UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System Operator Corporation	**)** **)**	**Docket No. ER24-2671-000**

MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO COMMENTS AND PROTESTS

The California Independent System Operator Corporation (CAISO)[1] answers the comments and protests filed in this proceeding[2] in response to the CAISO's August 1, 2024 filing of tariff amendments (August 1 Filing) to implement Track 2 of its Interconnection Process Enhancements (IPE) 2023 initiative. For the reasons explained in the August 1 Filing and this Answer, the Commission should accept the CAISO's tariff revisions to become effective

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[1] Capitalized terms not otherwise defined herein have the meanings set forth in appendix A to the current CAISO tariff, as revised by the CAISO's August 1, 2024, tariff amendment filing in this proceeding.

[2] The California Consumer Choice Association (CalCCA), California Public Utilities Commission (CPUC), Clearway Energy Group LLC (Clearway), Public Interest Organizations (consisting of the Center For Energy Efficiency and Renewable Technologies, Natural Resources Defense Council, Sierra Club, and Sustainable FERC Project), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (SCE) filed comments. Aypa Power LLC (Aypa), Clean Energy Associations (consisting of the American Clean Power Association, California Energy Storage Alliance, Large-Scale Solar Association, and Solar Energy Industries Association), Joint Interconnection Customers (consisting of GridStor LLC, MN8 Energy LLC, Terra-Gen LLC, and ENGIE North America Inc.), NextEra Energy Resources, LLC (NextEra), and Shell Companies (consisting of Shell Energy North America (US), L.P., Shell New Energies US, LLC, and Savion, LLC) filed protests. Vistra Corp. and Dynegy Marketing and Trade, LLC (together, Vistra) filed a limited protest. Electric Power Supply Association (EPSA) and Joint Publicly Owned Utility (or POU) Intervenors (consisting of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California (collectively, Six Cities), Northern California Power Agency (NCPA), and City of Santa Clara, d/b/a Silicon Valley Power) filed comments and limited protests.

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 II 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 protests (including the limited protests) filed in the proceeding.

October 1, 2024, allowing the CAISO to move forward expeditiously with its most recent and suspended interconnection queue cluster—cluster 15—with the benefit of the reforms contained in the August 1 Filing.

I. Executive Summary

There is widespread support for the August 1 Filing from multiple groups of stakeholders. Five commenters, including the CPUC and Public Interest Organizations, as well as key load-serving entities (LSEs) in California, support the CAISO's proposal in its entirety.[3] Six other parties submitting comments and protests—including the majority of developer commenters—support core elements of the August 1 Filing and seek to have only discrete elements of the proposed reforms severed or modified.[4] The Commission should recognize this

[3] CPUC at 1 ("The State of California urges the Commission to promptly approve CAISO's IPE Tariff Amendment without changes."); Public Interest Organizations at 1 ("[We] recommend the Commission accept all Tariff sections effective October 1, 2024, as requested by CAISO."); PG&E at 1 ("PG&E supports the CAISO's proposed tariff amendment in its entirety to improve the CAISO interconnection process."); SCE at 3 ("Improving the interconnection process represents a crucial reform necessary to build the generation needed for reliability and environmental policy within the CAISO. As a result, SCE strongly supports the [CAISO's] proposal and urges Commission approval as filed."); CalCCA at 2 ("CalCCA requests the Commission accept the CAISO's Tariff Amendment, which makes meaningful improvements to the CAISO's ability to support the pace of interconnection necessary to achieve California's policy and reliability needs.")

[4] Clearway at 1 ("Clearway largely supports the CAISO Filing"); EPSA at 1 ("We urge the Commission to accept the bulk of CAISO's proposal, so that projects that enhance reliability can move apace to development and operations."); Joint Interconnection Customers at 12 ("[W]e respectfully ask the Commission to sever and reject CAISO's proposed scoring criteria. Alternatively, if the Commission does not agree that scoring criteria can be severed, we ask the Commission to only approve CAISO's proposed tariff conditional upon a subsequent filing to remove unduly discriminatory scoring criteria"); Joint Publicly Owned Utility Intervenors at 4 n.7 ("Joint POU Intervenors consider the other aspects part of a reasonable overall package, if the Full Allocation Election cap is removed."); Shell Companies at 2 ("In general, the Shell Companies believe that CAISO's proposed Tariff changes, if revised as discussed herein, could strike a reasonable balance between stakeholder concerns about the congested and delayed status of the CAISO interconnection queue and the State of California's renewable energy objectives."); Vistra at 1 ("Although Vistra supports the objectives underlying CAISO's filing, Vistra is submitting this limited protest on two severable components of CAISO's Filing").

represents a remarkable level of support for an undertaking as inherently contentious as interconnection process reform.

Only three developer pleadings oppose the August 1 Filing in its entirety.[5] Their protests suggest they would not be satisfied with any limitations on interconnection requests to be evaluated in each cluster, failing to acknowledge the massive and unsustainable increases in interconnection requests that have overwhelmed not only the CAISO's current interconnection procedures, but also critical planning and engineering resources across the industry.

No commenter disputes the facts described in the August 1 Filing that the current interconnection queue is greatly oversubscribed or rebuts the widely supported conclusion that reforms specific to the CAISO region are needed to make the queue more manageable and to produce study results that are meaningful. Nonetheless, the three parties fully opposing the CAISO's proposal disregard the fact that all CAISO interconnection customers are seeking deliverability and that there must be some process to allocate this scarce deliverability. One of these commenters suggests that the CAISO's proposals could harm ratepayers, belying the fact that all ratepayer representatives commenting in this proceeding support the CAISO's reforms.[6] As the Commission has seen in numerous proceedings involving other region-specific interconnection reforms, some developers will oppose any meaningful effort to

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5 Aypa, Clean Energy Associations, and NextEra.

6 *See* Aypa at 3-4.

reform interconnection procedures. Such perfunctory opposition, however, does not reflect any flaw in the enhancements proposed in the August 1 Filing.

In the face of the massive levels of interconnection requests the CAISO has experienced in recent clusters—more than three times the capacity expected to achieve the policy objective of 100 percent clean energy by the end of 2045 established by California state legislation—as well as the finite deliverability on the CAISO controlled grid available to allow this proposed generation to serve California consumers, the Commission should allow the independent CAISO to implement the rational and widely supported approaches to managing the interconnection queue included in the August 1 Filing. The alternative would be to have endless delays and inefficiencies in the interconnection process and to have the resources that actually reach commercial operation determined by potentially arbitrary factors, an alternative which would be detrimental to the interests of end-use consumers.

The CAISO respectfully submits that the Track 2 Interconnection Process Enhancements proposed in this proceeding reflect a just and reasonable compromise that pragmatically balances the interests of different groups of stakeholders and allows the interconnection queue to timely move forward in a meaningful way. The Commission's role in evaluating the August 1 Filing is to determine whether the CAISO's filing is just and reasonable given the unique challenges facing the region. The CAISO respectfully urges the Commission not to make the perfect the enemy of the good by rejecting or improperly conditioning acceptance of the proposed tariff improvements.

Rejecting the August 1 Filing would mean the CAISO could not resume queue cluster 15 on October 1, 2024, as it proposes. This would result in cascading adverse impacts on project development in the CAISO region. The interconnection requests in cluster 15 would remain subject to delay and uncertainty, and developers would not be able to propose to interconnect projects in future clusters until cluster 15 resumes. Developing and obtaining Commission approval of an alternative approach in a hypothetical future tariff amendment to address the oversized queue would take many months, further delaying the implementation of a needed solution. The Commission can be assured that any alternative would also receive opposition from some developers, just as the August 1 Filing has.

The Commission also must recognize that the August 1 Filing represents one part of a package of reforms among the CAISO, CPUC, California Energy Commission (CEC), LSEs, local regulators, developers, transmission owners, and other stakeholders to align procurement, transmission planning, and generation development. This is a novel, complex, multi-year effort, and the August 1 Filing is a critical initial piece of it. Rejecting the August 1 Filing would not simply affect the CAISO's interconnection queue, but would frustrate the broader reforms the filing is part of.

For all the reasons explained below, the Commission should accept the August 1 Filing without condition or modification, effective October 1, 2024. The CAISO commits to monitoring the efficacy of the Track 2 Interconnection Process Enhancements and will discuss potential tariff enhancements with stakeholders

based on its experience, which means the CAISO's interconnection procedures can be further improved in the future if necessary.

If the Commission does conclude that certain discrete elements of the August 1 Filing have not yet been fully supported, the Commission also has the option of severing those elements consistent with the CAISO's identification of provisions that can be severed without altering the core of the CAISO's proposal. Such an order would allow critical enhancements, including the proposed zonal approach to cluster studies to determine where new generation is able to be deliverable based on available transmission capacity, to apply to the suspended cluster 15 by October 1, 2024.

II. Motion for Leave to File Answer to Protests

Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,[7] the CAISO respectfully requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), to permit it to answer the protests filed in the proceeding. 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.[8]

[7] 18 C.F.R. §§ 385.212, 385.213.

[8] *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). There is no limitation under the Commission's rules on filing an answer to comments.

III. Answer

A. The Tariff Revisions Contained in the August 1 Filing Satisfy Applicable Legal Standards

The three developers that argue for rejection of the August 1 Filing in its entirety contend that it is not just and reasonable, and some other entities submitting comments and limited protests claim that certain portions of the August 1 Filing do not meet that standard. The Commission should find that these arguments are without merit because the CAISO has shown all of its proposals in the August 1 Filing meet the applicable standards.

First, "[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 section 205 of the Federal Power Act (FPA)] 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."[9] In evaluating the tariff revisions in the August 1 Filing, the only thing the Commission needs to consider is whether the tariff revisions are just and reasonable, not whether they are an optimal set of terms and conditions.[10] Indeed, the Commission has found that the just and reasonable standard is satisfied where a CAISO tariff

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[9] *Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,168, at P 17 (2021) (citing FPA section 205 (16 U.S.C. § 824d)) as well as court and Commission precedent).

[10] *See, e.g.*, *New Eng. Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd sub nom. Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (proposed rate design need not be perfect, it merely needs to be just and reasonable); *Louisville Gas & Elec. Co.*, 114 FERC ¶ 61,282, at P 29 (2006) (the just and reasonable standard under the FPA is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard, but rather a range of different approaches often may be just and reasonable).

amendment improves upon the existing tariff, as is the case here.[11] No one disputes that the current interconnection queue is greatly oversubscribed or that something needs to be done to make the queue more manageable—in other words, the existing tariff needs to be improved. The August 1 Filing will accomplish that purpose and allow the cluster study process to resume.

