vacated conductor on the western-end arms will then be used to connect the Project into bay 11 position of IV substation. The project will utilize the existing 900 ACSS/AW conductor on the western-end arms of double circuit structures (approximately 24,400 feet) on existing double circuit SDG&E transmission line structures from structure #Z46474 to #Z46499. As explained above, SDG&E must first move the existing single circuit TL23050 to the eastern-end arms of the double circuit steel poles.

### **B. East West Connector**

The East-West (E-W) connector will be owned by the Participating TO and includes the 230 kV transmission line from the POCO at the Participating TO's property line to the new cable pole at tower #Z46499 of the existing TL23050 SDG&E transmission line. The total length of E-W connector is approximately 8,500 feet of overhead facilities and 500 feet of underground facilities. The overhead portion of E-W Connector includes steel monopoles and dead-end structures. Approximately 3,700 feet of E-W connector is located on privately owned lands. The IC will acquire the necessary permits and Right Of Ways ((ROWs), including BLM) and construct the E-W Connector. The design, construction and installation of E-W connector up to shall be in accordance with the Participating TO's design and construction standards and approved by the Participating TO's Electric Transmission and Distribution Engineering Department. All work performed on the E-W connector shall be performed by the Participating TO's approved contractors or employees.

Further, the E-W connector assumes undergrounding duct bank for crossing existing Sempra (generation) and Intergen (generation) transmission lines (TL23050). The underground duct bank will be approximately 9.5 feet wide, approximately 500 feet in length and will be buried approximately 6 feet below the ground. The design would insure that the underground (U/G) duct bank would avoid previously identified environmentally sensitive areas. After U/G crossing of Sempra and Intergen lines (TL23050), the E-W connector will be connected to western-end arm of existing double circuit SDG&E transmission line structures. A new dead-end structure will be required before connecting to existing SDG&E structures. The new dead-end structure will be located in the ROW of SDG&E and/or Intergen transmission lines(TL23050).

All IC work performed on the E-W connector Interconnection Facilities shall be performed by the Participating TO's approved contractors or employees. Maintenance and testing of the E-W connector Interconnection Facilities shall be coordinated between the Participating TO and the IC and performed in accordance with operating procedures established between the IC and Participating TO prior to the Interconnection Facilities being energized for Trial Operation and the Commercial Operation.

NOTE: SDG&E has submitted to CAISO that all the 230 kV Interconnection Facilities from the POI to the POCO, are Location Constrained Resource Interconnection Facilities (LCRIF), in accordance with Section 26.6 of the CAISO tariff. Subject to Section A.1, footnote 1 hereinafter CAISO approval of the LCRIF (expected in early 2012), the ROWs and facilities for the E-W Connector shall be part of the LCRIF. Regardless of any determination(s) as to LCRIF, however, upon completion of construction and prior to energization, the IC shall assign the ROWs and facilities for the E-W Connector to SDG&E.

**(iii) Maintenance and Testing:**

Upon completion of the Interconnection Facilities, the Participating TO will operate and maintain the Participating TO's Interconnection Facilities between the POCO and the POI. The maintenance activity shall include the conductor, insulators and the termination hardware and fittings located at the POCO and include the facilities up to the Participating TO's dead-end structure located inside the Participating TO's substation (IV) (the POI).

The Monthly Cost of Ownership for Operations and Maintenance (O&M) charge applies to the Interconnection Facilities which the Participating TO will maintain (as identified in this agreement) and includes maintenance and trouble shooting of these interconnection facilities. The IC shall be solely responsible for all costs of any future replacement of the Participating TO's Interconnection Facilities unless the need to replace such Interconnection Facilities is the result of SDG&E's failure to properly operate or maintain such Interconnection Facilities, or such Interconnection Facilities are required to be replaced due to the interconnection or upgrade of any other facility located beyond the POCO.

Design and installation of the E-W connector shall be in accordance with the Participating TO's design and construction standards and approved by the Participating TO's Electric Transmission and Distribution Engineering Department.

All work performed on the Participating TO's Interconnection Facilities shall be performed by the Participating TO's approved contractors or employees.

Maintenance and testing of the Interconnection Facilities shall be coordinated between the Participating TO and the IC and performed in accordance with operating procedures established between the IC and Participating TO prior to the Interconnection Facilities being energized for Trial Operation and the Commercial Operation.

The IC will install, operate, and maintain (including replacement when necessary), the Interconnection Customer's Interconnection Facilities, including the IC's first overhead transmission structure located outside the IC's property.

## C.2 Reliability Network Upgrades

### (i) Within the IV Substation:

#### **SPS Special Protection System (“SPS”)**

##### **a) Modification of the existing Special Protection System (“SPS”) at Imperial Valley (“IV”) to include the Project.**

Because the Project will be injecting power to the Imperial Valley Substation which is also the POI for other Imperial Valley generation projects that participate in the IV SPS, the Project will be required to participate in the IV SPS (See Section C.4 below). Modification of the existing Special Protection System (“SPS”) at Imperial Valley (“IV”) to include the Project requires:

- SDG&E communication interface for IV SPS
- Communication equipment between SDG&E and the Project

##### **b) Implement SPS to protect Bernardo-Felicita Tap 69kV line**

- SDG&E protection and communication interface for Bernardo Substation, Escondido Substation and Palomar Energy Center SPS
- Communication equipment between SDG&E and the Project

##### **c) Implement SPS to protect Mission-Old Town 230kV line**

- SDG&E communication interface for Mission Substation, Old Town Substation and Silvergate Substation SPS
- Communication equipment between SDG&E and the Project

