

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

<b>California Independent System Operator Corporation</b>	<b>) )</b>	<b>Docket No. ER24-2042-000</b>
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**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR  
CORPORATION TO COMMENTS AND LIMITED PROTEST**

The California Independent System Operator Corporation (“CAISO”)<sup>1</sup> answers the comments and the limited protest filed in this proceeding<sup>2</sup> in response to the CAISO’s May 16, 2024 tariff amendment filing (“May 16 Filing”) to comply with Commission Order Nos. 2023 and 2023-A.<sup>3</sup> For the reasons explained in the May 16 Filing and this Answer, the Commission should accept the CAISO’s compliance tariff revisions subject only to a single additional change the CAISO proposes to make in a further compliance filing following issuance of the Commission’s order in this proceeding.

Numerous parties intervened in this proceeding and raised no substantive issues. Two of the three parties submitting substantive comments supported the

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the current CAISO tariff and the tariff revisions contained in the May 16, 2024 compliance filing in this proceeding.

<sup>2</sup> Advanced Energy United, the American Clean Power Association, and the Solar Energy Industries Association (collectively, “Clean Energy Associations”) and Northern California Power Agency filed comments. Shell Energy North America (US), L.P., Shell New Energies US, LLC, and Savion, LLC (collectively, “Shell Companies”) filed a limited protest. The CAISO files this answer (Answer) pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. For the reasons explained below in section I of the Answer, the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the limited protest filed in the proceeding.

<sup>3</sup> *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054 (2023) (“Order No. 2023”), *order on reh’g & clarification*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024) (“Order No. 2023-A”). As was the case in the May 16 Compliance Filing, Order Nos. 2023 and 2023-A are sometimes referred to collectively in this Answer as “Order No. 2023,” but not where distinguishing between those two Commission issuances is necessary.

May 16 Filing. Only a single party, the Shell Companies, filed a limited protest of the May 16 Filing. The Shell Companies incorrectly claim that the May 16 Filing fails to comply with Order No. 2023 directives regarding consideration of an increase in the costs of affected system network upgrades when determining whether a withdrawal penalty should be applied. As explained below, the CAISO's tariff revisions satisfy these requirements. There is also no merit in the arguments of the Shell Companies that the Commission should not grant the independent entity variations proposed in the May 16 Filing with regard to the timelines for the cluster study process. The CAISO merely proposes to continue to use the existing timelines previously accepted by the Commission to ensure it has sufficient time to review and validate the data in interconnection requests. In addition, the Commission should reject the Shell Companies' argument that the CAISO should not revise the definition of the term maximum cost responsibility. Revising the definition is necessary to retain the unique cost cap under the CAISO interconnection process within the framework of the CAISO's compliance with Order No. 2023. The CAISO does agree, however, that the Commission should allow the CAISO to correct tariff revisions regarding the timeline for completing the cluster study, in order to correct an inadvertent drafting error.

**I. Motion for Leave to File Answer to Limited Protest**

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,<sup>4</sup> the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the limited protest filed in the proceeding.

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<sup>4</sup> 18 C.F.R. §§ 385.212, 385.213.

Good cause for the waiver exists because this Answer will aid the Commission in understanding the issues in the proceeding, inform the Commission in the decision-making process, and help to ensure a complete and accurate record in the case.<sup>5</sup>

## **II. Answer**

### **A. The Language on Network Upgrades in the CAISO's Proposed Tariff Revisions Regarding Withdrawal Penalties Tracks the Language in the *Pro Forma* LGIP**

The Shell Companies argue that the tariff revisions proposed in the May 16 Filing do not comply with the directives in Order No. 2023 regarding withdrawal penalties, claiming the tariff fails to include language regarding consideration of an increase in the costs of affected system network upgrades when determining whether a withdrawal penalty should be applied.<sup>6</sup> The Shell Companies are incorrect.

The Shell Companies contend their protest is supported by Commission clarifications in Order No. 2023-A, that the withdrawal penalty provision should recognize an increase in the costs of affected system network upgrades.<sup>7</sup> However, the Commission did not require any revisions to the *pro forma* Large Generator Interconnection Procedures ("LGIP") in the cited paragraph of Order No. 2023-A. The Commission noted that "because an affected system network

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<sup>5</sup> See, e.g., *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Servs., Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

<sup>6</sup> Shell Companies at 5-7 (citing proposed Section 3.8.1 of Appendix KK to the CAISO tariff).

<sup>7</sup> Shell Companies at 6 (citing Order No. 2023-A at P 503).

upgrade is a subset of network upgrades, affected system network upgrade cost estimates should be included in the total cost increase if listed in the facilities study report.”<sup>8</sup> But the withdrawal penalty language the Commission was referring to, which is contained in Section 3.7.1 of the *pro forma* LGIP, refers only to network upgrades, not affected system network upgrades.<sup>9</sup> Because, as the Commission noted, the latter are a subset of the former, there was no need to separately reference affected system network upgrades. In the May 16 Filing, the CAISO followed the *pro forma* LGIP by referencing only network upgrades, without calling out affected system network upgrades separately.<sup>10</sup> Thus, this language in the May 16 Filing complies with the *pro forma* LGIP and Commission requirements.

