

141 FERC ¶ 61,219  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Philip D. Moeller, John R. Norris,  
Cheryl A. LaFleur, and Tony T. Clark.

California Independent System  
Operator Corporation

Docket No. ER13-218-000

ORDER ON TARIFF AMENDMENT

(Issued December 20, 2012)

1. On October 29, 2012, the California Independent System Operator Corporation (CAISO) filed a tariff amendment to provide a one-time opportunity for certain customers in CAISO's interconnection queue<sup>1</sup> to downsize their projects, in order to facilitate completion and achieve commercial operation of projects that would be viable but for an inability to construct the full megawatt (MW) generating capacity originally requested. This order conditionally accepts CAISO's proposed tariff amendment, effective January 1, 2013, as requested, subject to the submission of a compliance filing.

**I. Background**

2. CAISO states that in response to the economic climate, and in order to meet the current, sometimes revised, contractual needs of load serving entities, numerous interconnection customers have requested an opportunity to downsize their projects beyond the existing downsizing options available in CAISO's tariff.<sup>2</sup>

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<sup>1</sup> As explained in the body of this order, the proposed tariff amendment would only apply to interconnection customers that entered the CAISO interconnection queue prior to cluster five, and does not extend to interconnection customers in queue cluster five and later clusters, whose interconnection requests are being processed under CAISO tariff Appendix DD, the Generator Interconnection and Deliverability Allocation Process recently accepted by the Commission. *See Cal. Indep. Sys. Operator Corp.*, 140 FERC ¶ 61,070 (2012).

<sup>2</sup> Downsizing refers to a generation developer constructing less than the full MW capacity of a project as specified in its interconnection agreement.

3. According to CAISO, the pre-cluster five interconnection customers have voiced a number of reasons why an additional downsizing opportunity would be of benefit.<sup>3</sup> CAISO states that a developer may not be able to construct the full MW capacity of a project for reasons ranging from not securing a power purchase agreement for the full output of the originally planned capacity to evolving economic and financing conditions. However, CAISO's tariff only permits downsizing in limited circumstances.

4. CAISO currently provides four options for downsizing. The first option allows for downsizing during interconnection studies when all parties agree.<sup>4</sup> The second option allows for downsizing after the study process through "material modification" review, which permits downsizing where there is no material impact on cost or timing of later-queued interconnection requests.<sup>5</sup> The third option is a "safe-harbor" (5 percent MW capacity) downsizing opportunity that is only available to pre-queue cluster five interconnection customers that tendered a large generator interconnection agreement (LGIA) on or after January 31, 2012.<sup>6</sup> Finally, CAISO has filed and the Commission has accepted four non-conforming interconnection agreements that include a "partial termination" provision for certain phased projects.<sup>7</sup>

5. CAISO submits that a developer who fails to secure power purchase agreements for the entire MW capacity of its proposed project may need to downsize, so the project

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<sup>3</sup> CAISO studies and processes interconnection requests for discrete groups of applicants (clusters) that apply during specific cluster application windows. CAISO explains that interconnection customers in queue cluster five and later queue clusters already have downsizing opportunities. Therefore, these later interconnection customers are not subject to the provisions of this generator project downsizing tariff amendment.

<sup>4</sup> CAISO, OATT, app. U, § 4.4 and app. Y, § 6.9.2.1.

<sup>5</sup> *Id.* app. T, article 6.2; app. U, articles 4.4.3, 4.4.5; app. Z, article 5.19.1; app. BB, article 5.19.1; app. CC, article 5.19.1; app. EE, article 5.19.1; app. FF, article 6.2.

<sup>6</sup> January 31, 2012 is the effective date of CAISO's Generator Interconnection Procedures (GIP) Phase 2 tariff amendment. *See Cal. Indep. Sys. Operator Corp.*, 138 FERC ¶ 61,060, *order on clarification and rehearing*, 140 ¶ FERC 61,168 (2012). CAISO states that it plans to file a tariff amendment in the future to extend the safe-harbor downsizing opportunity, but was unable to do so by the date of the instant tariff amendment.

<sup>7</sup> *See Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,087 (2011); *Cal. Indep. Sys. Operator Corp.*, 134 FERC ¶ 61,108 (2011); *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,055 (2011); *Cal. Indep. Sys. Operator Corp.*, Docket No. ER12-556-000 (Jan. 30, 2012) (delegated letter order).

capacity corresponds to the capacity committed through power purchase agreements before it can proceed to commercial operation and thereby exit the queue.