Some entities propose alternatives to the tariff revisions contained in the August 1 Filing.[12] The Commission need only consider the CAISO's proposed tariff revisions on their own terms and not in comparison to those hypothetical alternatives. "Pursuant to section 205 of the FPA, the Commission limits its evaluation of a utility's proposed tariff revisions to an inquiry into 'whether the rates proposed by a utility are reasonable—and not to extend to determining whether a proposed rate schedule is more or less reasonable to alternative rate designs.'"[13] Therefore, "[u]pon finding that CAISO's Proposal is just and

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[11] *See, e.g.*, *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,096, at P 27 (2021) ("[W]e believe the revision to the EIM [Energy Imbalance Market] base schedule timeline is just and reasonable because it allows EIM participants to submit more timely and accurate base schedules closer to the operating hour, which is an improvement over the current Tariff rules."); *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,160, at P 17 (2021) ("In particular, we find that CAISO's proposed Tariff revisions are just and reasonable measures that should improve CAISO's ability to manage potentially tight system conditions and constitute improvements for each of the specified areas that can be reasonably implemented in time for summer 2021."); *Cal. Indep. Sys. Operator Corp.*, 155 FERC ¶ 61,224, at P 12 (2016) ("With respect to those elements of the proposal not expressly discussed herein, we find that they are just and reasonable because they constitute appropriate improvements upon CAISO's current tariff provisions that should enable CAISO to address limitations in the natural gas delivery system in southern California and facilitate fuel cost recovery by generators.") (internal citation omitted)).

[12] *See, e.g.*, Aypa at 13-14 (arguing that "the Commission should not hesitate to reject CAISO's Track 2 filing because there are ample just, reasonable, and not unduly discriminatory alternatives"); NextEra at 6-7. For example, Aypa's suggestion that the CAISO should consider a three-phase study process like some other Independent System Operators (ISOs) or Regional Transmission Organizations (/RTOs) use is beyond the scope of the instant proceeding.

[13] *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)). In that same order, the Commission also explained that the revisions proposed by the utility "need not be the only reasonable

reasonable, [the Commission] need not consider the merits of alternative proposals."[14]

The record in this proceeding provides all the information needed to find that the CAISO's tariff revisions should be approved under section 205 of the FPA. The Commission's evaluation of the justness and reasonableness of the August 1 Filing does not require the Commission to first evaluate the justness and reasonableness of the CAISO's filing to comply with Order No. 2023, which is pending before the Commission.[15] As explained in the August 1 Filing, the CAISO does not require an order on its filing to comply with Order No. 2023 before re-engaging with cluster 15.[16] Moreover, the Commission allows FPA section 205 filings to supplement filings to comply with Commission rulemakings. For example, the Commission accepted the CAISO's filing to comply with Order No. 831—a final rulemaking—and also has accepted related tariff revisions the CAISO subsequently filed pursuant to FPA section 205 to include commitment cost and default energy bid enhancements (CCDEBE) in the tariff and to enhance cost-based bidding above the CAISO's soft energy bid cap consistent with Order No. 831.[17]

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methodology" and that "even if an intervenor develops an alternative proposal, the Commission must accept a section 205 filing if it is just and reasonable, regardless of the merits of the alternative proposal." 141 FERC ¶ 61,135, at P 44 n.43 (citing federal court and Commission precedent).

14 *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,135, at P 44.

15 The CAISO submitted its Order No. 2023 compliance filing in Docket No. ER24-2042 on May 16, 2024 (Order No. 2023 Compliance Filing).

16 Transmittal letter for August 1 Filing at 54 n.165.

17 *See Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,015 (2020) (conditionally accepting tariff revisions to comply with Order No. 831); *Cal. Indep. Sys. Operator Corp.*, 172 FERC ¶ 61,263 (2020) (conditionally accepting CCDEBE tariff revisions); *Cal. Indep. Sys. Operator Corp.*,

NextEra and the Shell Companies argue that Commission acceptance of the August 1 Filing would be inconsistent with the independent entity variation standard.[18] These protesters ignore the Commission's explanation that, "[c]onsistent with Order Nos. 2003, 2006, and 845, we . . . use the 'independent entity variation' standard when considering . . . proposals from RTOs [Regional Transmission Organizations/ISOs [Independent System Operators]," 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."[19] The Commission has granted the CAISO independent entity variations in a number of orders, including orders involving revisions to its generator interconnection procedures and agreements.[20]

The Commission should do the same in this proceeding for the reasons explained in the August 1 Filing and this Answer, based on the CAISO's unique

188 FERC ¶ 61,089 (2024) (accepting tariff revisions to enhance cost-based bidding above the soft energy bid cap).

[18] NextEra at 7-8; Shell Companies at 4-6.

[19] *Improvements to Generator Interconnection Procedures & Agreements*, Order No. 2023, 184 FERC ¶ 61,054, at P 1764 & n.3346 (2023) (Order No. 2023), *order on reh'g & clarification*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024) (Order No. 2023-A). 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.

[20] *See, e.g.*, *Cal. Indep. Sys. Operator Corp.*, 166 FERC ¶ 61,113, at PP 9-10 (2019) ("As an independent system operator (ISO), the Commission views CAISO as an independent entity with respect to evaluating proposed variations from the pro forma interconnection rules established in Order No. 2003. . . . [T]he Commission concluded [in Order No. 2003] that an RTO or ISO shall therefore have greater flexibility to customize its interconnection procedures and agreements to fit regional needs." (internal quotation marks omitted). *See also Cal. Indep. Sys. Operator Corp.*, 178 FERC ¶ 61,223, at P 8 (2022) ("We also find that CAISO's proposed revisions, permitted under the independent entity variation standard, accomplish the purposes of Order No. 2003 by fostering increased development of economic generation by reducing interconnection costs and time and encouraging needed investment in generator and transmission infrastructure.").

operating characteristics, because the independent entity variation standard properly affords the CAISO more flexibility in adapting interconnection procedures to meet the needs of its own region given its relative lack of an incentive to unduly discriminate. The CAISO is not a participant in the markets it operates and has no affiliates. Much of the opposition to the August 1 Filing incorrectly acts as if the load-serving entities (which are market participants and have affiliates) are the transmission providers for the CAISO region rather than the independent CAISO serving as transmission provider. As such, the CAISO's proposal does not create any opportunities for the transmission provider to favor its own generation.[21]

Some entities also erroneously contend that the August 1 Filing violates open access principles.[22] The Commission has explained that its "interconnection rules and policies, as embodied in Order Nos. 2003 and 2006, are largely predicated on ensuring open access to transmission systems through a fair and open, first-come, first-served process for interconnection."[23] The CAISO's interconnection process, as modified by the August 1 Filing, continues to follow those open access principles.

Open access does not guarantee every developer the ability to interconnect with deliverability from the finite area delivery network upgrades identified as public policy upgrades in the CAISO transmission plan. Open

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21 *See, e.g.,* Clean Energy Associates at 5.

22 *See, e.g.*, *id.* at 5, 7. 9; EPSA at 5-8; Joint Interconnection Customers at 7-10.

23 *Cal. Indep. Sys. Operator Corp.*, 141 FERC ¶ 61,132, at P 47 (2012).

access guarantees "the opportunity to seek deliverability status."[24] The August 1 Filing preserves that opportunity for interconnection customers while recognizing that the transmission grid is built out to meet consumer needs, not to provide deliverability to every developer that might seek to interconnect.[25] The costs of such an overbuild of the transmission grid would be unjust and unreasonable and excessive for end-use consumers. "It is long-established that the 'primary aim [of the FPA] is the protection of consumers from excessive rates and charges."[26] The Commission must interpret its open access principles consistent with that statutory framework and cannot favor developer interests to the detriment of consumers.

B. The Zonal Approach Proposed in the August 1 Filing Is Justified and Widely Supported

One of the two main components of the August 1 Filing is identifying transmission "zones" that reflect the CAISO transmission plan's assessment of available deliverability and planned generation in the area. This proposed zonal approach is consistent with the expectation in the December 2022 Memorandum of Understanding among the CAISO, CPUC, and CEC that the CPUC will provide clear direction to the jurisdictional load-serving entities to concentrate procurement in key transmission zones, that the procurement will focus on the

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[24] *See Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070, at P 67 (2012).

[25] There is no basis for concluding that transmission infrastructure development must reflect the "demand for interconnections" without regard to the interests of consumers. *See, e.g.*, Joint Interconnection Customers at 9.

[26] *Xcel Energy Servs. v. FERC*, 815 F.3d 947, 952-53 (D.C. Cir. 2016) (brackets in original) (internal quotation marks omitted).

expected quantities enabled by the planned transmission development set forth in the CAISO's transmission planning process, and that state and local regulatory authorities and load-serving entities' resource planning and procurement will continue to significantly inform the CAISO's transmission planning process over the long development timeframe of transmission relative to many energy supply resources.[27] As the CPUC correctly recognizes in its comments, "the IPE's zonal approach and CAISO's IPE aligns the interconnection process with the CPUC's integrated resource planning (IRP) and transmission planning in California," thereby "help[ing] ensure the timely onboarding of historic amounts of resources that California will add to address CPUC plans for new renewable generation and storage resources."[28] Other entities agree with implementing the zonal approach as well.[29] These benefits of the zonal approach make it just and reasonable.

Aypa, on the other hand, argues that the CAISO's zonal approach is problematic insofar as it requires developers to invest time and effort in project development before they have a sense of whether deliverability will be available in the zone where a project is located.[30] This will not be a concern. Prior to the cluster application window, the CAISO proposes to: (1) give prospective interconnection customers timely access to information that helps them to identify

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[27] Transmittal letter for August 1 Filing at 5-6, 12-13, 17-18. The other main component of the August 1 Filing is the establishment of cluster study criteria that all interconnection requests must satisfy in order to proceed to the cluster study. *See id.* at 5, 6-7. The CAISO addresses comments and protests regarding that second main component in some of the later sections of this Answer.

[28] CPUC at 3, 4.

[29] *See, e.g.*, EPSA at 8; Public Interest Organizations at 2.

[30] Aypa at 6.

areas with available transmission capacity, and (2) provide transparent and accessible information that will serve as the basis for the CAISO's determination of available capacity within a Transmission Zone and which Transmission Zones are Deliverable Zones and which are Merchant Zones.[31] The CAISO has already published this information for cluster 15.[32] Moreover, what Aypa describes as problematic is a strength of the CAISO's reforms: instead of submitting interconnection requests agnostic to transmission planning and where prior clusters have already subscribed all available deliverability, developers will instead have the ability to prepare their interconnection requests informed by these processes. This feedback cycle will provide quality submissions in the queue, and ultimately benefit ratepayers.