### (ii) Outside the IV Substation:

#### **North – South (N-S) Connector**

The portion of the N-S connector design, procurement and construction to related to TL23050 to accommodate the project is considered a Reliability Network Upgrade. This includes:

- String new bundled 900 ACSS/AW conductor (approximately 24,400 feet) on the eastern-end arms of the new double circuit SDG&E transmission line structures from the first dead-end structure located outside the IV substation fence, #Z46474, to the last dead-end structure north of the US border with Mexico, #Z46503.
- Construct two (2) new dead-end structures to transition from the east side to the west side where TL23050 connects to CFE at structure #Z46503
- The Reliability Network Upgrades will be allocated a 50 percent portion of the costs of the following activities:
  - Remove existing single circuit wooden structure design (5 structures)
  - Install five (5) new double circuit steel pole structures.
  - Install new OPGW from the first dead-end structure located outside the IV substation fence to the last structure north of the 500 kV line crossing) and from the first structure south of the 500 kV line crossing to the last dead-end structure north of the US border with Mexico.

- Install new ADSS fiber optic wire from the last structure north of the 500 kV line crossing to the first structure south of the 500 kV line crossing.

### **C.3 Delivery Network Upgrades**

- (i) Reconfigure TL23041 and TL23042 at Miguel Substation to create two Otay Mesa-Miguel 230 kV lines
  - a) For TL23041, Otay Mesa-Miguel-Sycamore 230 kV line:
    - Install 1-230 kV breaker, 2-230 kV disconnects, and relaying
    - Install a new anchor-bolted dead end steel pole
    - Install approximately 600 feet of bundled 900 ACSS/AW
  - b) For TL23042, Miguel-Otay Mesa-Bay Boulevard 230 kV line:
    - **Install 1-230 kV breaker and relaying**
- (ii) Reconductor Escondido-Palomar Energy 230 kV lines #1 and #2
  - Reconductor the spans of 605 ACSS/AW to 900 ACSS/AW on Escondido-Palomar Energy 230 kV lines #1 and #2
  - Install new cross arms for 230 kV pole Z202015
  - Relocate two overhead 69 kV circuits and convert to underground
  - Remove one existing 69 kV cable pole, extend the underground trench package 600 feet into the substation, remove cable and splice in new cable, terminate at two underground rack positions in Escondido Substation
  - Install 8-230 kV disconnects and adjust relaying at Escondido

### **C.4 IV SPS Background and Description and Planned Modifications**

Described below are the Imperial Valley Special Protection System (SPS) and the planned modifications to these SPS. Upon the integration of the Project into the subject SPS, the Project shall be subject to reductions in deliveries in accordance with the CAISO Tariff. All modifications are subject to review by affected parties and members of the Imperial Valley SPS Technical Committee.

**C.4.1 Existing SPSs:** Existing SPSs that impact generation connected to the Imperial Valley 230 kV Bus consist of the following four (4) separate Special Protection Systems:

- (i) TL 50001 (Imperial Valley – Miguel 500 kV line) outage,
- (ii) Miguel 230 kV N-2 Line Outages,
- (iii) Miguel 500/230 kV Transformer Bank 80/81 Outage, and
- (iv) TL 230S (Imperial Valley – El Centro (IID) 230 kV Line Protection.

Only the TL50001 and TL230S high-level overload component of the Imperial Valley Generator SPS trips all of the existing Imperial Valley generation as one action. The other SPS sequentially trips Imperial Valley generation, unit by unit, until the loading issue is mitigated. The SPS shall be implemented in accordance with the CAISO Tariff and applicable CAISO and CAISO approved the Participating TO'S operating procedures.

**C.4.2 Modifications to Existing SPSs:** The modifications to the four existing SPSs, necessary to accommodate the Project, are described below.

**(i) TL 50001 (Imperial Valley – Miguel 500 kV line) outage**

Upon the tripping of TL 50001 between the East County Substation and Miguel Substation, an instantaneous trip signal will be sent to all existing Imperial Valley generation similar to today. The SPS will be modified to also send an instantaneous trip signal to the Project, which will isolate Project from the Participating TO's system.

**(ii) Miguel 230 kV N-2 Line Outages**

For any common structure outage of two 230 kV lines north of Miguel and overload on TL lines from Miguel into the Participating TO's system, a trip signal will be sent to the Project and the other Imperial Valley generators, which will be tripped sequentially until the overload is mitigated. The order of tripping will be decided by the Imperial Valley SPS Technical Committee, subject to resolution of disagreements as described in C.5.2

**(iii) Miguel 500/230 kV Transformer Bank 80/81 Outage**

The modifications necessary, pending final design, review, and approval by cognizant entities, include modifying the existing Miguel Nomogram such that the Imperial Valley generation axis would extend to the total installed capacity connecting to Imperial Valley 230 kV bus.

Following the outage of Bank 80 or 81 at Miguel, and overload on the remaining bank, a trip signal will be sent to the Project and the other Imperial Valley generators, which will be tripped sequentially until the overload is mitigated. The order of tripping will be decided by the Imperial Valley SPS Technical Committee, subject to resolution of disagreements as described in C.5.2.

**(iv) TL 230S (Imperial Valley – El Centro (IID) 230 kV Line Protection**

When an overload is detected on TL 230S, a trip signal will be sent to all existing Imperial Valley generation similar to today. In addition, a trip signal will be sent to the Project, which will isolate the Project from the Participating TO's system.