6. Consequently, CAISO states that it worked with stakeholders to develop this one-time downsizing opportunity for customers who are in the late stages of their interconnection process.

## **II. CAISO's Tariff Filing**

### **A. Overview**

7. CAISO states that the proposed one-time downsizing opportunity takes into account the need for greater flexibility to ensure the viability of generator projects in the changing environment while also considering the risk that such changes could impose on CAISO's transmission planning process by leaving ratepayers with the stranded costs or under-utilized upgrades.

8. CAISO explains that the proposed one-time downsizing opportunity will have no limitation on the MW generating capacity of the downsizing request. Under the proposed tariff revisions, customers are permitted to downsize, even if doing so affects other customers in the queue, but the downsizing generators will be responsible for all costs, so that no other customers or ratepayers will be adversely affected.

9. CAISO's proposal: (1) provides this one-time opportunity, in order to strengthen the efficiency and fairness of CAISO's interconnection process;<sup>8</sup> (2) limits the proposed downsizing to pre-queue cluster five customers; and (3) allows for a downsizing study to determine the impacts of the downsizing request on current customers. The cost of the downsizing study, and any resulting interconnection agreement amendments, will be borne by customers requesting downsizing.

10. Under the proposal, downsizing generators will have two opportunities to withdraw their downsizing request: (1) after receiving the preliminary estimate of its obligation for downsizing study costs, and (2) if it is notified by CAISO that its estimated responsibility for network upgrade cost has significantly increased. If downsizing requires upgrades to be modified or substituted, the resulting costs are assigned in proportion to downsizing customers' responsibility for the costs of the original upgrades. CAISO states that this mechanism ensures the preservation of the original allocation of costs among customers in the queue and protects interconnection customers and non-customers from cost shifts, ensuring that neither are worse off as a result of the downsizing. Finally, each downsizing generator has an obligation to meet milestones and is required to relinquish its suspension rights in return for its opportunity to downsize.

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<sup>8</sup> However, CAISO states that it may consider a future, second downsizing opportunity after the completion of queue cluster five studies.

11. According to CAISO, one of the potential benefits of downsizing is that certain upgrades may no longer be necessary, or may be replaced by a lower-cost upgrade. If previously identified upgrades are no longer necessary, they will be removed from affected interconnection agreements, resulting in lower costs allocated to customers that were originally responsible for the upgrade costs. If an upgrade is substituted by a lower-cost upgrade, then the cost will be assigned to the interconnection customers that originally triggered the upgrades or facilities on a *pro rata* basis preserving the original allocation of costs.<sup>9</sup> CAISO anticipates that network upgrade costs will decrease or stay the same rather than increase as a result of customers downsizing projects.

12. CAISO requests a January 1, 2013 effective date for its filing, in order to permit a proposed due date of January 4, 2013 for CAISO to receive all downsizing requests.

### **B. Downsizing Request**

13. CAISO explains that the one-time downsizing opportunity will be available to interconnection requests for small or large generating facilities in the serial study process, the transition cluster, or queue clusters one through four. CAISO states that all components of the generator downsizing requests must be received by 5:00 p.m. Pacific time on January 4, 2013. The request must include: (1) a completed generator downsizing request in the form set forth in Appendix 1 to Appendix GG;<sup>10</sup> (2) a certification in the form set forth in Appendix 2 to Appendix GG that the downsizing generator meets the eligibility requirements;<sup>11</sup> and (3) a generator downsizing deposit of \$200,000.<sup>12</sup>

14. CAISO states that a downsizing generator may seek to downsize for any reason and for any MW amount. For instance, the downsizing generator may request to change its step-up transformer and parameters of its interconnection facilities due to smaller MW capacity size. However, proposed modifications to the generating facility technology or inverter type and proposed changes to the commercial operation date are impermissible in the generator downsizing request.<sup>13</sup>

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<sup>9</sup> CAISO, OATT, app. GG § 7.1.

<sup>10</sup> *Id.* §§ 2.1, 2.5.1(i).

<sup>11</sup> *Id.* § 2.5.1(ii).

<sup>12</sup> *Id.* § 2.5.1(iii).

<sup>13</sup> *Id.* §§ 2.5.1(i), 9.