**B. The Commission Should Allow the CAISO to Correct on Further Compliance the Proposed Tariff Revisions Regarding the Timeline for Completing the Cluster Study**

The Shell Companies state that Order No. 2023 requires a transmission provider to complete each cluster study within 150 days of the close of the customer engagement window, but assert that the CAISO deviates from that requirement by proposing in the May 16 Filing to complete the cluster study within 150 days after the cluster study commences.<sup>11</sup> The Shell Companies’

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<sup>8</sup> Order No. 2023-A at P 503.

<sup>9</sup> See Appendix C to Order No. 2023-A (containing changes to the *pro forma* LGIP) at Section 3.7.1.

<sup>10</sup> Compare Section 3.7.1 of the *pro forma* LGIP with proposed Section 3.8.1 of Appendix KK to the CAISO tariff.

<sup>11</sup> Shell Companies at 7-9 (citing Order No. 2023 at P 327, *pro forma* LGIP at Section 7.3, and proposed Section 6.6 of Appendix KK to the CAISO tariff). Although the Shell Companies state this requirement is contained in Section 7.3 of the *pro forma* LGIP, it is actually contained in Section 7.4 of the *pro forma* LGIP.

statement prompted the CAISO to discover it had made a drafting error in the May 16 Filing. The CAISO had intended to follow the Order No. 2023 requirement to complete the cluster study within 150 days of the close of the customer engagement window, which would be consistent with other proposed tariff provisions in the May 16 Filing that state the CAISO will post statistics that include the number of cluster studies and cluster restudies completed beyond 150 days after the close of the customer engagement window.<sup>12</sup>

The CAISO explained in the May 16 Filing that it “proposed to adopt the[se] reforms in Order No. 2023 [regarding the posting of statistics] consistent with the revisions to the Commission’s *pro forma* LGIP.”<sup>13</sup> The CAISO requests that the Commission accept the May 16 Filing subject only to the CAISO’s commitment to make a further compliance filing to revise the section noted by the Shell Companies<sup>14</sup> to likewise state that the CAISO will complete each cluster study within 150 days of the close of the customer engagement window.

**C. The Commission Should Grant the CAISO an Independent Entity Variation to Continue to Use Its Existing 15-Day and 90-Day Timelines for the Cluster Study Process**

The Shell Companies argue that the Commission should require the CAISO to adopt the 45-day cluster request window and a 60-day customer engagement window generally established in Order No. 2023, instead of maintaining the CAISO’s existing 15-day cluster application window and 90-day

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<sup>12</sup> See proposed Sections 3.6.1.1(B) and 3.6.1.2(B) of Appendix KK to the CAISO tariff.

<sup>13</sup> Transmittal letter for May 16 Filing at 17.

<sup>14</sup> Section 6.6 of Appendix KK to the CAISO tariff.

customer engagement window proposed as an independent entity variation.<sup>15</sup>

The Commission should reject the Shell Companies' argument and grant this independent entity variation.

The Shell Companies contend that the "CAISO has not requested that, nor provided any justification for, its proposed 15-day Cluster Application Window should be approved as an independent entity variation."<sup>16</sup> That is inaccurate. The CAISO explained in the May 16 Filing that, as an independent entity variation, it proposed to maintain the existing 15-day and 90-day timelines previously accepted by the Commission in a pair of orders.<sup>17</sup> In the first of those orders, the Commission found in relevant part:

CAISO's proposed schedule changes appear to be just and reasonable, and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. CAISO suggests that generation developers do not require an entire month simply to submit interconnection requests. Instead, they require more time to work with the CAISO and transmission owners to make corrections to their interconnection requests to prepare for cluster studies. The proposed revisions will adjust the deadlines to shorten the window for interconnection requests by removing fifteen days from the cluster application window and adding that time to the validation process. . . . We find that moving fifteen days from the cluster application window to the validation process will avoid delaying the overall interconnection process timeline and allow all parties more time to review or correct submittals during the validation process.<sup>18</sup>

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<sup>15</sup> Shell Companies at 9-10 (citing Order No. 2023 at P 223, *pro forma* LGIP at Sections 3.4.1 and 3.4.5, and proposed Sections 3.3 and 3.5.2 of Appendix KK to the CAISO tariff).

<sup>16</sup> Shell Companies at 10.