The Clean Energy Associations argue that the CAISO's proposed definitions of Deliverable Zones and Merchant Zones are vague and that the CAISO has not clearly defined or justified which transmission constraints should be used to screen projects for purposes of applying those definitions.[33] The CAISO believes the definitions are sufficiently clear as written, as indicated by the fact that no other intervenor argues they should be clarified. Also, the CAISO was clear in the Track 2 IPE 2023 stakeholder process that the transmission constraints used to screen the projects are area deliverability constraints (ADCs) as defined in the Generator Interconnection and Deliverability Allocation

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31 Transmittal letter for August 1 Filing at 18-22.

32 *See* https://www.caiso.com/generation-transmission/generation/generator-interconnection.

33 Clean Energy Associations at 17-18.

Procedures (GIDAP) in Appendix DD to the CAISO tariff and the GIDAP business practice manual (BPM). The specific ADCs are defined in the cluster study reports prepared pursuant to the GIDAP and posted on the CAISO market participant portal—already published for cluster 15.[34] The CAISO will follow a similar procedure under the Resource Interconnection Standards (RIS) contained in new Appendix KK to the CAISO tariff that will go into effect pursuant to the CAISO's Order No. 2023 Compliance Filing. Thus, the CAISO has clearly explained and justified how transmission constraints will be used to screen projects, consistent with the Commission's rule of reason.

In the August 1 Filing, the CAISO proposes to define a Deliverable Zone to mean a Transmission Zone with at least 50 MW of available deliverability as determined and to define a Merchant Zone as a Transmission Zone with less than 50 MW of available deliverability, as determined before the cluster application window.[35] The Clean Energy Associations argue that the 50 MW definitional dividing line between Deliverable Zones and Merchant Zones is restrictive and may prevent large projects from being considered for study.[36] It appears that the Clean Energy Associations misunderstand the CAISO's proposal. If a 50 MW generation project can be dispatched at any node in the Transmission Zone without exceeding an area constraint limit, then that zone will

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[34] https://www.caiso.com/systems-applications/portals-applications/market-participant-portal-mpp. Additional constraint information is provided in the CAISO Generator On-Peak Deliverability Assessment Methodology available on the CAISO website at https://www.caiso.com/documents/on-peak-deliverability-assessment-methodology.pdf. As noted above, the CAISO also has published the relevant cluster 15 deliverability data on the CAISO website at https://www.caiso.com/generation-transmission/generation/generator-interconnection.

[35] Transmittal letter for August 1 Filing at 20-21.

[36] Clean Energy Associations at 18.

be deemed to be a Deliverable Zone and that node will be available for a generating facility to qualify to be studied. Therefore, the 400 MW project in the Clean Energy Associations' hypothetical example[37] would not be screened out (*i.e.*, would be included in a Deliverable Zone).

The Shell Companies contend the CAISO should establish a firm deadline of at least six months prior to each cluster application window by which the CAISO will determine which zones are Deliverable Zones and which are Merchant Zones, and provide public information relating to how the CAISO made those zonal designations.[38] The CAISO notes that it makes the zonal designations based on the criteria proposed in this proceeding. The CAISO understands the desire for data as early as possible, but the amount of precise deliverability in each zone—and thus its designation—will not be known until after the immediately preceding annual interconnection facilities study and corresponding transmission plan (TP) deliverability allocation process. The CAISO commits to providing all data as soon as possible following this process. Other developers supported the CAISO's proposal understanding the CAISO would provide transparency through every step of the transmission and interconnection studies that will inform future interconnection requests.[39]

Joint POU Intervenors state they do not oppose the zonal approach but argue that the zones should include the needs and resource plans of non-CPUC

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37 *See id.* at 18 n.52.

38 Shell Companies at 9.

39 Clearway at 3-4.

jurisdictional load-serving entities.[40] The CAISO agrees with Joint POU Intervenors that "it is vital for the resource procurement needs of all LSEs to be considered in the TPP [CAISO's transmission planning process] and the development of those zones."[41] The CAISO has always sought to account for those needs, regardless of any LSE's regulator. Historically, non-CPUC jurisdictional LSEs generally have elected not to participate directly in the CAISO's transmission planning processes. Instead, they provided their resource plans to the CEC, which incorporated those resource plans into the CPUC's Integrated Resource Plan, where they informed the CAISO's transmission plan.

The CAISO has long noted that this process may not be a perfect fit for certain LSEs, and has made every effort to work with them, the CEC, and the CPUC on improving and integrating these processes. This effort has included working directly with non-CPUC jurisdictional LSEs to understand their procurement needs. The CAISO has met with NCPA and the Six Cities in scores of instances as part of this effort, including numerous times this year and as recently as August. Joint POU Intervenors must recognize, however, that the CAISO is an *independent* transmission planner, and must account for all LSEs' needs simultaneously. This often means planning the transmission system differently than each LSE would plan the transmission system for its needs alone. Ultimately, the CAISO recognizes that it must improve coordination in the West, including providing more direct channels of communication with each interested

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40 Joint POU Intervenors at 18-23.

41 *Id.* at 19 (emphasis in original omitted).

stakeholder, especially those that provided resource plans indirectly before. These efforts are well underway, and will continue, including with the Joint POU Intervenors.

Joint POU Intervenors note that, historically, resource and transmission planning have been "uneven" for them.[42] They also explain how they are only now learning all of the inputs required if they elect to begin participating directly in transmission planning (namely, those inputs previously provided by the CEC or the Integrated Resource Plan on their behalf).[43] The CAISO understands both of these realities, and is working strenuously to help all LSEs to participate as much as they desire in the CAISO's transmission plan. These are novel processes designed to address historical challenges. The Commission should accept the CAISO's proposal as a just and reasonable step toward aligning procurement, planning, and interconnection. The *status quo* is untenable. The Commission should afford the CAISO the opportunity to work with all utility sectors to enhance these processes together.

C. The Proposed 150 Percent Cap for Determining Eligibility to Proceed to the Cluster Study Process Is Supported by Sufficient Evidence and Is Consistent with the Commission's *MISO* Order

The CAISO proposes to apply a cap with regard to the criteria for interconnection requests for deliverability in Deliverable Zones (*i.e.*, cluster study criteria (1)), equal to 150 percent of the available deliverability at the relevant

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42 *Id.* at 22-23.

43 *Id.* at 21.

transmission constraint.[44] With regard to the criteria for interconnection requests for energy-only deliverability status that are eligible for cash reimbursement (*i.e.*, cluster study criteria (3)), the CAISO similarly proposes to apply a cap equal to 150 percent of the local regulatory authority MW procurement target for capacity with energy-only deliverability status in that Transmission Zone.[45] All interconnection requests at or below the relevant cap will be eligible for the cluster study process.

Most commenters, including the majority of developer commenters, either support or do not oppose the 150 percent cap. For example, Clearway correctly states that "CAISO's proposed caps on projects entering the study process under criteria (1) and (3) are reasonable because detailed information will be provided upfront to developers to inform interconnection requests, and because the caps are grounded in rigorous resource planning and transmission planning processes."[46] And as EPSA notes, "prioritizing the most viable projects and recognizing both the limits of deliverability and reliability needs . . . will help alleviate the massive backlog in [the CAISO's] interconnection queue."[47]

Aypa and the Clean Energy Associations, however, both argue that the 150 percent cap will produce unjust and reasonable rates. Each of those protesters contends that the level of the cap is not supported by evidence.[48]

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44 Transmittal letter for August 1 Filing at 33-36.

45 *Id.* at 47.

46 Clearway at 2.

47 EPSA at 8.

48 Aypa at 12; Clean Energy Associations at 13-14.

Those arguments are mistaken. Studying interconnection requests of 150 percent of available transmission capacity in each Deliverable Zone will undeniably allow more resources to proceed to the cluster study than have historically achieved commercial operation based on prior clusters. Unlimited interconnection requests or a higher percentage cap would mean the interconnection queue would continue to grow at an unsustainable rate, which would slow study processes and make the study results less meaningful for developers and LSEs.

As explained in the August 1 Filing, the appropriateness of using the 150 percent cap was supported by a test-run analysis the CAISO performed that showed applying a cap at that level to cluster 15—the largest cluster the CAISO has seen so far—would re-align the number of interconnection requests with clusters historically and make it possible to study the interconnection requests within the shorter interconnection study process timelines required by Order No. 2023.[49] The CAISO also determined that using a lower (100 percent) cap instead could impede competition in the queue too early, and could effectively compel load-serving entities to procure all studied projects to meet their future resource adequacy needs. The CAISO avoids this outcome through use of a 150 percent cap. The 150 percent cap is at a level sufficient to ensure a competitive pool of projects for resource adequacy procurement processes,

[49] Even for the smaller queue volume in clusters 13 and 14, which were subject to longer interconnection study process timelines prior to the effectiveness of Order No. 2023, the CAISO had to file tariff amendments to request additional time to review those two clusters. *See Cal. Indep. Sys. Operator Corp.*, 176 FERC ¶ 61,207 (2021); *Cal. Indep. Sys. Operator Corp.*, 180 FERC ¶ 61,143 (2023); *Cal. Indep. Sys. Operator Corp.*, 184 FERC ¶ 61,069 (2023).

especially considering the amount of studied capacity already in queue, and that the CAISO will be able to resume annual cluster application windows once cluster 15 is underway.[50] The evidence the CAISO has provided to support the 150 percent cap puts it within the zone of reasonableness.

Aypa provides no basis for its speculative concern that even the use of a 150 percent cap may result in inadequate capacity in the event that project developers elect to withdraw after selection or projects fall behind schedule or are not delivered in time.[51] The CAISO has no reason to believe such issues will arise with any sizeable portion of the studied interconnection requests that proceed to the cluster study process. In reality, the 150 percent cap will produce an annual surplus of project capacity in the queue, which is likely to withdraw under the CAISO's and Order No. 2023's escalating commercial requirements.[52] Also speculative is Aypa's concern that projects falling within the 150 percent threshold may not provide ratepayers with just and reasonable rates.[53] Those rates will be either cost-based, in which case the Commission will determine whether they are just and reasonable in advance, or market-based, in which case the rates charged for the projects will be subject to monitoring and to the possibility of challenge pursuant to a complaint under section 206 of the FPA.[54]

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50 Transmittal letter for August 1 Filing at 33-34.

51 *See* Aypa at 11.

52 To say nothing of the surplus of existing, studied surplus of interconnection requests already in queue that preceded cluster 15.

53 *See* Aypa at 11.

54 16 U.S.C. § 824e.