### C. Downsizing Study

15. CAISO, in coordination with applicable participating transmission owners (PTO), will perform the generator downsizing study to determine the impact of generator downsizing requests on the current plan of service for network upgrades and PTOs' planned interconnection facilities. CAISO estimates that the study will start in early February 2013, immediately following the completion of Phase I interconnection studies for queue cluster five in late January 2013. This timing allows the results of the Phase I interconnection study to become an input into the base case assumptions for the generator downsizing study. CAISO estimates that the generator downsizing study would be completed in April 2013 and the report issued by late June 2013.

16. CAISO states that the generator downsizing study is comparable to prior study projects in queue clusters prior to queue cluster five. The main difference is that the proposed generator downsizing study will be performed in one phase versus the two-phase approach established in CAISO Tariff Appendix Y. CAISO asserts that a one phase study is necessary to prevent the downsizing study from interfering with CAISO's ongoing interconnection queue process activities, CAISO asserts, particularly those related to the study of projects in queue cluster five. In addition, CAISO notes that downsizing generators will be given an opportunity to withdraw their generator downsizing request prior to the completion of the downsizing study, as discussed below, and the impact of any withdrawals will be accounted for in the downsizing study.

### D. Cost Responsibility for Downsizing Generators

17. CAISO explains that the \$200,000 generator downsizing deposit will cover prudently incurred costs associated with the generator downsizing study and associated reports, and amending the generator interconnection agreements of downsizing generators and any generators affected by the downsizing requests.<sup>14</sup>

18. CAISO also states that each downsizing generator is responsible for the costs to amend generator interconnection agreements. Specifically, the downsizing generator is responsible for \$10,000 to amend its own agreement and \$10,000 for each agreement that is affected, in whole or in part, by its downsizing request. CAISO states that the \$10,000 figure is based on a conservative estimate of the costs CAISO and PTOs would incur by devoting personnel to negotiate and prepare amendments as a result of a downsizing request. A downsizing generator's cost responsibility for amending generator interconnection agreements (GIA) is capped at \$100,000.<sup>15</sup> CAISO states that this cap is

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<sup>14</sup> *Id.* § 2.6.

<sup>15</sup> *Id.* § 2.8.

based on its estimate that few, if any, generator downsizing requests will require more than ten amendments.

19. Under the proposal, each downsizing generator is responsible for an equal share of actual costs incurred in connection with preparing the generator downsizing study and the generator downsizing study report.

20. CAISO explains that if costs are determined to be more than \$200,000, the downsizing generator is obligated to provide the additional amount, subject to cost caps.<sup>16</sup> The tariff provision provides a cap that no downsizing generator will be responsible for more than 150 percent of its equal share of the generator downsizing study cost estimate CAISO plans to post in late January 2013. CAISO explains that the price cap addresses concerns with cost uncertainty and permits each downsizing generator to better estimate the study costs associated with its generator downsizing request. Alternatively, if the amount required to pay for the costs is less than \$200,000, the downsizing generator will be refunded the unused balanced of its deposit, with interest.<sup>17</sup> CAISO states that the deposit amount strikes a reasonable balance ensuring that downsizing generators have enough at stake to participate meaningfully in the downsizing opportunity while not being so high as to unnecessarily discourage participation.<sup>18</sup>

21. Should the total cost of studies exceed the amount paid by downsizing generators under the proposed cap, CAISO and PTOs that paid expenses in undertaking the study will allocate the excess costs among themselves on a *pro rata* basis, in proportion to their individual study cost to the total amounts paid by downsizing generators.<sup>19</sup> Should the total cost of amending interconnection agreements exceed the amount paid by downsizing generators under the proposed cap, CAISO will be allocated fifty percent and the PTOs will be allocated fifty percent of the amounts paid by downsizing generators for the costs of amending interconnection agreements.<sup>20</sup>

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<sup>16</sup> *Id.* § 2.12.

<sup>17</sup> *Id.* § 2.9.

<sup>18</sup> Le Vine Test. at 17-18.

<sup>19</sup> CAISO, OATT, app. GG § 2.10.

<sup>20</sup> If there is more than one applicable participating transmission owner, then the amount paid by downsizing generators will be apportioned as agreed to between CAISO and the applicable participating transmission owners. CAISO, OATT, app. GG § 2.11.

