



December 7, 2023

List of the Governors

RE: TPD Allocation Group D projects

Dear Governors:

I am writing on behalf of the Large-scale Solar Association (LSA) about a fast-developing situation that would benefit from your immediate attention and guidance.

LSA understands that CAISO executive leadership and staff are managing an unprecedented and complex workload in a rapidly-evolving landscape, and are doing so admirably and with great appreciation by LSA, its member companies and other developers. We raise this issue because of its urgency and far-reaching impacts on project development, and on developer and investor confidence in California's ability to maintain a predictable and transparent process that can support the required volume and pace of interconnections in the years to come.

The situation at hand concerns Cluster 13 projects that: (1) requested Transmission Plan Deliverability¹ (TPD) following completion of their Phase II Studies; (2) did not receive a TPD allocation; (3) "parked" the project for a year, as allowed under the CAISO tariff; (4) requested TPD a second time, under a new option, "Group D;" (5) received a TPD allocation under Group D; (6) sought to extend their Commercial Operation Date (COD) to reflect the one-year parking status; but (7) are now being refused the COD extensions by CAISO management.

The Cluster 13 Group D projects being refused COD extensions are real, viable projects, with development in process and PPA negotiations underway to serve CAISO LSE needs, including MTR. CAISO's interpretation of this new rule, with little notice those affected, would kill viable projects.

This letter explains these situations and requests your help to revise the current CAISO interpretation of the relevant tariff language, to allow these needed COD extensions.

Commercial Operation Dates: Developers request project CODs in their Interconnection Requests (IRs). Very commonly, those requested dates are found in the project Interconnection Studies to be unachievable, due to the time needed for Participating Transmission Owners (PTOs) to construct upgrades. New "earliest achievable CODs" are determined in those studies, largely based on the PTO construction timelines.

¹ TPD allows a project to provide Resource Adequacy (RA) to meet Load-Serving Entity (LSE) RA obligations.

Projects are required to confirm their CODs after the Phase II Study Results Meetings, before they know whether they will receive TPD allocations. Thus, those confirmed CODs are also based on the PTO construction timelines².

The tariff allows projects completing their studies but not then receiving TPD allocations to park for a year and try again, essentially freezing project development for a year. Parked projects cannot request COD changes, but projects exiting parked status that are moving ahead typically request a COD extension to reflect the one-year delay in PTO construction and the new earliest achievable COD; those requests are usually granted.

Group D: TPD is allocated based on priority groups. TPD Allocation Group D is a restrictive option available in 2022-2023 to any project not meeting the Group A-C criteria³. It was a new TPD allocation group, established after C13 projects not receiving TPD allocations on their first try entered parking status.

The conditions for retaining a Group D TPD allocation after receipt were intended to ensure that recipient projects move forward at a reasonable rate. Specifically, to retain the allocation, those projects must, at a minimum: (1) demonstrate a PPA shortlist/active negotiations position by the year after the award; and (2) execute a PPA the year following that.

Group D projects are not allowed to extend their CODs beyond the dates established when they requested the TPD allocation (which, as noted above, were largely determined based on PTO construction timelines), with two exceptions, i.e., to reflect: (1) later start dates in executed PPAs; or (2) “PTO construction delays,” a term that is not defined in the tariff.

A large number of C13 projects received Group D TPD allocations in April 2023 as they exited parked status, in response to their allowed second TPD requests. Many have achieved the PPA shortlist/active negotiations positions needed to retain their allocations this next year and then asked to execute Generator Interconnection Agreements (GIAs), so the projects can achieve the executed PPA required later. Since they had parked for a year, the developers submitted the usual MMA requests to extend their CODs as part of that GIA development, under Group D “PTO construction delay” language, to match the new earliest achievable COD.

In the meantime, these developers have proceeded to channel significant amounts of time and money on design, permitting, and other functions to ensure that the projects are ready to move forward to meet the new earliest achievable CODs.

² This contrasts with the second financial-security posting, which is not due until a parked project exits parking status to move forward.

³ TPD Allocation Group D is sequenced after Group A (projects with executed PPAs), Group B (projects shortlisted or in active negotiations for a PPA), and Group C (Energy Only projects that have already reached COD).