**C.4.3 Remedial Action Scheme Requirements**

A detailed description of the SPS operational details will be amended into this Appendix C upon resolution by the Imperial Valley SPS Technical Committee.

The necessary additions and modifications, pending final design, review, and approval by the Imperial Valley SPS Technical Committee and affected parties, include:

- (i) Determination/verification of existing/new operational thresholds and limits,
- (ii) Addition of SPS panels with tele-protection units at the Project,
- (iii) Addition of logic processor outputs and PLC module at Miguel Substation,
- (iv) Addition of one additional SPS panel with tele-protection units at Imperial Valley Substation,
- (v) Creation of a communication link with the Project
- (vi) Modification of software and equipment settings to integrate the Project into the pool of available generation for trip/curtailment, and
- (vii) Submittal to WECC and CAISO for review and approval, and testing

Note: Since the existing Imperial Valley generation was interconnected, the “Miguel SPS” have changed several times. These SPS modifications have been prompted by system changes and more modifications should be anticipated as they will inevitably occur, and are to be addressed by the Imperial Valley SPS Technical Committee.

**C.5 Imperial Valley SPS Technical Committee****C.5.1 Activities of SPS Technical Committee**

The SPS Technical Committee is composed of the Parties, one individual from each organization and any other similar situated owner or operator of generation affected by the operation of the SPS. The SPS Technical Committee shall meet

as necessary, but in no event less than every six months unless otherwise mutually agreed among committee members, to review and evaluate the impact of the operation of the existing SPS and to develop means by which such impact can be mitigated. The SPS Technical Committee members shall exchange information with one another to attempt to reach consensus on any changes believed by a committee member to be required to the SPS. To the extent any member of the SPS Technical Committee believes it would be useful to share commercially sensitive information with any other committee members, the parties agree to work out such arrangements with the other committee members as are appropriate to avoid compromising the information.

### **C.5.2 Resolution of Disagreements**

To the extent the committee members disagree over whether a proposed committee member is a similarly situated owner or operator of generation affected by the operation of the SPS or fails to reach consensus on any change believed by a committee member to be required to the SPS, such disputes will be resolved if possible, and if the CAISO elects to do so, by a representative of the CAISO acting as a mediator. If such mediation efforts are unsuccessful, any unresolved issues shall be resolved through arbitration provisions set forth in the CAISO Tariff LGIA, Article 27 (Disputes).

### **C.6 Co-Tenancy:**

(a) The Interconnection Customer's rights and obligations under this LGIA and certain of the Interconnection Customer's Interconnection Facilities shall be held by CSOLAR IV South, LLC and CSOLAR IV East, LLC (each, a "Co-Tenant") as tenants-in-common. Each Co-Tenant owns solar photovoltaic (PV) power generating and other assets that, collectively, comprise the Project. The rights and obligations of the Co-Tenants as against each other with respect to certain of the Interconnection Customer's Interconnection Facilities and this LGIA are set forth in the Large Generator Interconnection Agreement Co-Tenancy Agreement, dated as of September 20, 2011, among the Co-Tenants and Tenaska Solar Management, LLC ("Manager") ("Co-Tenancy Agreement").

(b) Each Co-Tenant shall be jointly and severally liable for all obligations required of the Interconnection Customer set forth in this LGIA, including all affirmative covenants and all monetary obligations, the latter of which includes the financing of all Interconnection Facilities that are required to be financed by the Interconnection Customer in order to accommodate the interconnection of the entire Project.

(c) Except as expressly provided in this Section C.5(c), there shall be no more than two (2) Co-Tenants comprising Interconnection Customer, and neither Interconnection

Customer nor any Co-Tenant may further subdivide in any manner or form its interests in this LGIA. The Parties acknowledge that Interconnection Customer and each Co-Tenant may assign its rights in the Interconnection Customer's Interconnection Facilities and this LGIA for collateral security purposes in accordance with Article 19 of this LGIA.

(d) No Co-Tenant may assign its interests as tenant-in-common in the Interconnection Customer's Interconnection Facilities, and other rights and obligations under this LGIA, independently of its interest in the Project. Subject to the foregoing, and subject to the limitations in Section C.5(c), Interconnection Customer may assign its rights and obligations under this LGIA, and each Co-Tenant may assign its rights and obligations under this LGIA, in accordance with Article 19 of the LGIA, provided that such assignment does not result in an increase in the number of Co-Tenants.

(e) In accordance with the terms of the Co-Tenancy Agreement, the Co-Tenants shall appoint the Manager, who shall have no interest as the Interconnection Customer but shall serve as the Interconnection Customer's authorized agent and representative for purposes of administering this LGIA. The Manager will be a single point of contact for CAISO and Participating TO and will represent Interconnection Customer for notice purposes and all other communications between and among CAISO, Participating TO and Interconnection Customer. All payments, insurance and security to be provided by the Interconnection Customer to the Participating TO or the CAISO pursuant to this LGIA shall be provided only by the Manager on behalf of all Co-Tenants, and any invoices or refunds due to the Interconnection Customer by the Participating TO shall be made only to the Manager on behalf of all Co-Tenants. Manager shall bear all responsibility for disseminating notices, communications and all interactions among the Co-Tenants, and each Co-Tenant hereby waives any right to individual notice or communication from CAISO or Participating TO. The CAISO and the Participating TO will not be obligated to act on any instructions from a Co-Tenant. The Manager's actions and representations to CAISO and Participating TO shall be binding upon the Interconnection Customer and each individual Co-Tenant. Interconnection Customer and each individual Co-Tenant shall be jointly and severally liable and responsible for the Manager's actions.