Aypa and the Clean Energy Associations argue that the 150 percent cap will eliminate the "feedback loop" between planning institutions and market participants under the CPUC's current Busbar Mapping process that uses commercial interest—the active CAISO interconnection queue—as one of its factors influencing portfolio creation.[55] That argument is erroneous. The 150 percent cap will still allow the interconnection queue to inform portfolio creation by the CPUC. The CAISO will still have merchant interconnection requests and the unsuccessful interconnection requests to demonstrate potential interest beyond the 150 percent cap. Moreover, the CAISO plans to continue to provide the feedback to the CPUC based on the constraints identified within the Deliverable Zones and Merchant Zones. Notably, the CPUC has already considered the impacts of the CAISO's proposal on the feedback loop. The CPUC stated in the Track 2 IPE 2023 stakeholder process that it had no concern that the zonal approach would negatively impact its processes, and indeed, the CPUC expresses no such concern in its comments. Thus, the feedback loop will be preserved.

In the August 1 Filing, the CAISO also explained how its proposal to implement the 150 percent cap is fundamentally different from the proposal of the Midcontinent Independent System Operator, Inc. (MISO) to implement a cap on the total MW value of interconnection requests that may be studied in a cluster. The Commission rejected MISO's proposal, but should accept the CAISO's because it is consistent with the guidance the Commission provided on how

[55] Aypa at 11-12; Clean Energy Associations at 16-17.

MISO could craft an interconnection request study cap that would be just and reasonable.[56]

Despite the CAISO's explanation, Aypa and the Clean Energy Associations argue that the CAISO proposal does not align with the Commission's guidance that "any future section 205 filing to propose a study cycle cap must demonstrate how the cap ensures that [the ISO/RTO] can study new generation seeking to interconnect in a manner that appropriately accounts for its future resource adequacy needs."[57] In fact, the CAISO's proposal fully aligns with that Commission guidance, because it takes into account integrated resource planning from California state and local regulatory agencies, uses scoring criteria to reflect the critical role of load-serving entities in meeting California's resource adequacy requirements, and is set at a level the CAISO's test-run analysis shows is sufficient to ensure resource adequacy.[58] In contrast to Aypa, Clearway is correct in noting that there is "an analytical and policy-based rationale for the CAISO caps: unlike MISO's proposed caps, the CAISO's are designed to align the size of the queue with the new capacity anticipated to meet system needs in ongoing resource and transmission planning processes, in collaboration with the CPUC and other Local Regulatory Authorities."[59]

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[56] Transmittal letter for August 1 Filing at 35-36 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 186 FERC ¶ 61,054 (2024) (*MISO*)). In the August 1 Filing, the CAISO mis-cited MISO as 186 FERC ¶ 61,154.

[57] Aypa at 12 (both quoting MISO at P 182); Clean Energy Associations at 15-16 (same).

[58] See the discussion above in this section of the Answer and the transmittal letter for the August 1 Filing at 36.

[59] Clearway at 5.

Although use of the 150 percent cap is just and reasonable as explained above and in the August 1 Filing, the CAISO nevertheless recognizes that experience gained after implementing the tariff revisions may suggest future enhancements where the cap would be adjusted up or down. If the possibility of needing to change the cap level becomes evident, the CAISO will discuss with stakeholders what adjustment might be appropriate. The CAISO has shown its willingness to adjust other cap levels under its tariff based on experience,[60] and will do the same with regard to the 150 percent cap if necessary.

D. The Commercial Interest Scoring Criteria Reflect the Realities of How Generation Is Able to Achieve Commercial Operation in the CAISO Footprint

1. The Scoring Criteria Satisfy the Commission's Non-Discrimination and Open Access Principles

The element of the August 1 Filing that attracted the most comments is the CAISO's proposal, as part of its scoring criteria for cluster study criteria (1) and (3), to award up to a maximum of 30 out of the total 100 scoring criteria points based on evidence of commercial interest in the projects that are the subject of interconnection requests.[61] This aspect of the CAISO's proposal is

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[60] For example, over a period of years, the CAISO revised the level of the percentage of the registered cost bid cap set forth in its tariff based on its experience during that time period. *See Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,288, at P 23 (2008); *Cal. Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,282, at P 30 (2009); *Cal. Indep. Sys. Operator Corp.*, 145 FERC ¶ 61,082, at PP 21-24 (2013).

[61] *See* transmittal letter for August 1 Filing at 37-39, 41-43, 49-53. One commenter opposes the concept of using any scoring criteria at all. Joint Interconnection Customers at 2-4, 7-12. As explained at greater length in the August 1 Filing, the avalanche of pending interconnection requests and the limited transmission deliverability planned for the CAISO controlled grid requires the CAISO to apply some rational basis to limit the requests seeking deliverability to be studied in each cluster. No commenter has rebutted the need for some form of scoring criteria.

consistent with Commission findings supporting Order No. 2023 on rehearing that focusing on commercially viable projects will allow interconnection customers to be "relatively confident in the viability of their interconnection requests."[62] It also is designed to prevent the CAISO and the industry from squandering scarce resources on studying excessive volumes of projects with little or no prospect of advancing to commercial operation, especially to the detriment of viable projects that will have less meaningful studies as a result.

Nonetheless, some commenters suggest that the commercial interest scoring criteria are unduly discriminatory or contrary to open access.[63] In particular, some of them object to the role of LSEs in awarding commercial interest points. The argument that interconnection reform should be divorced from input from end-users on their commercial interest in generation projects is an argument that independent transmission providers are required, in the name of open access, to ignore the best predictor of whether a proposed generation project is likely to proceed to operation. As the Public Interest Organizations highlight, "it is crucial to incorporate commercial interest into this [scoring] calculation, to ensure that the process prioritizes projects that are in fact ready for financing and construction, and CAISO's interconnection studies are not wasted."[64] For similar reasons, developer commenter Clearway contends that, without commercial interest points, the proposed scoring criteria would be unjust

62 Order No. 2023-A at P 145.

63 *See, e.g.*, Aypa at 7-9; EPSA at 3-9; Vistra at 6-20.

64 Public Interest Organizations at 3.

and unreasonable.[65] As PG&E notes, CPUC directives require many load-serving entities to procure resources with specific operating characteristics, meaning that load-serving entity assessments of the resources needed to meet these directives is the best indicator of which resources are likely to obtain long-term contractual support.[66]

The Commission has long recognized this reality in approving numerous CAISO tariff TP deliverability allocation rules to allocate deliverability to interconnection customers based on procurement. For example, section 8.9.2 of the CAISO's existing GIDAP in Appendix DD to the CAISO tariff—as well as the RIS proposed to comply with Order No. 2023—first awards available transmission plan deliverability to those interconnection customers with power purchase agreements, then to those negotiating or shortlisted for power purchase agreements, then to other projects.[67] As such, the CAISO's commercial interest scoring proposal is consistent with principles already accepted by the Commission: it merely moves the timing of commercial interest determination earlier in the process to allow the CAISO to prioritize among the high number of interconnection requests seeking scarce deliverability from public policy network upgrades identified in the transmission plan.

Acknowledging the role of load-serving entities in meeting the needs of consumers and complying with state directives is not a return to "central

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65 Clearway at 5-9.

66 PG&E at 3.

67 *See Cal. Indep. Sys. Operator Corp.*, 166 FERC ¶ 61,113, at P 1 (accepting tariff revisions to implement this aspect of deliverability allocation).

planning," as some commenters allege.[68] The CAISO is instead simply updating its interconnection process to focus on the primary driver of commercially viable generation projects. Ignoring the role of load-serving entities and locally regulated resource procurement processes in determining the long-term commercial prospects of generation projects would be ignoring key facts that are directly relevant to what interconnection requests are likely to be viable.

States and local regulatory authorities, rather than this Commission, have jurisdiction over the procurement of resources by load-serving entities to meet the needs of end-use customers. The Commission has recognized that it is just and reasonable for entities like the CAISO to account for state integrated resource planning in their rates, terms, and conditions.[69] Commenters arguing that the CAISO, and by extension the Commission, must either disregard or somehow second-guess these state and local procurement activities are asking the Commission to depart from its traditional deference to state and local regulators. Instead, the Commission should build on the principles it already has accepted in the GIDAP provisions of the CAISO tariff and allow the CAISO to take into account the realities of load-serving entity procurement of resources under integrated resource plans as part of the region's interconnection procedures.

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[68] *See* Aypa at 3-4.

[69] *See, e.g.*, *Building for the Future Through Elec. Reg'l Transmission Planning & Cost Allocation,* Order No. 1920, 187 FERC ¶ 61,068, at P 130 (2024); *Midwest Indep. Transmission Sys. Operator, Inc.*, 153 FERC ¶ 61,229, at P 46 (2015).

Those who suggest that the CAISO's proposal favors development supported by long-term sales to load-serving entities over other models such as development on a merchant basis are asking the Commission to reject a well-developed proposal based on hypotheticals that do not exist in California.[70] Successful generation development in the region is not being driven by a merchant model based on short-term sales. Developers preferring to pursue such a model, however, do not have a need for deliverability to particular loads in the region and can pursue unfettered opportunities for energy-only interconnections under the CAISO's proposal.

A number of commenters raise the specter that load-serving entities are asking interconnection generators to pay for commercial interest points.[71] These arguments mislead the Commission. The cited examples do not involve direct payments to load-serving entities in exchange for commercial interest points under some kind of "pay for play" arrangement. Instead load-serving entities are seeking higher deposits in connection with power purchase agreement negotiations. In most cases, these deposits will ultimately be credited against actual costs. The Commission itself recognizes that requiring increased financial commitments, including increased deposits, as a condition for moving forward in the interconnection process is not only just and reasonable but also an important component of a first-ready, first served cluster study process.[72] Such increased

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70 *See* Vistra at 15.

71 *See* Clean Energy Associations at 8-9; Joint Interconnection Customers at 5-6; Vistra at 20-21.

72 *See, e.g.*, Order No. 2023-A at P 2.

financial commitments can be a valid indicator of which projects are commercially viable. In Order No. 2023, the Commission approved various non-refundable fees and penalties for withdrawn interconnection requests.[73] The fact that some local procurement processes adopt comparable principles does not undermine the reasonableness of the CAISO's proposal.

Commenters have not shown that any of the load-serving entity practices they reference are being applied in a discriminatory manner or are inconsistent with principles the Commission adopted in Order No. 2023. The Commission should not give credence to overblown claims from protesters using cherry-picked facts. Most of the referenced practices are subject to the oversight of the CPUC or other local regulatory authorities, which support the CAISO's reforms. The Commission should trust these entities to oversee practices within their jurisdiction.