### **E. Two Withdrawal Opportunities**

22. CAISO proposes two opportunities for downsizing generators to withdraw their requests. The first opportunity will occur after CAISO posts a preliminary estimate of aggregate generator downsizing study costs. CAISO predicts that it will post the preliminary cost estimate on its website in late January 2013, and at that time downsizing generators will have five business days to withdraw requests. Following a timely withdrawal request, CAISO will refund the generator downsizing deposit, less the costs incurred in validating the generator downsizing request, and remove the withdrawn downsizing request from the generator downsizing study.<sup>21</sup>

23. CAISO states that the second withdrawal opportunity is intended to protect against the rare instances where downsizing generators will be responsible for significantly more upgrade costs as a result of downsizing, CAISO states, and helps reduce any uncertainties associated with the cost of downsizing. Prior to the completion of the generator downsizing study, CAISO will provide a preview in April 2013 of the generator downsizing technical assessment for the generator downsizing study for those downsizing generators whose responsibility for network costs may potentially increase by more than five percent or \$5 million, whichever is lower, from its costs responsibility identified in its interconnection facilities study, Phase II interconnection study report, or applicable generator interconnection agreement. Following the release of the preview, the downsizing generator has seven business days to choose to withdraw its generator downsizing request.<sup>22</sup> If a generator timely withdraws under this second opportunity, the downsizing generator will not receive a refund of the generator downsizing deposit. In addition, CAISO clarifies that a withdrawal under either of the withdrawal opportunities will result in removal from the downsizing study but not from the CAISO interconnection queue.

### **III. Notice of Filing and Responsive Pleadings**

24. Notice of CAISO's filing was published in the *Federal Register*, 77 Fed. Reg. 66,827 (2012), with interventions, comments, and protests due on or before November 19, 2012.

25. Motions to intervene were filed by the California Department of Water Resources State Water Project, the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California (Six Cities), the City of Santa Clara, California and the M-S-R Public Power Agency, Electric Power Supply Association, Large-Scale Solar Association (LSA), the Modesto Irrigation District, NRG Companies, and Pacific Gas and Electric

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<sup>21</sup> CAISO, OATT, app. GG §§ 5.1, 5.1(i).

<sup>22</sup> *Id.* § 5.1(ii).

Company. Timely motions to intervene and protests were filed by CSOLAR IV South LLC, CSOLAR IV East LLC, CSOLAR IV West LLC, and CSOLAR IV North LLC (collectively CSOLAR) and Southern California Edison Company (SoCal Edison). On November 30, 2012, CAISO filed a motion to answer and answer to the protests. On December 11, 2012, LSA filed a motion to answer and answer to CAISO's answer.

#### **IV. Discussion**

##### **A. Procedural Matters**

26. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2012), prohibits an answer to a protest and/or answer unless otherwise ordered by the decisional authority. We will accept CAISO's answer because it has provided information that assisted us in our decision-making process. We are not persuaded to accept LSA's answer and will, therefore, reject it.

##### **B. Parties' Comments and CAISO's Answer**

###### **1. CSOLAR**

27. CSOLAR states that CAISO's proposal does not clarify whether failure to complete the full MW generating capacity in an interconnection request will result in the termination of entire Large Generator Interconnection Agreements (LGIAs), even for project phases that may already be operational or where construction has commenced. CSOLAR states that without the elimination of this uncertainty, customers could be forced to either abandon phases of projects or risk termination of their LGIAs.

28. CSOLAR requests that the Commission find that CAISO may not terminate an LGIA in its entirety that provides for phased development of a project, where an earlier project phase is already under construction or in operation and a later phase of the project has missed a development milestone. CSOLAR states that such a finding should only be applied in cases where: (1) the customer agrees to pay the full cost of identified upgrades for all customers in the same queue cluster, including the upgrades for those customers that were assigned a portion of the upgrade costs but are not yet moving forward; and (2) the customer foregoes refunds for the portion of costs that are reasonably attributable to uncompleted phases to ensure that other customers are not harmed.

29. CSOLAR explains that since CAISO's downsizing proposal is a one-time only opportunity, CSOLAR may be forced to "preemptively" downsize projects even though it has not missed any milestones in its LGIA, to prevent the uncertainty that CSOLAR may in the future be deemed in breach of its LGIA by virtue of missing future Phase II milestones.



30. CSOLAR explains that the Commission can guarantee a more efficient outcome by providing clarity on the issue now, while preventing the unnecessary termination of otherwise viable projects to hedge against the threat of potential LGIA termination for earlier project phases.

31. CAISO answers that even if the Commission were inclined to entertain CSOLAR's "hypothetical" issue, it would be inappropriate to do so in the context of this proceeding as it is beyond the scope of CAISO's proposed downsizing tariff amendment. CAISO argues that the merits of CSOLAR's argument regarding the scope of CAISO's termination authority have no bearing on whether CAISO's proposed amendment is just and reasonable.