(f) Subject to Partial Termination, the Parties agree that, for the purposes of this LGIA, the entire 200 MW comprising the Project shall be considered to be a single Generating Facility. No Co-Tenant may have any expectation that the CAISO will treat any portion of the Project as a stand-alone Generating Facility or differently from any other portion of the Generating Facility. Except as otherwise provided in this Section C.5, Co-Tenants shall act as a single entity in undertaking the obligations of Interconnection Customer under this LGIA. Except as otherwise provided in this Section C.5, CAISO and Participating TO shall treat all Co-Tenants comprising the Interconnection Customer as a single entity under this LGIA and bear no obligation or responsibility to any individual Co-Tenant. Performance of the Interconnection Customer's obligations under this LGIA

shall not be excused by reason of any Co-Tenant's failure to agree with respect to any obligation of the Interconnection Customer hereunder or thereunder.

### **C.7 Security Amount for Partial Termination Charge:**

(a) **Amount:** The amount of the Partial Termination Charge Security shall equal \$104,000 if the Interconnection Customer elects to be eligible for Partial Termination of Phase II which is 70 MW. With respect to the Phased Generating Facility, Interconnection Customer shall be entitled (upon providing the Partial Termination Security to the CAISO) to secure Partial Termination rights with respect to Phase II, for a maximum Partial Termination Charge Security of \$104,000. The Parties acknowledge that Partial Termination shall not be available for Phase I which is 130 MW, and that Phase I shall not be the subject of a Partial Termination pursuant to this LGIA.

(b) **Timing for Posting of Partial Termination Charge Security:** The entire amount of the Partial Termination Charge Security for Phase II shall be posted no later than thirty (30) Calendar Days following the execution of this LGIA, however, that under no circumstances shall the Partial Termination Charge Security be delivered after 5:00 PM Pacific Standard Time on December 19, 2011. In the event that the Interconnection Customer fails to timely post the Partial Termination Charge Security, then, as specified in Article 2.4.4, the provisions of this LGIA permitting Partial Termination shall not be operative and termination of this LGIA may only occur with respect to the entire Generating Facility.

(c) **Release of Partial Termination Charge Security upon Achieving Commercial Operation of Phase II:** Within fifteen (15) Calendar Days following Commercial Operation of Phase II which is 70 MW, the Partial Termination Charge Security shall be reduced to \$0. If the Interconnection Customer had posted security in the form of a cash deposit, such cash funds shall be released and/or returned to the Interconnection Customer. If the Interconnection Customer posts another form of financial security of the type specified in CAISO Cluster LGIP (CAISO Tariff App. Y) Section 9.1, the Parties shall cooperate and execute such necessary documents as to release the Partial Termination Charge Security.

## **Appendix D To LGIA**

### **Security Arrangements Details**

Infrastructure security of CAISO Controlled Grid equipment and operations and control hardware and software is essential to ensure day-to-day CAISO Controlled Grid reliability and operational security. FERC will expect the CAISO, all Participating TOs, market participants, and Interconnection Customers interconnected to the ISO Controlled Grid to comply with the recommendations offered by the President's Critical Infrastructure Protection Board and, eventually, best practice recommendations from the electric reliability authority. All public utilities will be expected to meet basic standards for system infrastructure and operational security, including physical, operational, and cyber-security practices.

The Interconnection Customer shall meet the requirements for security implemented pursuant to the CAISO Tariff, including the CAISO's Information Security Agreements and Information Security Requirements and Specifications posted on the CAISO's internet web site at the following internet address:  
<http://www.caiso.com/271f/271fcbd45ca60.html>.

#### Physical Security

The SDG&E switchyard within the Imperial Valley Substation will remain fenced and each gate locked with SDG&E substation locks. SDG&E will continue to maintain switchyard security cameras and personnel reporting into the switchyard procedures. The Interconnection Customer will maintain a fence with locked gates around the Project substation.

### **OPERATING COMMUNICATIONS AND NOTIFICATIONS**

#### **D.1. Designated Representatives**

The Parties agree to exchange the following information ten (10) Calendar Days prior to the Initial Synchronization Date of the Project.

The CAISO, Participating TO and the Interconnection Customer shall provide for operating communications through their respective designated representatives as follows:

<b>CALIFORNIA ISO</b>	<b>PARTICIPATING TO</b> (San Diego Gas & Electric Company)	<b>INTERCONNECTION CUSTOMER</b> (CSOLAR Development, LLC)
ISO Real Time Desk/24 Hour Desk: CAISO to provide	Control Center: 24-hour Telephone: SDG&E to provide	Operator Name and/or Title: IC to provide

#### **D.2. Communication with the Participating TO's Transmission System Control Center**

Interconnection Customer shall maintain operating communications with the CAISO and Participating TO's Transmission System control centers.

The operating communications shall include, but not be limited to, advising the control center promptly, and in advance if possible, of any paralleling with or separation from the Participating TO's Transmission System and any scheduled and unscheduled shutdowns, equipment clearances, and changes in levels of operating voltage or power factors.

Interconnection Customer promptly shall notify the control center of, and any changes in, the following:

- The current names and 24-hour phone numbers of the personnel responsible for operating and maintaining the Generating Facility.
- Any Emergency Condition or any request that Participating TO de-energize a portion of the Participating TO's Transmission System under its control.
- Any changes in the mechanical or electric condition of the Generating Facility or Interconnection Facilities that may affect the reliability of either the Generating Facility or the Participating TO's Transmission System.
- Immediately upon discovery, any misoperation or inoperable condition of an interconnection relay or circuit breaker.
- Immediately upon discovery, the operation of any circuit breaker that has operated by an interconnection relay, along with the relay targets that caused the circuit breaker to operate.
- Plans to manually parallel with or separate from the Participating TO's Transmission System and the times of actual manual parallels and

separations. Emergency Condition separations shall be reported as soon as possible.