The Commission also should recognize that the way the CAISO proposes to consider commercial interest is a novel application of well-established principles and should not stymie innovation before the region gains experience. Allowing the interconnection process enhancements to move forward is consistent with the Commission's encouragement in Order No. 2023 that transmission providers like the CAISO should "continue to innovate to remedy their identified interconnection queue management issues."[74]

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[73] *See, e.g.*, Order No. 2023 at P 780 *et seq.*

[74] Order No. 2023 at P 10.

2. The Proposed 150 Percent Limit on Load-Serving Entity Full Allocations under the Scoring Criteria is Just and Reasonable

The commercial interest scoring criteria allow a load-serving entity to indicate a "full allocation" to a project in lieu of allocating any of its points in the cluster application window. An LSE exercising this full allocation option can select one interconnection request only per the cluster application window, and the interconnection customer's interconnection service capacity may not exceed 150 percent of that LSE's points allocation.[75] The CAISO also proposed LSEs could aggregate their point allocations with other LSEs to combine either commercial interest points or full allocations, enabling LSEs to aggregate if interested in projects larger than their needs alone. The full allocation option is designed for circumstances where an LSE's need exceeds its capacity allocation. Although any LSE can use the full allocation option, its purpose is to enable LSEs with small load shares to ensure sufficient resource availability in the study process.[76]

Joint POU Intervenors protest the 150 percent limit on an LSE's full allocation option. They argue it is not just and reasonable, was not approved by the CAISO Board of Governors (Board), and should be rejected by the Commission.[77] The CAISO disagrees, and maintains that the 150 percent limit

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[75] This 150 percent limit on the LSE's points allocation is different from, and should not be confused with, the 150 percent cap for determining eligibility to proceed to the cluster study process discussed above in section I.C of this Answer.

[76] Transmittal letter for August 1 Filing at 37, 38-39.

[77] *See* Joint POU Intervenors at 5-18, 23-24. Even in that event, the full allocation option would still be limited to one per LSE per cluster.

on LSE point allocations is just and reasonable, as explained below. At the same time, the CAISO agrees with Joint POU Intervenors that as a procedural matter the 150 percent limit on LSE point allocations is severable from the full allocation option itself. The CAISO would implement on compliance a Commission order removing the 150 percent cap on the full allocation option if the Commission does not believe the 150 percent cap is just and reasonable for the reasons explained by the Joint POU Intervenors. Even in that event, the full allocation option would still be limited to one full allocation per LSE per cluster, providing some limit to full allocations.

The CAISO disagrees with Joint POU Intervenors that the 150 percent limit "should be rejected as *ultra vires* because it was not approved by the CAISO Board."[78] This argument is both legally without basis and factually inaccurate. Joint POU Intervenors recount the CAISO stakeholder process over several pages in their limited protest; however, nowhere in these pages do they cite any precedent where the Commission has rejected a party's filed rate as "*ultra vires*" on the grounds that the filer itself purportedly could not submit it. Nor do Joint POU Intervenors explain how scrutinizing Board approval is part of the Commission's review of what constitutes a just and reasonable rate under FPA section 205. Joint POU Intervenors' *ultra vires* argument is a red herring and irrelevant to the Commission's determination whether the 150 percent limit is just and reasonable

The CAISO sympathizes with Joint POU Intervenors' account of the facts,

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[78] *Id.* at 6.

and certain miscommunications from the CAISO to stakeholders. The Track 2 IPE 2023 initiative was a long, complex stakeholder initiative discussing myriad elements with robust input on every topic, and the CAISO's policy choices on the full allocation cap certainly could have been established more clearly earlier, avoiding the issue here. However, even assuming *arguendo* that the Commission would entertain conducting a factual analysis to determine whether the 150 percent limit was part of the CAISO's Board-approved policy, the Commission would find that the 150 percent limit on LSE points allocation meets such scrutiny. It was discussed throughout the stakeholder process and included as an element of the CAISO's Track 2 Final Proposal.[79] The Track 2 Final Proposal finalized prior to Board approval expressly referenced the 150 percent limit, stating, "The ISO proposed to limit use of this full allocation election to one project per cycle per LSE, and limiting this election to projects less than 150% of that LSE's individual capacity allocation for that particular cycle."[80]

The CAISO regrets that CAISO staff mistakenly said that element had

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[79] *2023 Interconnection Process Enhancements: Track 2 Final Proposal* (Mar. 28, 2024) (Track 2 Final Proposal), which was also provided in attachment C to the August 1 Filing.

[80] *Id.* at 48. Joint POU Intervenors assume that because this language was not reiterated later in the "Proposal" section of this topic that summarized the proposal, that it was removed. Joint POU Intervenors at 8-9. This is not correct: the CAISO's practice is to expressly note when it removes elements of a proposal based on stakeholder comments. The Track 2 Final Proposal contains numerous examples of matters for which the CAISO expressly removed or revised elements of proposals from previous iterations based on stakeholder comments. *See, e.g.*, Track 2 Final Proposal at 51 ("The ISO has reconsidered this criterion and proposes to delete it because, as noted by EDF-R, the path of the gen-tie is highly uncertain prior to completion of interconnection studies"); *id.* at 52 ("The ISO discussed its rationale for removing that indicator in the draft final proposal, which was heavily informed by stakeholder feedback"). The CAISO also posted draft tariff revisions with the 150 percent limit, including in its filed form, for stakeholder review before submitting them to the Commission. *See* https://stakeholdercenter.caiso.com/StakeholderInitiatives/Interconnection-process-enhancements-2023, at revised draft tariff language posted July 18, 2024 (RIS section 4.1.1(1)).

been removed in a workshop that was conducted after publication of the final proposal, as Joint POU Intervenors note;[81] but CAISO workshop transcripts are not a determinative record for the CAISO Board or the Commission. Further, it makes no difference that the 150 percent limit was not explicitly referenced in the CAISO Board briefing materials.[82] CAISO Board memoranda are concise summaries of policies. They do not attempt to contain every minute element of those policies. The Track 2 Final Proposal was 106 pages, and the Board memorandum was 18 pages; both papers included discussion of the full allocation option under the commercial interest scoring criteria.[83] This is sufficient for the Commission to find that the Board authorized the 150 percent limit included as part of the full allocation option proposal.[84]

The Board does not review proposed tariff revisions. Instead, the Board authorizes CAISO management to develop, file, and implement the detailed tariff provisions necessary to effect a policy, including the express authority "to make all necessary and appropriate filings with the Federal Energy Regulatory Commission *to implement the proposal*, including any filings that implement the overarching initiative policy but contain discrete revisions to incorporate Commission guidance in any initial ruling on the proposed tariff amendment."[85]

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81 *See* Joint POU Intervenors at 9-10.

82 *See id.* at 10.

83 These papers were included as attachments C and E, respectively, to the August 1 Filing.

84 *See Cal. Indep. Sys. Operator Corp.*, 149 FERC ¶ 61,042, at P 62 (2014) (finding that "the proposed cap is within the bounds of the framework approved by the Board" for "adjusting the flexible capacity need to account for contingency reserves and forecast error").

85 Track 2 Board Memorandum at 4 (emphasis added).

As discussed above, the Track 2 Final Proposal and implementing tariff language expressly contained the 150 percent limit.

Turning to the merits of the 150 percent limit, Joint POU Intervenors argue that the proposed limit is not just and reasonable because small LSEs may not receive a "meaningful number of points, particularly in years when TP Deliverability is low."[86] Joint POU Intervenors thus ask the Commission to remove the 150 percent limit from the commercial interest scoring criteria.

The CAISO's proposal already recognizes that smaller LSEs may need larger projects than their allocated points each year. This is why the full allocation can go to 150 percent of the LSE's points for that year, and why LSEs can aggregate points or full allocations with other LSEs. Using hypothetical scenarios, Joint POU Intervenors describe some of the challenges the cap may present.[87] Although the CAISO notes that many of these hypotheticals are remote,[88] the CAISO does not disagree that LSEs may be constrained in their allocations each cluster. But these constraints are intentional and they are reasonable. They also are similar to the alternative points allocation method, which is based on 100 percent of the LSE's allocated points, not the higher 150 percent. The CAISO's proposal is not simply designed to constrain what generation developers can submit; it is designed to align planning, development,

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86 Joint POU Intervenors at 15.

87 *Id.* at 15-17.

88 For example, of the 70 LSEs in the CAISO, only six have peak demands less than 10 MW, and nearly every small LSE already participates in an aggregated planning, procurement, or scheduling group such as NCPA. NCPA also creates examples using the City of Biggs, the smallest NCPA member. *See id.* at 17. But the City of Biggs is not a registered load-serving entity; it already only participates through NCPA.

and procurement.

The CAISO proposed the 150 percent limit based on the Commission's holding in *MISO*, which Joint POU Intervenors do not reconcile or cite in their limited protest. In *MISO*, the Commission rejected the MISO interconnection cap proposal in part because it would allow exemptions that could undermine the cap's purpose. The Commission found that MISO's proposed exemptions violated open access principles because "the cap exemptions create priority access to the generator interconnection process for the exempted classes of interconnection requests."[89] The CAISO took the Commission's logic into account, and thus proposed the 150 percent limit on the LSE full allocation option. Without it, LSEs of any size could provide maximum commercial interest points regardless of the LSE's demand or the interconnection request's capacity. This could not only alter the LSE incentives between awarding points or awarding full allocations, it could undermine the CAISO's proposed study limits. There are 70 LSEs that will receive points allocations for cluster 15. Without a cap on the amount they can procure, each interconnection study cluster could be disproportionate to planned deliverability because too many LSEs use full allocations for projects somewhat disproportionate to their needs, some LSEs use full allocations for projects significantly disproportionate to their needs, or both.

The CAISO also proposed the 150 percent limit on full allocations to avoid making full allocations so attractive that it could result in gaming. As Joint POU

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89 *MISO* at P 176.

Intervenors note, "[s]maller LSEs could have years when they do not have a procurement need and so will not allocate any points."[90] But without the 150 percent limit, developers could entice LSEs with no procurement needs to give a full allocation to projects of *any* capacity (*e.g.*, a 500 MW project could maximize its commercial interest points with a full allocation from an LSE that has little or no procurement need). And this could occur for each LSE for every annual cluster.

If, however, the Commission agrees with Joint POU Intervenors that the 150 percent limit on full allocations should be severed from the full allocation option on compliance, the CAISO notes that there still would be some limit on full allocations that prevent it from undermining the CAISO's proposed study limits or creating "priority access to the generator interconnection process for the exempted classes of interconnection requests," in conflict with *MISO*.[91] Each LSE would still be limited by the restriction of one full allocation per cluster. Regardless of the Commission's determination on this matter, the CAISO commits to monitoring the use of the full allocation option in cluster 15 to evaluate whether an alternative cap, if any, is required before future interconnection request windows.

