



September 8, 2012

Chair Robert Foster
Governor Ashutosh Bhagwat
Governor Angelina Galiteva
Governor Richard Maullin
Governor David Olsen

RE: CAISO GIP-3 Generator Downsizing Proposal

Dear Chair Foster and Governors Bhagwat, Galiteva, Maullin, and Olsen:

The Large-scale Solar Association (LSA) submits these comments on the CAISO Management proposals contained in the September 7, 2012 memo "Decision on Generator Project Downsizing" (Proposal) for your consideration at the September 13 Board meeting.

LSA has been a strong supporter of this initiative and an active participant in the stakeholder process. The ability to downsize a generation project during the development process is a very high-priority issue for LSA members, and for developers generally. Developers need project-size flexibility, because interconnection and transmission lead times are much longer than generation-development timelines, so developers may not know when their Interconnection Requests (IRs) are filed what their exact project sizes will be.

The potential that the CAISO might withdraw a project from the interconnection queue or seek to terminate a Generator Interconnection Agreement (GIA) because of a need to downsize or cancel part of the project later has caused developers severe financing problems. Developers often cannot know with reasonable certainty the exact size of their projects when they submit their IRs, or even much later when GIAs are executed, because many factors – e.g., permitting limitations, Power Purchase Agreement (PPA) acquisition, environmental and/or other key studies, and/or final project financing – may make downsizing later a necessity, or a commercially reasonable course of action that can preserve the financial viability of the remaining parts of a project.

A well-conceived downsizing proposal should benefit, not only developers of downsizing projects, but also non-downsizing projects and ratepayers. Removal of non-viable capacity from the interconnection queue could allow later-queued, non-downsizing projects to realize cheaper and more expeditious interconnections and deliverability status, and Load-Serving Entities (LSEs) to meet state renewable-energy targets at a lower cost and with less risk. This initiative should thus encourage generation projects to downsize by reflecting these broad market benefits. Thus, the CAISO should encourage developers to use a downsizing option, not treat it as a benefit only to downsizing developers.

LSA generally supports the Proposal before you. CAISO Management has made several changes to its initial proposals to make the Proposal more workable, in response to comments from LSA and others. For example, the Proposal now includes cost caps for study and GIA revision costs, and withdrawal opportunities for projects facing unreasonable study costs or unfavorable study results. LSA appreciates Management's willingness to make these modifications.

However, LSA believes that the Proposal would be stronger – i.e., would allow removal of more non-viable capacity from the interconnection queue – with the changes below. Specifically, the CAISO should provide more timing flexibility for the one-time downsizing election, and remove the provisions requiring downsizing-project funding of GIA revision costs and forfeiture of project-suspension rights.

- **Timing of the election:** LSA does not object to a one-time downsizing election (in addition to the opportunities currently in the CAISO Tariff), or the CAISO's intent to open a downsizing application window within 30 days of a Federal Energy Regulatory Commission (FERC) decision (e.g., in December), for projects prepared to make that one-time election. Serial and Transition Cluster projects have been in the queue for years, and many are well along in the process and therefore should be able to make downsizing decisions by that time.

However, it is unreasonable to expect all pre-Cluster 5 projects to be in a position to exercise that one opportunity by that deadline. A downsizing opportunity is only meaningful if it can be exercised once the developer can actually determine the final project size.

The most obvious example is Cluster 3-4 projects, which have not even received Phase II Studies yet and must still complete significant financing, permitting, and other activities. At best, these projects will have very little time between receipt of their Phase II Study reports and the opening of the downsizing request window, and they may not even have had their Results Meetings – much less a reasonable opportunity to consider those results – before the window closes. Another example is projects with Commercial Operation Dates (CODs) in 2016 or later, which (like Cluster 3-4 projects) may not yet have progressed in their development activities sufficiently to determine their optimal size.

LSA proposed a second one-time downsizing window at the end of 2013 for these early-stage projects. This second window could be coordinated with the next annual CAISO study cycle, so these elections would not require any additional studies by the CAISO or PTOs.