### **D.3 Oral Communications**

All oral operating communications shall be conducted through the control centers. Interconnection Customer agrees to maintain 24-hour direct phone service so that the control centers can give instructions to Interconnection Customer or its designated operator. All communications will be in English.

### **D.4 Operating Procedures**

Operating Procedures will be developed before synchronizing. Neither Party is to deviate from these Operating Procedures. Any changes will have to be mutually agreed upon. These procedures will address switching operations, voltage control, SPS functionality, outage request, specific operating restrictions and other matters as necessary.

**Appendix E  
To LGIA****Commercial Operation Date**

[This Appendix E sets forth a form of letter to be provided by the Interconnection Customer to the CAISO and Participating TO to provide formal notice of the Commercial Operation of an Electric Generating Unit.]

**[Date]**

Mr. Stephen Ritty  
Director of Grid Assets  
California Independent System Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630

Mr. Robert Kott  
Manager of Model & Contract Implementation  
California Independent System Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630

Grid Operations Services Manager  
Grid Operations, Mission Control  
San Diego Gas & Electric Company  
SD1160  
P.O. Box 129831  
San Diego, CA 92112-9831

Re: IV Substation South Electric Generating Unit  
Dear \_\_\_\_\_:

On **[Date]** **CSOLAR Development, LLC** has completed Trial Operation of Unit No. \_\_\_\_\_. This letter confirms that **CSOLAR Development, LLC** commenced Commercial Operation of Unit No. \_\_\_\_ at the Electric Generating Unit, effective as of **[Date plus one day]** and that **CSOLAR Development, LLC** provided the CAISO's operations personnel advance notice of its intended Commercial Operation Date no less than five Business Days prior to that date.

Thank you.

**[Signature]**

Scott Helyer  
CSOLAR Development, LLC  
c/o Tenaska, Inc.  
1701 E. Lamar Blvd., Suite 100  
Arlington, TX 76006

CC: Judy Brown (CAISO)

## Appendix F To LGIA

### Address for Delivery of Notices and Billings

Any notice in accordance with this LGIA, unless otherwise provided in this LGIA, shall be in writing and shall be deemed properly served, given, or made : (a) upon delivery if delivered in person, (b) five (5) days after deposit in the mail if sent by first class United States mail, postage prepaid, (c) upon receipt of confirmation by return facsimile if sent by facsimile, (d) upon receipt of confirmation by return e-mail, or (e) upon delivery if delivered by prepaid commercial delivery courier service.

### Notices:

#### CAISO:

California ISO  
Ms. Linda Wright  
250 Outcropping Way  
Folsom, CA 95630

#### Participating TO:

Transmission Planning Manager  
San Diego Gas & Electric Company  
8316 Century Park Court; CP52A  
San Diego, CA 92123-1593  
Phone: 858-654-6477  
Fax: 858-654-1692

#### Interconnection Customer:

CSOLAR Development, LLC  
c/o Tenaska, Inc.  
Attention: Scott Helyer  
1701 E. Lamar Blvd., Suite 100  
Arlington, TX 76006  
Phone: 817-462-1512  
Fax: 817-462-1510

**Billings and Payments:**Participating TO:

SDG&E shall bill Interconnection Customer the costs of Participating TO's Interconnection Facilities, and all other amounts due under this LGIA as set forth in Article 12 of the LGIA. Interconnection Customer shall remit payment via wire transfer in immediately available funds to SDG&E for amounts invoiced in accordance with Article 12:

San Diego Gas & Electric Company

Bank Name: Union Bank of California

Bank ABA: 122 000 496

Account No.: The Participating TO agrees to provide the Parties with the bank account information within five (5) business days of the Effective Date of this LGIA.

Interconnection Customer:

CSOLAR Development, LLC  
c/o Tenaska, Inc.  
Attention: Lisa Jones  
1044 N. 115<sup>th</sup> Street, Suite 400  
Omaha, NE 68154

Bank Name: IC to provide

Bank ABA: IC to provide

Account No.: The Interconnection Customer agrees to provide the Parties with the bank information within five (5) business days of the Effective Date of this LGIA.

Account Name: IC to provide

Tax ID.: IC to provide

CAISO:

California ISO  
Finance Dept.  
Dennis Estrada  
250 Outcropping Way  
Folsom, CA 95630

**Alternative Forms of Delivery of Notices (telephone, facsimile or e-mail):**CAISO:[lwright@caiso.com](mailto:lwright@caiso.com)[jbrown@caiso.com](mailto:jbrown@caiso.com)Participating TO:

Grid Operations Services Manager  
San Diego Gas & Electric Company  
Phone: 619-725-8637  
Fax: 619-683-3291

Interconnection Customer:[SHelyer@tnsk.com](mailto:SHelyer@tnsk.com)