<sup>17</sup> Transmittal letter for May 16 Filing at 15-16 (citing *Cal. Indep. Sys. Operator Corp.*, 162 FERC ¶ 61,207 (2018); *Cal. Indep. Sys. Operator Corp.*, Commission letter order, Docket No. ER19-1013-000 (Apr. 1, 2019)).

<sup>18</sup> *Cal. Indep. Sys. Operator Corp.*, 162 FERC ¶ 61,207, at P 14 (internal citation omitted). See also *id.* at P 12 (describing the timeline changes).

The CAISO also explained in the May 16 Filing that it is critical for the CAISO to have sufficient time to review and validate the data in every interconnection request. Experience over the past several years has shown that the two-step process (*i.e.*, using the 15-day and 90-day timelines) functions well and has resulted in significant improvements in the CAISO's processing and review of interconnection requests. As the CAISO explained in the May 16 Filing, a longer request window is unnecessary to receive requests but insufficient to validate technical issues. Using only a 15-day window, the CAISO received nearly 600 complete interconnection requests for cluster 15. Moreover, before the CAISO shortened its 30-day window in 2018, it received 94 percent of its interconnection requests during the last week, nearly all of which came on the last day. The CAISO's two-step process still sums to 105 days, which is the same length as the timelines contained in Order No. 2023. Thus, granting the CAISO an independent entity variation will "meet the intent and goals of Order No. 2023 while accounting for the CAISO's size and need to iterate with interconnection customers meaningfully to avoid delays in the cluster study."<sup>19</sup>

The Shell Companies argue that the CAISO has not demonstrated that its proposed tariff revisions are consistent with or superior to the requirements of Order No. 2023.<sup>20</sup> However, the Shell Companies fail to acknowledge that Order No. 2023 required only transmission providers that are not Independent System Operators ("ISOs") and Regional Transmission Organizations ("RTOs") to satisfy

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<sup>19</sup> Transmittal letter for May 16 Filing at 15-16.

<sup>20</sup> Shell Companies at 10.

the consistent with or superior to standard for their proposed variations.<sup>21</sup> Order No. 2023 stated that, in contrast, ISOs/RTOs—which include the CAISO—should justify their proposed variations by satisfying the independent entity variation standard, in recognition of the fact that “an RTO or ISO has different operating characteristics depending on its size and location and is less likely to act in an unduly discriminatory manner than a Transmission Provider that is a market participant.”<sup>22</sup> The CAISO’s proposal to maintain the same 15-day and 90-day timelines the Commission previously accepted satisfies the independent entity variation standard with regard to Order No. 2023 because those timelines will help to “ensure that interconnection customers are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner,” without undue discrimination.<sup>23</sup>

The Shell Companies also request that, if the Commission does grant the CAISO a variation from the Order No. 2023 standard timelines, the Commission should require the CAISO to shorten the customer engagement window to 60 days and implement a 45-day cluster application window.<sup>24</sup> The Commission should deny the Shell Companies’ request. “Pursuant to section 205 of the FPA [Federal Power Act], the Commission limits its evaluation of a utility’s proposed tariff revisions to an inquiry into ‘whether the rates proposed by a utility are

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<sup>21</sup> Order No. 2023 at P 1764.

<sup>22</sup> Order No. 2023 at P 1764 & n.3346 (quoting *Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 104 FERC ¶ 61,103 (2003) (“Order No. 2003”)).

<sup>23</sup> See Order No. 2023 at P 1.

<sup>24</sup> Shell Companies at 10.



reasonable – and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.”<sup>25</sup> Therefore, “[u]pon finding that CAISO’s Proposal is just and reasonable, [the Commission] need not consider the merits of alternative proposals.”<sup>26</sup> Furthermore, “[t]he courts and th[e] Commission have recognized that there is not a single just and reasonable rate. Instead, [the Commission] evaluate[s] proposals under FPA section 205] to determine whether they fall into a zone of reasonableness. So long as the end result is just and reasonable, the [proposal] will satisfy the statutory standard.”<sup>27</sup> Insofar as the Commission considers this precedent to be applicable to the Shell Companies’ proposed alternative, the Commission should disregard their alternative to the CAISO’s proposal to continue using its existing timelines, which the Commission has already found are within the zone of reasonableness.

**D. The Commission Should Accept the Tariff Revisions in the May 16 Filing to Accommodate the Order No. 2023 Cluster Study Timelines and Processes**

The Shell Companies argue that the Commission should reject the CAISO’s proposal to revise the existing tariff definition of maximum cost responsibility to move the CAISO’s determination of that cost cap amount from the time it completes the phase I and phase II interconnection studies to the time it completes the interconnection facilities study.<sup>28</sup> Although the Shell Companies

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<sup>25</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44 n.43 (2012) (quoting *City of Bethany v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir. 1984)).

<sup>26</sup> *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44.

<sup>27</sup> *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168, at P 17 (2021) (citing court and Commission precedent).