Joint POU Intervenors also argue that "NCPA will be unable to award full commercial interest points to the vast majority of the projects in Cluster 15 because they are larger than 180 MW", stating that "[m]ost projects bidding into

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90 Joint POU Intervenors at 17.

91 *MISO* at P 176.

NCPA's recent requests for proposals ('RFP') exceed 400 MW."[92] The CAISO understands this concern and will duly monitor the results of cluster 15; however, the CAISO expects that many cluster 15 interconnection requests will reduce their capacity as allowed before and during the CAISO's proposed screening process specifically to meet LSEs' specific needs. Generation developers noted throughout the Track 2 IPE 2023 stakeholder process that they submitted interconnection requests with large capacities simply as a reservation or insurance in case the next interconnection request window was delayed. Tariff provisions pending in the CAISO's Order No. 2023 Compliance Filing, which the CAISO proposes to make effective May 17, 2024, will enable cluster 15 interconnection customers to right-size their projects before LSEs indicate commercial interest.[93] It is reasonable to expect that many cluster 15 interconnection customers will take this opportunity, especially where they may receive a full allocation of commercial interest points as a result.

3. The CAISO Has Reasonably Addressed Concerns About the Potential for Load-Serving Entities to Favor Affiliates

As a basis for objecting to the commercial interest scoring criteria, many commenters now suggest that potential discrimination by load-serving entities in favor of their own generation projects or those developed by their affiliates is a reason to reject this aspect of the CAISO's proposal. These objections are based on a hypothetical that has no factual foundation in the region. First, load-

[92] Joint POU Intervenors at 16.

[93] Section 17.1(b) of the GIDAP, as pending in the CAISO's Order No. 2023 Compliance Filing.

serving entities that own transmission have transferred operational control to the independent CAISO. Since the start-up of the CAISO in 1998, there has been no evidence of potential concerns related to load-serving entity abuse in favor of affiliated generation in the CAISO. In addition, generation interconnection requests to the CAISO from load-serving entities or their affiliates have been few. The arguments of those opposing the commercial interest criteria are pretextual. The very low levels of load-serving entity generation self-builds have never been challenged as problematic in the past in a Commission proceeding or even raised as a concern in any prior CAISO stakeholder process. There is no basis for generation developers to now imply that this is a large problem facing the CAISO interconnection process, especially in the face of broad support from California regulators like the CPUC.

Notwithstanding the lack of any evidence underlying these concerns, to address questions raised by stakeholders, the CAISO proposed the limitation that, for each cluster application window, a load-serving entity may allocate points to the greater of three interconnection requests from affiliates, or no more than 25 percent of its points to interconnection requests from affiliates based on their requested interconnection service capacity.[94] The comments of the Public Interest Organizations provide a helpful and objective roadmap for how the Commission might consider this issue. The Public Interest Organizations express concerns about potential undue discrimination by load-serving entities but concluded that

[94] *See* transmittal letter for August 1 Filing at 42-43.

> recognizing the importance of including some sort of commercial interest factor and the steps CAISO has taken to limit the potential for undue discrimination, PIOs [Public Interest Organizations] believe the public interest will better be served by [the commercial interest factor's] inclusion than by its exclusion for prioritization.[95]

Regulatory oversight also will provide additional protections against any hypothetical potential for load-serving entities to discriminate in favor of affiliated generation. By far, the largest share of load-serving entities in terms of load served in California are investor-owned utilities. These load-serving entities are regulated by the CPUC, which has committed to provide oversight to ensure that utility-owned resources are only permitted as needed.[96] The Commission also can regulate these investor-owned utilities in their capacity as public utilities.

In addition to any actions that might be undertaken by the CPUC or the Commission, if the CAISO identifies favoritism toward any load-serving entity affiliates occurring after the tariff revisions in the August 1 Filing go into effect, the CAISO will work to develop a solution with stakeholder input. The history of the CAISO's interconnection process tariff provisions shows the willingness and ability of the CAISO to file with the Commission to make appropriate revisions where needed.[97] In light of these multiple layers of protection, there is no reason to reject the commercial interest elements of the August 1 Filing based on speculative concerns about undue discrimination.

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[95] Public Interest Organizations at 3. They also note that "the steps CAISO has taken to limit the potential for undue discrimination are extensively documented." *Id.*

[96] CPUC at 5.

[97] See the relevant discussion at page 16 of the transmittal letter for the August 1 Filing.

Claims that load-serving entities could seek to circumvent the affiliate limitations developed by the CAISO by awarding commercial interest points only to affiliates are misplaced.[98] First, CPUC-regulated load-serving entities have broad state procurement mandates they must satisfy, and there is no reason to think they would harm their ability to comply with those state requirements to gain a short-lived affiliate advantage. In addition, the potential behavior Vistra cites would shine a flashlight on potential affiliate favoritism by a load-serving entity, likely prompting swift action by the CAISO or relevant regulators.

Some commenters express concerns that load-serving entities like community choice aggregators (CCAs) or electric service providers (ESPs) may be subject to more limited oversight by an organizational board or local regulator and therefore create a greater potential for affiliate abuse.[99] Again, the CAISO notes that it can respond to potential unwarranted affiliate favoritism by any load-serving entity. To the CAISO's knowledge, to date CCAs have not developed affiliated generation facilities subject to the CAISO interconnection process. ESPs, similarly, represent a very small percentage of CAISO load. Moreover, as Vistra acknowledges, CCAs and ESPs "generally have a financial incentive or duty to seek the most economic supply options available"[100] They would be acting contrary to these duties and incentives to allocate commercial interest points to favor affiliates instead of procuring the most economic supply option.

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98 *See* Vistra at 10.

99 EPSA at 5.

100 Vistra at 12 n.32.

The Shell Companies suggest that the CAISO's proposal gives larger load-serving entities preference over small load-serving entities.[101] This is based on a misunderstanding of the CAISO's proposal. Small and large load-serving entities both have the same options, but the CAISO has provided additional flexibility more likely to be exercised by small load-serving entities. Small load-serving entities are more likely to lack sufficient commercial interest points to match the capacity of any one project so the option to make a full allocation to one project is more likely to be beneficial to them. This option is less likely to be attractive to load-serving entities that have sufficient commercial interest points to match the capacity of any one or more projects of interest.

4. Non-LSE Commercial Interest Is Appropriately Addressed

Under the CAISO's proposal, commercial interest points equaling no more than 25 out of 100 possible sub-points can be awarded to a project where an entity that is not a load-serving entity (a "non-LSE") such as a commercial or industrial customer provides an affidavit documenting its commercial interest in the project.[102] Some commenters claim that this will result in undue discrimination favoring load-serving entities over non-LSEs.[103] Under longstanding Commission precedent, a reasonable distinction between entities

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101 Shell Companies at 15-16.

102 Transmittal letter for August 1 Filing at 37-38.

103 *See, e.g.*, Shell Companies at 16; Vistra at 15-18.

that are not similarly situated is not unduly discriminatory or preferential.[104] Load-serving entities in the CAISO footprint have service obligations as well as an obligation to provide resource adequacy. Moreover, the area delivery network upgrades identified in the CAISO transmission plan that provide the deliverability interconnection customers request are public policy upgrades to support those resource adequacy obligations. Complying with resource adequacy requirements requires that resources relied upon by a load-serving entity must be studied for sufficient deliverability in the CAISO's study process. On the other hand, non-LSEs have no comparable service obligation and are not required to provide resource adequacy, but may nevertheless be actively procuring resources that seek to utilize the available TP deliverability needed for resource adequacy. Non-LSEs are situated very differently from load-serving entities because they have no obligations to serve end-use customers that are a foundational element of the deliverability requirements in the CAISO tariff. Notably, no non-LSEs engaged in resource procurement or considering procuring generation objected to the CAISO proposal in this proceeding.

Vistra also objects to the CAISO's proposal that non-LSE commercial interest affidavits must attest the counterparty is supporting the interconnection

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[104] Section 205 of the FPA prohibits a public utility from "mak[ing] or grant[ing] any *undue* preference or advantage to any person or subject[ing] any person to any *undue* prejudice or disadvantage." FPA Section 205(b), 16 U.S.C. § 824d(b) (emphasis added). So long as there is no undue preference or discrimination, the public utility satisfies the requirements of Section 205. "Whether a rate or practice is unduly discriminatory depends on whether it provides different treatment to different classes of entities and turns on whether those classes of entities are similarly situated." *Calpine Corp. v. PJM Interconnection, L.L.C.*, 171 FERC ¶ 61,035, at P 318 (2020). *See also Town of Norwood v. FERC*, 202 F.3d 392, 402 (1st Cir. 2000) ("But differential treatment does not necessarily amount to *undue* preference where the difference in treatment can be explained by some factor deemed acceptable to regulators (and the courts).") (emphasis in original).

request in support of corporate policy goals on sustainability.[105] This proposed requirement is directly linked to the reason additional deliverability is being added to the CAISO controlled grid. The vast majority of additional deliverability being developed through the CAISO's transmission planning process is designed to address California clean energy goals. It is reasonable to require, as a condition to accessing this deliverability, that a non-LSE must be seeking deliverability to serve a comparable policy objective. A non-LSE seeking to develop a project not linked to California state policy goals retains the ability to choose the energy-only merchant option and face no screening anywhere in the enhanced interconnection process. For these reasons, the CAISO's proposal rightfully balances the value of non-LSE interest as a commercial interest factor against interest from an LSE with an obligation to serve end users and provide resource adequacy.

E. The Project Viability Scoring Criteria Reflect Pragmatic Considerations in Generation Development

The CAISO's proposed scoring of project viability points takes into account two significant factors indicating the likelihood of projects making continued progress toward commercial operation: (1) an engineering design plan of a generating facility confirmed by a supporting affidavit, and (2) evidence of expansion of a generating facility confirmed by supporting documentation.[106]

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105 Vistra at 18-19.

106 Transmittal letter for August 1 Filing at 39-40.

As to the scoring criteria of an engineering design plan, Aypa argues they are likely to become a mere check-the-box exercise for project developers.[107] However, Aypa provides no support for this speculative concern. In any event, the completeness of the engineering design plan must be supported by an affidavit from a professional engineer.

Aypa and the Clean Energy Associations contend that additional factors not covered by the engineering design plan scoring criteria (*e.g.*, permitting, zoning, and community support) also should be included in determining the viability of a project.[108] The CAISO should not be required to include these additional factors in the scoring criteria, which go beyond what the CAISO proposes and may not be as easily validated as a completed engineering design plan—for example, trying to quantify community support and assign it a point value may be an impractically subjective exercise.