## Appendix G To LGIA

### Interconnection Customer's Proportional Share of Costs of Network Upgrades for Applicable Project Group

**Table 4: Proportional Share of Costs for Network Upgrades Allocated to the  
Project**

Type	Description	Cost Allocation Factor
Reliability Network Upgrade	<b>Within the IV Substation:</b> Modification of the existing IV SPS to include the Project <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication interface for IV SPS</li> </ul>	15%
Reliability Network Upgrade	<b>Within the IV Substation:</b> Implement SPS to protect Bernardo-Felicita Tap 69kV line <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Bernardo Substation, Escondido Substation and Palomar Energy Center</li> </ul>	12%
Reliability Network Upgrade	<b>Within the IV Substation:</b> Implement SPS to protect Mission-Old Town 230kV line <ul style="list-style-type: none"> <li>• SDG&amp;E protection and communication for Mission Substation, Old Town Substation and Silvergate Substation</li> </ul>	17%
Delivery Network Upgrade	Reconfigure TL23041 and TL23042 at Miguel Substation to create two Otay Mesa-Miguel 230 kV lines	4%
Delivery Network Upgrade	Reconductor Escondido-Palomar Energy 230 kV lines #1 and #2	11%

## **Appendix H To LGIA**

### **INTERCONNECTION REQUIREMENTS FOR AN ASYNCHRONOUS GENERATION FACILITY**

Appendix H sets forth interconnection requirements specific to all Asynchronous Generating Facilities. Existing individual generating units of an Asynchronous Generating Facility that are, or have been, interconnected to the CAISO Controlled Grid at the same location are exempt from the requirements of this Appendix H for the remaining life of the existing generating unit. Generating units that are replaced, however, shall meet the requirements of this Appendix H.

#### **A. Technical Requirements Applicable to Asynchronous Generating Facilities**

An Asynchronous Generating Facility shall be able to remain online during voltage disturbances up to the time periods and associated voltage levels set forth in the requirements below.

##### **i. Low Voltage Ride-Through (LVRT) Capability**

1. An Asynchronous Generating Facility shall remain online for the voltage disturbance caused by any fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, having a duration equal to the lesser of the normal three-phase fault clearing time (4-9 cycles) or one-hundred fifty (150) milliseconds, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum normal clearing time associated with any three-phase fault location that reduces the voltage at the Asynchronous Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.
2. An Asynchronous Generating Facility shall remain online for any voltage disturbance caused by a single-phase fault on the transmission grid, or within the Asynchronous Generating Facility between the Point of Interconnection and the high voltage terminals of the Asynchronous Generating Facility's step up transformer, with delayed clearing, plus any subsequent post-fault voltage recovery to the final steady-state post-fault voltage. Clearing time shall be based on the maximum backup clearing time associated with a single point of failure (protection or breaker failure) for any single-phase fault location that reduces any phase-to-ground or phase-to-phase voltage at the Asynchronous

Generating Facility's Point of Interconnection to 0.2 per-unit of nominal voltage or less, independent of any fault current contribution from the Asynchronous Generating Facility.

3. Remaining on-line shall be defined as continuous connection between the Point of Interconnection and the Asynchronous Generating Facility's units, without any mechanical isolation. Asynchronous Generating Facilities may cease to inject current into the transmission grid during a fault.
4. The Asynchronous Generating Facility is not required to remain on line during multi-phased faults exceeding the duration described in Section A.i.1 of this Appendix H or single-phase faults exceeding the duration described in Section A.i.2 of this Appendix H.
5. The requirements of this Section A.i. of this Appendix H do not apply to faults that occur between the Asynchronous Generating Facility's terminals and the high side of the step-up transformer to the high-voltage transmission system.
6. Asynchronous Generating Facilities may be tripped after the fault period if this action is intended as part of a special protection system.
7. Asynchronous Generating Facilities may meet the requirements of this Section A.i of this Appendix H through the performance of the generating units or by installing additional equipment within the Asynchronous Generating Facility, or by a combination of generating unit performance and additional equipment.
8. The provisions of this Section A.i of this Appendix H apply only if the voltage at the Point of Interconnection has remained within the range of 0.9 and 1.10 per-unit of nominal voltage for the preceding two seconds, excluding any sub-cycle transient deviations.

The requirements of this Section A.i in this Appendix H shall not apply to any Asynchronous Generating Facility that can demonstrate to the CAISO a binding commitment, as of July 3, 2010, to purchase inverters for thirty (30) percent or more of the Generating Facility's maximum Generating Facility Capacity that are incapable of complying with the requirements of this Section A.i in this Appendix H. The Interconnection Customer must include a statement from the inverter manufacturer confirming the inability to comply with this requirement in addition to any information requested by the CAISO to determine the applicability of this exemption.

**ii. Frequency Disturbance Ride-Through Capability**

An Asynchronous Generating Facility shall comply with the off nominal frequency requirements set forth in the WECC Under Frequency Load Shedding Relay Application Guide or successor requirements as they may be amended from time to time.

**iii. Power Factor Design and Operating Requirements (Reactive Power)**

An Asynchronous Generating Facility shall operate within a power factor within the range of 0.95 leading to 0.95 lagging, measured at the Point of Interconnection as defined in this LGIA in order to maintain a specified voltage schedule, if the Phase II Interconnection Study shows that such a requirement is necessary to ensure safety or reliability. The power factor range standard can be met by using, for example, power electronics designed to supply this level of reactive capability (taking into account any limitations due to voltage level, real power output, etc.) or fixed and switched capacitors, or a combination of the two, if agreed to by the Participating TO and CAISO. The Interconnection Customer shall not disable power factor equipment while the Asynchronous Generating Facility is in operation. Asynchronous Generating Facilities shall also be able to provide sufficient dynamic voltage support in lieu of the power system stabilizer and automatic voltage regulation at the generator excitation system if the Phase II Interconnection Study shows this to be required for system safety or reliability.