The Proposal declines to commit to later downsizing opportunities at this time because of other new study elements in the next study cycle commencing in 2013, and because a late-2013 second window may not allow adequate time to incorporate any "lessons learned" from the 2013 study cycle. While LSA does not believe that a second window for election of the one-time downsizing opportunity in late 2013 would be problematic, LSA would not object to opening the second window later, i.e., as soon as practicable after reviewing the lessons learned from the 2013 study cycle, for example mid-2014.

It is important to give notice to the financial community and potential LSE buyers that projects not yet ready to make a downsizing decision would still have that opportunity later. The Proposal states that Management may consider a second downsizing window later, but that is not the same as a commitment that this flexibility will be available. Lack of such a commitment now would leave Cluster 3-4 projects, and those with later CODs, in an uncertain state that could reduce their ability to obtain PPAs and project financing.

- **GIA-revision cost responsibility:** The proposed cap on GIA revision costs ameliorates some of the problems with the previously open-ended cost proposal, but it is still unreasonable to charge downsizing projects for these costs. GIA revisions are a necessary part of this process, and they do represent an additional cost; however, that is also true for GIA revisions in many similar situations, and the CAISO does not charge for those costs in any of them.

Moreover, the overwhelming impact of the generation-capacity reductions in this process should be to **reduce** costs – perhaps to the downsizing projects themselves, but **also** to non-downsizing projects and ratepayers/Participating Transmission Owners (PTOs). Since the downsizing generators will not receive any of the savings to other projects or to ratepayers/PTOs, it would be unfair to make downsizing generators bear the costs to modify the associated GIAs to reflect those savings. It would certainly be unfair for them to pay GIA revision cost for generation projects whose interconnection costs are actually reduced.

LSA believes that GIA revision costs, in this process and the other processes listed above, are simply a cost of doing business for the CAISO, PTOs, and the impacted generators. No valid justification has been offered for treating GIA revision costs from the downsizing study different from any other GIA or other agreement revision costs. The cost cap helps but does not mitigate the fundamental unfairness of this provision.

- **Developer forfeit of unrelated rights under the Tariff:** LSA appreciates the CAISO's removal of the earlier proposals to restrict other downsizing rights under the tariff, or prohibit Commercial Operation Date (COD) extensions, for projects downsizing under this initiative. However, LSA still objects to the remaining provision that would revoke the rights of downsizing projects to temporarily suspend their IRs under LGIA Section 5.6. Suspension rights are not related in any way to project downsizing, and the CAISO should remove this provision in the Final Proposal.

Developers' suspension rights have already been greatly restricted for cluster-study projects, i.e., they no longer apply to any shared Network Upgrades (NUs). The remaining rights for those generation projects thus apply only to facilities that impact no other projects, so it is not clear what purpose it would serve to eliminate those rights.

Moreover, like the downsizing opportunity itself, suspension rights may be needed by developers for a variety of reasons – many of which are not under the developer's control – and they are only meaningful if they can be exercised at the right time. While some pre-C5 projects have had such rights for many years, many Cluster 1-2 projects have only recently executed GIAs; some of those projects, and all of the Cluster 3-4 projects, have yet to execute GIAs, and the CAISO proposal would effectively eliminate their suspension rights entirely.

The Proposal justifies this element by saying that “the project [should be] ready to go into active development but for the need to downsize” and that “suspension is at odds with that goal.” However, this rationale makes no sense for qualifying projects in early development.

Finally, the arguments in the Proposal supporting removal of the earlier proposed forfeiture of COD extension ability – that a viable project “meeting its milestones and making good progress toward commercial operation” could “later encounter an issue during construction that requires an extension of its [COD]” – would apply equally to such a project that later “encounters an issue” that could require use of its temporary project-suspension rights.

Thank you in advance for your consideration of LSA's positions on these issues.

Sincerely,

Shannon Eddy

Shannon Eddy
Executive Director