Aypa and Joint Interconnection Customers argue that the scoring criteria for expansion of a generating facility unduly discriminate in favor of incumbent projects over new entrants.[109] The Commission should accept those scoring criteria as filed. They reflect the CAISO's experience that projects expanding existing facilities tend to be more viable and likely to reach commercial operation than new projects. In Order No. 1000-A, the Commission found that incumbents may have certain advantages in developing facilities but that the existence of

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107 Aypa at 9.

108 *Id.*; Clean Energy Associations at 4.

109 Aypa at 10; Joint Interconnection Customers at 6-7.

such advantages does not result in undue discrimination.[110] The same remains true today.

F. The System Need Scoring Criteria Are Reasonably Aligned With the CAISO Planning Process and Integrated Resource Portfolios

The CAISO's proposed scoring of system need points applies to two types of resources that present significant value by addressing resource needs on the CAISO controlled grid and provide reliability or resource adequacy benefits to consumers: (1) generating facilities that could be needed as local capacity area resources when their interconnection requests are submitted, and (2) qualifying generating facilities designated by a local regulatory authority as long lead-time resources, both of which the CAISO will confirm with the applicable local regulatory authority.[111]

Aypa, the Clean Energy Associations, and the Shell Companies argue that the system need factor is unduly focused on long lead-time resources and should include other resources that provide system or flexible capacity.[112] The CAISO's proposal is not unduly discriminatory. The CAISO's system needs criteria are appropriately tailored to address system needs as identified by state regulatory agencies and others. In particular, state clean energy goals will require long lead-time resources. The CAISO's recent transmission plans already identify public policy network upgrades specifically designed to support the development

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110 *Transmission Planning & Cost Allocation by Transmission Owning & Operating Pub. Utils.*, Order No. 1000-A, 139 FERC ¶ 61,132, at P 88 (2012).

111 Transmittal letter for August 1 Filing at 40-41.

112 Aypa at 10-11; Clean Energy Associations at 4; Shell Companies at 17.

of these resources based on state and load-serving entity resource plans.[113] As such, the CAISO's proposal is appropriately tailored.

G. The CAISO's Proposal Appropriately Accounts for Mixed-Fuel Resources

In the August 1 Filing, the CAISO explained it is not possible for the CAISO to screen a single interconnection request under two cluster study criteria simultaneously. Allowing such an option only would incentivize interconnection customers to submit such dual requests to see which may be successful.[114] The Clean Energy Associations and Clearway fault the CAISO for not establishing a dual-screening option for mixed-fuel resources (*e.g.*, hybrid and co-located solar and storage), with Clearway requesting that the Commission condition its acceptance of the August 1 Filing upon the CAISO's establishing such an option.[115]

The Commission should not direct the CAISO to establish a dual-screening option. As the CAISO noted in the August 1 Filing, this issue affects only a small number of interconnection customers—less than 5 percent of cluster 15,[116] and this small universe is not sufficient reason to provide an open path for what will result in broad gaming of the screening criteria. Interconnection customers also have the options to reduce their interconnection service capacity,

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113 *See, e.g.*, *2023-2024 Transmission Plan* at 1-6, 17, 63-102 (May 23, 2024), available on the CAISO website at https://stakeholdercenter.caiso.com/RecurringStakeholderProcesses/2023-2024-Transmission-planning-process.

114 Transmittal letter for August 1 Filing at 53.

115 Clean Energy Associations at 9-12; Clearway at 9-11.

116 Transmittal letter for August 1 Filing at 56-57.

reduce their requested deliverability, or remove or modify their generating units before cluster 15 re-commences. Thus, it is unnecessary to take action on a possible dual-screening option now.

However, the CAISO also recognizes that it included the scoring of partial capacity deliverability status generating facilities (*e.g.*, mixed-fuel resources) under the cluster study criteria as one of the severable components of the August 1 Filing, and stated that the treatment of such generating facilities could be modified on compliance with a Commission order accepting other tariff revisions contained in the August 1 Filing.[117] In any case, the CAISO is committed to evaluating the impacts on each type of resource, and making any necessary enhancements to continue to ensure a level playing field before the next cluster window.

H. Restrictions on Changing Points of Interconnection Are Justified

One commenter objects to the CAISO's proposal to limit the right of interconnection customers to finalize the point of interconnection no later than 10 days after the close of a cluster application window.[118] The proposed 10-day limitation is necessary to allow the CAISO to undertake initial screenings of interconnection requests based on a fixed set of constraints, an important element of the August 1 Filing. A timeline that ensures expeditious application of the cluster study criteria is appropriate to realize the benefits of the CAISO's tariff

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117 *Id.*

118 Shell Companies at 22-24. *See also* transmittal letter for August 1 Filing at 25.

enhancements. Allowing customers to change points of interconnection later in the process could unfairly enable some projects to be screened based on one set of constraints and then alter the assumptions on which those projects were initially evaluated. The CAISO acknowledges that this proposal varies somewhat from the Order No. 2023 approach to changing points of interconnection. This is an appropriate independent entity variation as it allows the CAISO to address unique regional challenges through the widely supported zonal approach to interconnection reform. Allowing changes to points of interconnection up until 10 days after each scoping meeting for a massive set of interconnection requests, as the Shell Companies propose, would push back the application of screening criteria, making the CAISO's enhanced procedures far slower and more cumbersome. The Commission should afford the CAISO the opportunity to implement its proposed reforms for cluster 15, and the CAISO will make any necessary enhancements to pre-cluster study timelines once it gains experience, and before the next cluster window.

Another commenter argues that the CAISO's proposal is unduly discriminatory because cluster 15 interconnection requests do not have exactly the same ability to elect points of interconnection as will be provided to customers in later clusters.[119] The CAISO notes that cluster 15 interconnection requests have already been submitted based on a general understanding that the CAISO was undertaking ongoing interconnection enhancements. Under the CAISO's proposal, customers with pending interconnection requests in cluster 15

[119] NextEra at 14-15.

can change their points of interconnection within the same zone, but cannot move a point of interconnection to a completely different zone within the CAISO controlled grid.[120] For all intents and purposes, this would be like allowing a customer to submit a new cluster 15 interconnection request. The CAISO acknowledges that, as a transitional measure, some unique procedures apply to cluster 15, including the rules on changing points of interconnection. This is comparable to how the Commission has mandated a transition process for the reforms in Order No. 2023. The Commission found that the right to withdraw an interconnection request without penalty and potentially resubmit the request in a future cluster allowed the Order No. 2023 transition to be just and reasonable.[121] The CAISO has provided a comparable opportunity for customers to withdraw interconnection requests in cluster 15 without financial consequences.

I. Allowing Changes to Deliverability Status Within an Interconnection Cluster Would Eliminate the Benefits of the CAISO's Proposal

One commenter argues that interconnection customers selecting the Deliverable Option should have the ability to switch within the same cluster to a merchant option if it is not selected to receive deliverability after the CAISO applies all screening criteria.[122] This proposed change would harm those interconnection customers that are allocated scarce deliverability after the CAISO completes its screening and scoring process. An offer to fund network upgrades

120 Transmittal letter for August 1 Filing at 41-42 n.130.

121 *See* Order No. 2023 at P 859.

122 Shell Companies at 20-21.

long after the deadline cannot be accommodated without an impact on the deliverability awarded to those customers that passed the CAISO's screens and followed the applicable rules. It also may not be possible to accommodate additional network upgrades in a zone without harming reliability or degrading the deliverability available to other customers. At a minimum, such a post-deadline switch to the merchant option would require re-studies, which would deprive other interconnection customers of commercial certainty in the near-term and would delay the delivery of needed resources to end-use consumers. There is no reason to impair the CAISO's interconnection enhancements by adding this complication, particularly because interconnection customers historically have never selected the merchant option.

In response to another comment by the Shell Companies,[123] the CAISO clarifies that the limitation in section 4 of the RIS (Appendix KK to the CAISO tariff) does not prohibit an interconnection request initially studied as an energy-only interconnection request but later withdrawn from submitting a new interconnection request for the same project seeking deliverability in a future cluster. Withdrawn interconnection requests have no effect on future interconnection requests, even if they share sites and attributes.

[123] *Id.* at 21-22.

J. Applying the Tariff Revisions to Cluster 15 Will Not Violate the Filed Rate Doctrine or the Rule Against Retroactive Ratemaking

NextEra argues that applying the tariff revisions in the August 1 Filing to cluster 15 may violate the filed rate doctrine and the rule against retroactive ratemaking, and therefore the tariff revisions should instead apply only to cluster 16 and subsequent clusters.[124] That argument—which NextEra is alone in making—is meritless.

The filed rate doctrine prohibits public utilities from charging rates other than those "'file[d] with the Commission'"[125] and serves the public policy purpose of preventing utilities from charging customers at rates for which notice has not been provided.[126] The rule against retroactive ratemaking is a corollary to the filed rate doctrine[127] that "prohibits the Commission from adjusting current rates to make up for a utility's over- or under-collection in prior periods."[128] The filed rate doctrine and rule against retroactive ratemaking also apply to non-rate terms and conditions.[129] No violation of the filed rate doctrine or the rule against retroactive ratemaking exists here, because interconnection customers in cluster

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124 NextEra at 8-11.

125 *West Deptford Energy, LLC v. FERC*, 766 F.3d 10, 12 (D.C. Cir. 2014) (quoting FPA Section 205(c), 16 U.S.C. § 824d(c)) (*West Deptford*).

126 *See West Deptford*, 766 F.3d at 12; *Old Dominion Elec. Coop. v. FERC*, 892 F.3d 1223, 1231 (D.C. Cir. 2018) (*ODEC*).

127 *See Verso Corp. v. FERC*, 898 F.3d 1, 10 (D.C. Cir. 2018) ("The 'rule against retroactive ratemaking' and the filed-rate doctrine may thus be understood as 'corollar[ies]' that make static the rates paid for energy, once established.").

128 *ODEC*, 892 F.3d at 1227 (quoting *Towns of Concord, Norwood, & Wellesley, Mass. v. FERC*, 955 F.2d 67, 71 n.2 (D.C. Cir. 1992)).

129 *Waiver of Tariff Requirements*, 171 FERC ¶ 61,156, at P 6 (2021).

15 had sufficient notice that the tariff was subject to change and that the changes will go into effect prospectively.