**iv. Supervisory Control and Data Acquisition (SCADA) and Automated Dispatch System (ADS) Capability**

An Asynchronous Generating Facility shall provide SCADA capability to transmit data and receive instructions from the Participating TO and CAISO to protect system reliability. The Participating TO and CAISO and the Asynchronous Generating Facility Interconnection Customer shall determine what SCADA information is essential for the proposed Asynchronous Generating Facility, taking into account the size of the plant and its characteristics, location, and importance in maintaining generation resource adequacy and transmission system reliability.

**v. Power System Stabilizers (PSS)**

Power system stabilizers are not required for Asynchronous Generating Facilities.

**Attachment C**

**Tenaska August 27, 2012 Letter**



1701 E. Lamar Boulevard, Suite 100  
Arlington, Texas 76006  
817-462-1521  
FAX: 817-462-1510

August 27, 2012

Ms. Debbie Levine  
California Independent System  
Operator Corporation  
250 Outcropping Way  
Folsom, CA 95630

Dear Ms. Levine:

Tenaska, Inc. and its affiliate CSOLAR Development, LLC have been working with the CAISO on interconnection arrangements for two solar projects that are included in queue positions #510 and #608. Each interconnection request consists of two separate project phases and are at various stages of development as described below:

Queue #510

CSOLAR Development, LLC (a Tenaska affiliate) made a request to interconnect 200 MW of solar generation at the SDG&E Imperial Valley substation under queue position #510. This project consists of the CSOLAR IV South, LLC project (130 MW) and the CSOLAR IV East, LLC project (70 MW). CSOLAR IV South and CSOLAR IV East jointly entered into a single interconnection agreement on October 21, 2011. The CSOLAR IV South 130 MW project has a PPA with SDG&E and is currently under construction. The CSOLAR IV East 70 MW project does not have a PPA at this time and has not started construction.

Queue #608

Tenaska, Inc. made a request to interconnect 250 MW of solar generation at the SDG&E Imperial Valley substation (see queue #608). This project consists of the CSOLAR IV West, LLC project (150 MW) and the CSOLAR IV North, LLC project (100 MW). A single interconnection agreement is currently being negotiated with the CAISO and SDG&E that will ultimately show the CSOLAR IV West and CSOLAR IV North projects as parties constructing separate projects. The CSOLAR IV West 150 MW project has a PPA with SDG&E, but has not started construction pending successful project financing in the first or second quarter of 2013. The CSOLAR IV East 100 MW project does not have a PPA at this time and has also not started construction.

Tenaska needs to determine whether elimination of the second phases of either interconnection request (70 MW for #510 known as CSOLAR IV East and 100 MW for #608 known as CSOLAR IV North) would be considered to be a material modification of the respective LGIA or interconnection request in accordance with the CAISO OATT. Based on an August 16 discussion with Mr. Steve Berberich and Mr.

Keith Casey, it is our understanding that the CAISO is will consider providing an advance assessment of whether the elimination of either project would be considered a material modification if Tenaska were to make a formal request. Therefore, we are seeking such an advance material modification assessment from the CAISO for the CSOLAR IV East and CSOLAR IV North project phases.

We understand that a material modification assessment will determine whether the cost and schedule of later queued projects will be materially affected by downsizing our particular generation projects. We do not believe, however, that our request will have a negative impact on the cost and schedule of later queued projects particularly where the Interconnection Customer commits (as we would do in connection with the formal material modification request) to fund the full amount of upgrades notwithstanding the reduction in project size (and to forego any right to a refund of its funding of upgrades). In fact, we expect that a decision to downsize our projects will be a positive impact on the cost and schedule of the interconnection facilities and network upgrades that may otherwise be needed for later queued projects, as any upgrades that our projects are paying for will be available for use by later projects. For these reasons, Tenaska does not believe that the elimination of the CSOLAR IV East and CSOLAR IV North project phases constitute a material modification to their respective LGIA's or interconnection requests.

We also recognize that the issue of whether or not to allow a generation project to downsize its request is a concern regarding the CAISO study process. We would like to emphasize, however, that a decision to downsize a generation project, whether it is prior to construction or even after the project is fully constructed, is no different from the situation the CAISO faces when a generation facility is de-rated, or when a transmission facility is de-rated, delayed, or cancelled. Such decisions are made every day by generation owners and transmission owners for various reasons. These same decisions may affect current, or future, studies performed by the CAISO or any other transmission provider, but the rationale for making a business decision to de-rate a project is the same rationale that would cause us to make a formal material modification request. We hope the CAISO can appreciate this situation as Tenaska definitely wants to contribute to a reliable and robust electric system, but we must all recognize that circumstances can alter even the most reasonable intentions of any stakeholder.

Tenaska truly appreciates the CAISO's willingness to provide an informal assessment as to whether the downsizing of either, or both, of the CSOLAR IV East and CSOLAR IV North project phases, will be considered to be a material modification. Please let me know if there is further information that you need to perform this assessment or whether you have any questions. I can be reached at 817-462-1512 or shelyer@tnsk.com.

Sincerely,



Scott M. Helyer  
Vice President, Transmission  
Tenaska, Inc.