<sup>28</sup> Shell Companies at 10-13 (citing CAISO tariff Appendix A, revised definition of Maximum Cost Responsibility).

“appreciate the Maximum Cost Responsibility provision of CAISO’s Tariff, which is unique to the CAISO interconnection process,” they nevertheless contend that the “CAISO’s proposed modification of the timing of the Maximum Cost Responsibility cost cap determination . . . is a CAISO-specific proposed tariff change that is not related to any requirements of Order Nos. 2023 or 2023-A.”<sup>29</sup>

The Shell Companies fail to recognize that the CAISO’s revision of the defined term maximum cost responsibility is necessary to retain that unique feature of the CAISO interconnection process within the framework of the CAISO’s compliance with Order No. 2023. As explained in the May 16 Filing,<sup>30</sup> to adopt the Commission’s prescribed study timelines and processes, the CAISO must also change when it can provide binding cost estimates—including the maximum cost responsibility—for interconnection customers. Unlike for other transmission providers, the CAISO’s cost estimates are binding, and any costs above those estimates fall to the transmission owner. This provides greater cost certainty for interconnection customers, incentivizes accurate cost estimates, and mitigates the impact of withdrawals and avoids the need for serial restudies whenever an interconnection customer withdraws from the queue. However, the scope of the cluster study under the Commission’s *pro forma* LGIP does not contemplate specific and binding cost estimates, nor can the CAISO and

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<sup>29</sup> Shell Companies at 12.

<sup>30</sup> Transmittal letter for May 16 Filing at 19-21.

transmission owners provide such estimates accurately within the 150-day time period prescribed by Order No. 2023 for completing the cluster study.<sup>31</sup>

As discussed above, the CAISO intends to follow the Order No. 2023 requirement to complete the cluster study within 150 days of the close of the Customer Engagement Window.<sup>32</sup> The Shell Companies provide no evidence to suggest the CAISO would be able to determine maximum cost responsibility within that 150-day period if it retained the existing definition of the term.

Instead of revising the definition of maximum cost responsibility, the CAISO could have proposed in the May 16 Filing to remove all of the cost cap language in the CAISO tariff and simply adopt the provisions in Order No. 2023 regarding the scope of interconnection studies, arguing that is all the Commission contemplated in Order No. 2023. But doing so would have meant losing all of the benefits the binding cost cap provides under the CAISO interconnection process. The CAISO believed, and continues to believe, it is just and reasonable to retain the cost cap language with appropriate modifications to adapt that language to compliance with Order No. 2023.

The Clean Energy Associations do not request that the Commission reject any of the proposals in the May 16 Filing. However, they do request that the Commission “carefully evaluate the CAISO’s proposed independent entity variations regarding the timing of cluster studies and facilities studies” to “ensure

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<sup>31</sup> See Order No. 2023 at P 324; *pro forma* LGIP at Section 7.4 (stating that “Transmission Provider shall complete the Cluster Study within one hundred fifty (150) Calendar Days of the close of the Customer Engagement Window”).

<sup>32</sup> See *supra* section II.B of this Answer.

that CAISO's filing minimize[s] the time projects must spend in the queue, while retaining CAISO's ability to provide cost certainty."<sup>33</sup> This is the CAISO's goal as well,<sup>34</sup> and the CAISO proposed these independent entity variations in the May 16 Filing to accomplish it while also accommodating the CAISO's interconnection queue.<sup>35</sup>

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<sup>33</sup> Clean Energy Associations at 2 (citing transmittal letter for May 16 Filing at 20).

<sup>34</sup> See, e.g., transmittal letter for May 16 Filing at 1 (explaining that the CAISO "strongly supports the goals set forth in Order No. 2023 to ensure that interconnection customers are able to interconnection to the transmission system in a reliable, efficient, transparent, and timely manner, preventing undue discrimination, reducing interconnection queue backlogs, and providing greater certainty during the interconnection process) (internal quotation marks omitted) (citing Order No. 2023 at PP 1, 48; Order No. 2023-A at P 10); transmittal letter for May 16 Filing at 46 ("Only with these revisions [required by Order No. 2023] and the iterative, unrelated tariff revisions from the CAISO's IPE [Interconnection Process Enhancements] initiative will the CAISO be able to study cluster 15 and future clusters on a timely basis and with useful results.").

<sup>35</sup> See transmittal letter for May 16 Filing at 19-20.

### III. Conclusion

For the foregoing reasons, the Commission should accept the tariff revisions contained in the May 16 Filing, subject only to a single additional change the CAISO proposes to make in a future compliance filing as described above in section II.B of this Answer.

Respectfully submitted,

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Dated: June 21, 2024

## **CERTIFICATE OF SERVICE**

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

Dated at Folsom, California this 21st day of June, 2024.

/s/ Jacqueline Meredith

Jacqueline Meredith

An employee of the California ISO