Track 2 of the IPE 2023 initiative began in May 2023 with the issuance of a paper that included discussion under the heading "Proposed Foundational Principles for Interconnection Process Reforms for Cluster 15 and Beyond,"[130] which put all market participants on notice that cluster 15 would be subject to enhancements. In contrast to that notice provided in May 2023, NextEra claims that there was ample notice that the CAISO's Order No. 2023 Compliance Filing would apply to cluster 15, but that compliance filing was not filed until May 2024 and Order No. 2023 itself was not issued until July 2023. Various requests to place cluster 15 on hold provided further notice that the Track 2 IPE 2023 enhancements might affect cluster 15. Pursuant to a prior tariff amendment, cluster 15 has been suspended since August 2023 to "enable CAISO [to] work with stakeholders to develop meaningful reforms for processing Cluster 15."[131] Thus, NextEra and other interconnection customers in cluster 15 have long been aware that tariff revisions were coming.[132] And the tariff revisions ultimately included in the August 1 Filing will apply prospectively, effective October 1, 2024

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130 2023 Interconnection Process Enhancements Track 2 Discussion Paper at 7-9 (May 31, 2023), available on the CAISO website at https://stakeholdercenter.caiso.com/StakeholderInitiatives/Interconnection-process-enhancements-2023.

131 *Cal. Indep. Sys. Operator Corp.*, 184 FERC ¶ 61,069, at PP 19-20.

132 NextEra's statement (at page 4 of its protest) that details of some of the tariff changes in the Track 2 IPE 2023 stakeholder process were developed and finalized in the spring and summer of 2024 does not alter the fact that interconnection customers in cluster 15 received sufficient notice. It is typical in CAISO stakeholder processes for enhancements to be refined over time based on iterative discussions with stakeholders. Further, stakeholders were given additional time to comment on the draft tariff language to be included in the August 1 Filing.

(assuming the Commission authorizes that effective date as requested in the August 1 Filing).

NextEra points to nothing in the tariff provisions regarding cluster 15 that indicates that interconnection customers in that cluster would be subject, after the suspension ends, to anything other than the currently effective tariff provisions applicable to them at the relevant time, just like all other parties under the tariff are subject to the currently effective provisions unless otherwise specified. The CAISO tariff has always been defined as the tariff "dated March 31, 1997, *as it may be modified from time to time*."[133] No provision in the tariff sets forth an exception that makes cluster 15 interconnection customers subject to previously effective tariff provisions.[134]

Moreover, Commission precedent supports applying the tariff revisions to cluster 15 effective as of October 1, 2024. The Commission allows interconnection queue processes to be modified on a transitional basis. For example, the Commission has established a transition process for moving to the first-ready, first-served cluster study process adopted in Order No. 2023 from the existing first-come, first-served serial study process under the Commission's *pro forma* Large and Small Generator Interconnection Procedures and Agreements.[135] Like the transition process established in Order No. 2023, the

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[133] Tariff appendix A, definition of CAISO Tariff (emphasis added). Similarly, the Generator Interconnection Study Process Agreement for Queue Clusters under the GIDAP states that "reference to any . . . tariff means such . . . tariff as amended or modified and in effect from time to time." GIDAP appendix 3, section 13.5.

[134] *See* GIDAP, section 17.

[135] Order No. 2023 at P 855 *et seq.*

tariff revisions in the August 1 Filing will make interconnection customers subject to an existing set of interconnection queue processes subject to modifications to those queue processes.

Also, with regard to the CAISO specifically, the Commission has rejected arguments that the filed rate doctrine requires the CAISO to evaluate projects in in its transmission planning process under tariff provisions in effect at the time the projects were submitted to the CAISO, in the absence of tariff language that expressly grandfathers such projects under the previously effective tariff provisions.[136] The same reasoning applies with equal force to tariff provisions regarding generator interconnections for cluster 15.

In sum, the filed rate doctrine and rule against retroactive ratemaking do not preclude the treatment of cluster 15 proposed in the August 1 Filing.

K. Forcing the CAISO to Process Cluster 15 Without Interconnection Process Enhancements Will Lead to Inaccurate Study Results that Will Impair Development and Procurement

In addition to the lack of merit of NextEra's arguments as to the filed rate doctrine and rule against retroactive ratemaking, there are compelling practical reasons why the Commission should allow the treatment of cluster 15 proposed in the August 1 Filing. Given the 541 interconnection requests totaling 347 GW all requesting deliverability submitted in cluster 15, processing them subject only to the tariff revisions proposed in the CAISO's Order No. 2023 Compliance Filing

[136] *Critical Path Transmission, LLC v. Cal. Indep. Sys. Operator Corp.*, 135 FERC ¶ 61,031, at P 37 (2011).

and without the additional generator interconnection enhancements contained in the August 1 Filing is likely to lead to inaccurate study results with little meaning. These study results will not account for the realities of available and planned deliverability on the CAISO controlled grid.[137] The Commission should not compel the CAISO to deploy resources inefficiently in this way, particularly when all commenters other than a few developers favor all or most of the CAISO's reforms.

L. The CAISO's Proposal Provides Appropriate Transparency

The Shell Companies claim that the CAISO has not provided sufficient transparency as to how it will implement its proposal and has not provided data that would allow customers to "reverse engineer" the modelling assumptions used in the determination of Transmission Zones.[138] The CAISO already has provided ample information informing how it will determine Transmission Zones. For example, the CAISO published the latest Transmission Capability Estimates in August 2023, the Interconnection Area Substation Point of Interconnection list in May 2024, and documentation on Interconnection Area Constraint Zones and Constraint Mapping with Transmission Plan Deliverability Allocated in April 2024.

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[137] See transmittal letter for August 1 Filing at 2 ("The CAISO's Order No. 2023 compliance revisions are the foundation for the instant filing, but these revisions alone are not enough to address the crisis facing the region's efforts to connect resources to the CAISO controlled grid."); *id.* at 3 ("In addition to the unsustainable strain on planning and engineering resources, interconnection study results lose accuracy, meaning, and utility when the level of cluster interconnection request capacity is multiple times the existing or planned transmission capacity for an area."); *id.* at 54-55 ("It simply is not possible for the CAISO to make realistic study assumptions, let alone produce realistic study results, without first returning the volume of interconnection requests to levels that the CAISO's available and planned transmission capacity can accommodate.").

[138] Shell Companies at 3, 10-13.

The CAISO is committed to updating this information as appropriate prior to opening of each cluster window. Notably, other commenters highlighted the extent of the CAISO's transparency. Clearway, for example, states that "the upfront data that will be provided by the CAISO is a keystone to a fair process, guiding developers to locations on the grid where transmission capacity is available."[139]

The Shell Companies also raise a concern about the availability of deliverability models.[140] This concern appears to be based on a misunderstanding. All of the relevant data related to the most recent cluster study, cluster 14 phase II, underlying the deliverability models and reliability study models are posted on the CAISO's market participant portal. These are the models that are used to establish network upgrade obligations and that will be used as a foundation for the CAISO's proposal.

The Shell Companies request clarification of the phrase "behind the constraint" in the following statement from page 7 of the August 1 Filing letter, "Ties will be resolved by calculating and selecting the project with the lowest distribution factor behind the constraint."[141] The CAISO has published all of the area constraints that will be considered in the intake process. These area constraints were identified in the cluster 14 deliverability studies and are documented in the cluster 14 reports posted on the market participant portal for each study area or zone. In this context, "behind the constraint" means that a

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139 Clearway at 3.

140 Shell Companies at 11.

141 *Id.* at 13.

generator has a 5 percent effectiveness as measured by distribution factors on the most constraining flowgate associated with the area constraint, or a 10 percent effectiveness for 500 kV lines.[142]

M. There is No Need for the CAISO to File Informational Reports with the Commission

Vistra requests that the Commission require the CAISO file reports within 120 days of the completion of each study cycle to provide greater transparency regarding the implementation of the August 1 Filing.[143] There is no need for the Commission to impose such a requirement.

The CAISO has committed to monitoring the results of various components of the interconnection request intake process and coordinating with the CPUC, local regulatory authorities, and stakeholders to ensure competition and open access for cluster 15 and subsequent clusters.[144] Moreover, the CAISO already has a strong track record of monitoring its interconnection procedures and producing public documentation of performance and potential

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142 *See* CAISO Generator On-Peak Deliverability Assessment Methodology at 6, available on the CAISO website at https://www.caiso.com/documents/on-peak-deliverability-assessment-methodology.pdf.

143 Vistra at 3-4.

144 *See* transmittal letter for August 1 Filing; attachment D to August 1 Filing, *2023 Interconnection Process Enhancements: Final Addendum to Track 2 Final Proposal*, at 7-8 (June 5, 2024) (Track 2 Final Addendum).

areas for improvement.[145] In these circumstances, the Commission should not impose additional monitoring or reporting obligations.[146]

N. The Commission Can Elect to Sever Certain Aspects of the CAISO's Proposal and Approve the Balance of the Proposed Tariff Amendments

The items that the CAISO previously identified as severable include aspects of the August 1 Filing that attracted the most comment, including the commercial interest scoring criteria and the ability of load-serving entities to award commercial interest points to their affiliates subject to the restrictions proposed by the CAISO.[147] In addition, as explained above, the CAISO agrees with Joint POU Intervenors that as a procedural matter the 150 percent limit on the full allocation option for load-serving entity commercial interest points is severable from the full allocation option itself.[148] All of these elements of the August 1 Filing are justified for the reasons explained above. Nevertheless, to the extent the Commission concludes that any of these aspects of the CAISO's

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145 See, for example, the reports available on the CAISO website at https://www.caiso.com/library/market-reports and https://www.caiso.com/market-operations/market-monitoring.

146 *See, e.g.*, *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,160, at P 27 ("Moreover, CAISO and DMM already perform monitoring and analysis of market results, and we expect that these analyses would include the use and impact of this payment rule."); *id.* at P 36 ("Finally, we decline Calpine's request that the Commission direct CAISO to submit an informational filing on the issue of RDRR migration to the hourly block bid option. As CAISO notes, both it and DMM consistently monitor and audit demand response providers, and CAISO also regularly discusses market performance issues with its stakeholders."); *Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,069, at P 19 (2020) (internal citation omitted) ("Finally, we decline to adopt PG&E's recommendation for annual reporting by CAISO. In light of the information on released transmission capacity available through CAISO's OASIS, we find no need for CAISO to file similar information with the Commission.").

147 Transmittal letter for August 1 Filing at 55-57.

148 *See* section III.D.2 of this Answer.

proposal are not yet fully justified, the Commission should act consistent with the undisputed and critical need for interconnection process reform in the region, and sever these discrete aspects of the proposed tariff amendments rather than reject the CAISO's proposal outright.

IV. Conclusion

For the foregoing reasons, the Commission should accept the tariff revisions contained in the August 1 Filing without modification or condition effective October 1, 2024. In the alternative, the Commission should sever only select elements of the tariff amendments in the August 1 Filing and allow the remaining interconnection process enhancements to become effective October 1, 2024.

Respectfully submitted,

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Dated: September 3, 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 proceeding, 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 Washington, DC this 3rd day of September, 2024.

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