**Attachment D**

**CAISO October 22, 2012 Letter**

October 22, 2012

Scott Helyer  
Vice President, Transmission  
Tenaska, Inc  
1701 E. Lamar Boulevard, STE 100  
Arlington, TX 76006

RE: Response to Modification Request for the IV Substation South and Imperial Valley West projects (ISO Queue # 510 & 608)

Dear Mr. Helyer:

The California Independent System Operator Corporation ("ISO") has completed its review of Tenaska's request dated August 27, 2012 to the ISO to consider a modification of Tenaska's Interconnection Request to downsize the megawatt capacity of the IV Substation South and Imperial Valley West projects (collectively, the "Projects") from 200 MW to 130 MWs and from 250 MW to 150 MW, respectively. Tenaska's request is governed by Generator Interconnection Procedures ("GIP") (Appendix Y of the ISO tariff) Section 6.9.2 and Article 5.19.1 of Tenaska's Large Generator Interconnection Agreement ("LGIA"). The standard under which the ISO conducts its review is set out in GIP Section 6.9.2. GIP Sections 6.9.2 and 6.9.2.2 provide that a proposed decrease in electrical output of the Projects may constitute a "Material Modification". The size specified in the original Interconnection Requests for the Projects was 200 MW for IV Substation South, and 250 MW for Imperial Valley West. Thus, any reduction of the capacity for the Projects is subject to a material modification review by the ISO.

As discussed further below, the request is material and therefore denied. As discussed below, the ISO will soon be opening a request window in connection with its generator downsizing tariff amendment that the ISO will be filing with FERC on or about October 19th. Tenaska may wish to consider submitting a downsizing request under the process described in the tariff amendment.

LGIA Section 5.19.4 also provides a path for downsizing that is separate from a request for modification under the Section 6.9.2 material modification review process:

1. 5% safe harbor – An Interconnection Customer may reduce the MW capacity of the Generating Facility by up to 5% percent for any reason. (Referenced by the megawatt capacity that the customer referenced on the "Appendix B" form it submitted to the ISO before Phase II studies began.)

2. Reductions greater than 5% for reasons beyond the customer's control. This is permitted if the interconnection customer can demonstrate one or more of the following:
  - a. Failure to secure required permits and other governmental approvals to construct the generating facility at its total MW generating capacity specified in interconnection request after making diligent efforts.
  - b. Written statement from the permitting or approval authority indicating that construction of the facility at the total MW size specified in the interconnection request will likely result in disapproval due to significant environmental or other impact that cannot be mitigated.
  - c. Failure to obtain legal right to use of the full site acreage necessary to construct/operate the total MW generating capacity size for the entire generating facility specified in the interconnection request after making diligent efforts (only applies where an interconnection customer previously demonstrated and maintained its demonstration of site exclusivity).

The ISO understands that Tenaska's request for downsizing is elective, and is not prompted by reasons beyond its control in the nature of (a) – (c) above. Accordingly, Tenaska's request does not qualify for greater than 5% reduction under LGIA article 5.19.4 - Material Modification review. The network upgrades for the project were identified through a cluster interconnection study process wherein the projects were part of a cluster group study. The network upgrades are common to multiple generation facilities in that all of the projects in the cluster group require the upgrades for interconnection.

The cluster interconnection process doesn't provide for a Phase II interconnection "restudy", which is the level of review and inquiry that the ISO would need to undertake when upgrades are evaluated in a study group, and are common to multiple generating facilities. Moreover, the ISO would expect that, even if the ISO were to undertake a such a restudy, reducing the project megawatt sizes would likely change the cost allocation among the group, as, in most cases (except for short circuit duty), network upgrade costs are allocated by megawatt size of the generating facilities in the group. The ISO understands and appreciates that Tenaska has offered to maintain its current cost responsibility as part of the downsizing request. However, this offer does not obviate the fact that the GIP does not provide for restudy opportunities.

As noted above, the ISO Board of Governors recently approved the generator downsizing initiative<sup>1</sup> and the ISO is expecting to file the tariff language with the Federal Energy Regulatory Commission ("FERC") on or about October 19, 2012. Upon FERC approval, the ISO will be able to review downsizing requests received in conjunction

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<sup>1</sup> <http://www.caiso.com/informed/Pages/BoardCommittees/Default.aspx> See Generator Project Downsizing Board of Governors meeting Sep 13-14

with other expected requests and perform a study to determine the impact of each projects downsizing. This will allow the ISO to more appropriately evaluate the changes to the ISO queue and the transmission system in the area of the generator location.

In essence, the Generator Project Downsizing initiative will:

- Provide a new, one-time opportunity for projects in Cluster 4 and earlier in the interconnection queue that are in good standing to submit a request to downsize their projects, which would be in addition to the current procedures;
- Establish a one-time window for all interested interconnection customers to submit downsizing requests all at once, to permit transmission planning engineers to evaluate the collective impacts of all requests in an orderly and efficient manner;
- Require a \$200,000 deposit to cover costs incurred by the ISO and the participating transmission owners to process the requests and perform studies;
- Include measures to mitigate the adverse impacts that a downsizing request may have on later queued projects; and
- Develop a solution that works in conjunction with other recently-approved ISO policy initiatives and contributes to the ISO's interconnection queue management efforts.

It is expected the results of these studies will be completed in May 2013. A collective evaluation considering all requesting downsizing generators provides the optimal evaluation and re-scoping and cost allocation among the group, and — most importantly — lessens the possibility of disrupting the construction schedules and CODs of projects in the study group that do not wish to downsize and would have to restructure their project development plans around possibly two different revised methods of service.

As noted above, Tenaska may wish to consider whether to submit a generator downsizing request through the upcoming generator downsizing tariff amendment. If you have any questions please feel free to call me at 916-351-2144 or at [DLeVine@caiso.com](mailto:DLeVine@caiso.com) with any questions.

Kindest regards,



Deborah A. Le Vine  
Director, Infrastructure Contracts & Management

cc: Mariam Mirzadeh (SDG&E)