Current situation: Recently, months after the Group D TPD awards in April 2023, CAISO management communicated an unexpected interpretation of the term “PTO construction delay” that will force viable projects out of the interconnection queue.

Specifically, CAISO management has decided that the term “PTO construction delay” does not apply to the one-year construction delay needed to accommodate C13 parking election. Instead, it would only apply if the PTO timeline was extended, i.e., if the PTO needs more time than the original estimate. This interpretation leaves only the “executed PPA” as the only grounds to accommodate the later COD needed to reflect the one-year parking delay.

There are three reasons why this situation is problematic: (1) The CAISO’s interpretation of the “PTO construction delay” (not a defined tariff term) is incorrect; and (2) the late notice of the CAISO interpretation does not leave sufficient time for these projects to comply; and (3) the CAISO’s interpretation will incent a variety of sub-optimal behaviors in the future by projects coming off the study process.

The CAISO interpretation of the term “PTO construction delay” is incorrect. Webster’s Dictionary defines the word “delay” as “the act of postponing, hindering, or causing something to occur more slowly than normal: the state of being delayed.” It is very clear that exercise of the parking option certainly “postponed” commencement of PTO construction to accommodate these projects.

(It should be noted that finding that the term “PTO construction delay” in its plain-language meaning does not imply that either the C13 projects (exercising their rights to park, before Option D was even known) or the PTOs (which need reasonable construction times) have done anything wrong. It’s merely terminology recognizing the facts of the situation.)

The timing of CAISO communication regarding its interpretation is arbitrary and discriminatory. This decision appears to have been made via one or two of the following scenarios.

Under the first scenario, the CAISO may have developed this interpretation at the time of the C13 TPD allocations. This would imply that the CAISO awarded Group D allocations to C13 parked projects knowing that many or most of them would require COD extensions but could not then qualify for those extensions unless they went beyond the clearly stated TPD retention requirements and acquired an executed PPA in the following few months. The CAISO did not inform these projects that the term “PTO construction delay” did not have the plain meaning of those words, so the projects assumed that they only needed to have PPA shortlist/active negotiation positions for retention of those awards.

Under the second scenario, the CAISO may have developed this interpretation only recently, when it was actually communicated to these C13 projects. These projects have their PPA shortlist/active negotiations positions and now want to proceed to execute GIAs so they can compete for actual PPAs,

but the PTOs will not execute those GIAs without achievable CODs, which the projects cannot receive without executed PPAs, which they cannot get without executed GIAs. In fact, the CAISO has notified these projects that it will refuse even to negotiate GIAs without executed PPAs, even though the projects have a right to request filing of negotiated but unexecuted GIAs with FERC and have FERC resolve this disagreement.

The CAISO interpretation will incent undesirable behavior in the future. If this interpretation holds, Cluster 14 projects would now have an incentive to request COD delays at this juncture and before they request their TPD allocations in February 2024 - to avoid this same situation if they do not receive TPD awards, and thus need to park for a year and try again. Alternatively, they can try to submit those MMA requests before electing parking (in the short time between the TPD award notices and the due date for parking elections), or exit parking early and then request COD extensions before their second TPD requests.

In any case, the CAISO will likely be faced with a large number of C14 MMA requests for COD extensions, at a time when MMA requests are already requiring extended processing times due to CAISO/PTO workloads.

Conclusion: We acknowledge this is a complicated issue, and we both request and appreciate the Board taking time to fully understand both the situation and its implications. On that basis, LSA asks the Board to direct CAISO management to revise its position on this issue and interpret the term “PTO construction delay” for C13 Group D projects coming out of parking status, to reflect the new earliest achievable COD given the impact of the parking issue.

Sincerely,

A handwritten signature in dark ink, appearing to read "Shannon Eddy", with a stylized, flowing script.

Shannon Eddy
Executive Director
Large-scale Solar Association

Cc: Elliot Mainzer, CEO, CAISO
Neil Millar, VP of Transmission Planning and Infrastructure Development, CAISO
Rohima Moly, Deputy Director Energy and Climate, Go-Biz
Gabrielle Stevenson, Assistant Deputy Director, Energy and Climate, Go-Biz
Susan Schneider, Phoenix Consulting