32. CAISO states that the only argument that CSOLAR advances potentially linking its "limited protest" issue to CAISO's proposed downsizing amendment is its contention that, should the Commission not take action in this proceeding, CSOLAR may be "forced" to utilize the downsizing opportunity provided in the amendment. CAISO asserts that this contention is specious, however, because it relies on the false premise that a customer could somehow be "forced" to use the new, voluntary downsizing opportunity, when in fact the newly created opportunity gives the customer greater flexibility than before. CAISO also stresses that CSOLAR does not challenge the downsizing amendment itself; rather, CSOLAR effectively seeks a declaratory judgment that is beyond the scope of this proceeding.

## **2. Southern California Edison Company**

33. SoCal Edison states that CAISO's proposal should shield all affected generators from additional cost as a result of downsizing request, regardless of whether they are interconnecting to the distribution system or the CAISO-controlled grid. SoCal Edison argues that CAISO's proposed tariff language fails to fully protect non-downsizing interconnection customers from the impacts of downsizing requests. SoCal Edison states that, proposed Appendix GG, protection from cost increases appears limited to "Interconnection Customer[s]" and therefore, as currently defined, appears to exclude distribution system generators from the "no worse off" principle. SoCal Edison states that, based on its account of certain stakeholder meetings, CAISO's omission is probably inadvertent. However, the express language of CAISO's proposal does not shield generators interconnecting at the distribution level from the potential impacts of downsizing requests. Therefore, SoCal Edison requests the Commission to direct CAISO to revise its filing to ensure that full protection is provided to all impacted generators.

34. SoCal Edison emphasizes that, while it supports the one-time downsizing opportunity generally, generators should not be able to downsize at the expense of PTOs, ratepayers, or other affected interconnection customers. SoCal Edison argues that ratepayers and PTOs should not bear any additional costs to subsidize the benefits that a generator receives by electing to downsize its projects to make it more commercially viable. Therefore, SoCal Edison states that downsizing generators should bear the full cost of downsizing studies and not be capped at 150 percent of CAISO's preliminary cost

estimate. SoCal Edison asserts that without full protection for ratepayers and PTOs the proposal is unjust and unreasonable.

35. Next, SoCal Edison asserts that proposed Appendix HH of the CAISO filing should be revised to be consistent with Order No. 614.<sup>23</sup> SoCal Edison states that proposed Appendix HH could be viewed as a stand-alone document, while Order No. 614 requires amendments to jurisdictional agreements to be folded into the original agreements rather than “tacked on” as supplements. SoCal Edison notes that Order No. 614 only applies to agreements submitted for filing; but given that SoCal Edison files its GIA under both of its distribution-level tariffs (Transmission Owner Tariff and Wholesale Distribution Open Access Tariff (WDAT)), SoCal Edison would prefer that Appendix HH reflect a more flexible approach to the amendment process. SoCal Edison suggests that the Appendix simply indicate that the provisions proposed in Appendix HH will be incorporated into a revised GIA (whether under the CAISO tariff or under the relevant distribution tariff) and then set forth the revised *pro forma* recitals and articles. The manner in which the amended provisions are then actually incorporated – in an Order No. 614-compliant fashion or as a stand-alone agreement – can be left to the individual PTO and CAISO to decide based on whether the PTO and/or CAISO plans to file the GIA. SoCal Edison states this revision would require a few modest wording changes to Appendix GG as well.<sup>24</sup>

36. Finally, SoCal Edison claims that proposed Appendix HH includes one other “error” related to affected generators. Article 4 allows downsizing generators to continue to retain the right to downsize an additional five percent. SoCal Edison states that this provision does not apply to affected generator GIAs, but the provision does not specify this point. SoCal Edison suggests that, just as Appendix HH, Article 2 (right of suspension) specifies that that provision applies only to downsizing generators, so too Article 4 should include this clarification.

37. In its answer, CAISO agrees with SoCal Edison that the downsizing amendment should be clarified to protect generators connecting to the distribution utility system from adverse cost impacts associated with downsizing.

38. CAISO agrees with SoCal Edison that the intent of CAISO’s downsizing proposal is to protect impacted generators from any adverse cost impacts associated with

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<sup>23</sup> *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000) (Order No. 614).

<sup>24</sup> SoCal Edison claims that the above approach solves a second problem – Appendix HH assumes that CAISO is a party to the affected generator GIA that may need to be amended. However, the affected generator may not be interconnecting under the CAISO tariff, and thus CAISO may not be a party to the GIA.

downsizing, including those generators connecting to the distribution system pursuant to transmission owner tariffs such as SoCal Edison's WDAT. CAISO also agrees with SoCal Edison that the tariff language in the proposed amendment does not adequately reflect this intent. Therefore, CAISO proposes to make revisions as part of a compliance filing that would clarify that certain terminology used in the downsizing amendment, such as the definitions of "Affected Generator" and "Interconnection Agreement," will not limit the "hold harmless" protections to generators that are interconnecting directly to the CAISO-controlled grid. CAISO states that it plans to work with SoCal Edison and any other interested parties to develop the specific tariff modifications to be provided on compliance.

39. CAISO disagrees with SoCal Edison's request to eliminate the cap on study costs. CAISO reemphasizes that it chose a conservative figure of \$100,000 for the expected maximum amount of study costs for a downsizing generator, which is double CAISO's \$50,000 historical average for study costs in the normal process. CAISO's direct testimony also explained that the cost cap of 150 percent of each downsizing generator's equal share of the preliminary estimate of total downsizing study costs was proposed in the stakeholder process to address concerns about cost uncertainty regarding how many generators will choose to utilize the downsizing opportunity, and the number of generators that will be impacted as a result. CAISO insists that it is just and reasonable for the CAISO to institute a cap on customer exposure to downsizing study costs not only to protect downsizing generators from cost uncertainty, but also to avoid discouraging generators from availing themselves of the downsizing opportunity.

40. In its answer, CAISO states that SoCal Edison is incorrect to the extent it assumes CAISO intends to simply "tack on" Appendix HH to the original interconnection agreement for filing with the Commission. CAISO explains that where an interconnection agreement is filed with the Commission, CAISO will provide a revised form of interconnection agreement that reflects the modifications set forth in Appendix HH. CAISO further explains that its practice is to submit an interconnection agreement filing to the Commission only with respect to non-conforming agreements. When the interconnection agreement is conforming, CAISO reports the execution of the interconnection agreement (and subsequently, the execution of any amendment) in CAISO's Electric Quarterly Report.

41. CAISO further states that the purpose of Appendix HH is not to avoid this step, but rather to provide a *pro forma* contractual vehicle to be effectuated without having to add yet another set of *pro forma* interconnection agreements to its tariff. CAISO states that this approach is just and reasonable because it complies with the Commission's regulations, while avoiding the administrative burden, as well as potential confusion by customers, resulting from creating more baseline *pro forma* interconnection agreements for execution. CAISO adds that avoiding the creation of new *pro forma* agreements is particularly appropriate in light of the one-time nature of this downsizing opportunity.

42. In its answer, CAISO responds that while it agrees to broaden the terms of the proposal to make clear that the "hold harmless" protection includes generators connecting

to the distribution system pursuant to transmission owners' tariffs (as mentioned above), CAISO does not agree that this necessitates any modification to Appendix HH to insert a WDAT interconnection agreement amendment into the CAISO tariff. CAISO argues that although interconnection agreements under distribution-level tariffs may need to be amended as a result of generators in CAISO's queue electing the new downsizing option, it is not appropriate for CAISO to mandate the process or substance of such amendments in its own tariff. Rather, such issues should be addressed by SoCal Edison and the other investor-owned utilities in their distribution-level interconnection tariffs, including any amendments thereto.

### **C. Commission Determination**

43. Subject to the compliance filing, discussed below, we find CAISO's proposal for a one-time downsizing opportunity to be just and reasonable and not unduly discriminatory.

44. The Commission finds that CAISO's proposed tariff revisions provide a balanced approach to eliminate non-viable requests in CAISO's interconnection queue, while protecting non-downsizing customers from harm. We find the downsizing tariff amendment to be responsive to requests from affected interconnection customers for an opportunity to downsize their projects in addition to CAISO's existing downsizing options.

45. Moreover, this one-time downsizing opportunity will help facilitate the completion and commercial operation of projects that would be viable but for an inability to construct the full generating capacity stated in the customers' interconnection requests. We find that this opportunity to downsize such projects will help ensure that more projects can achieve commercial operation, even though at a smaller scale than originally planned. This change will help spur energy development and advance CAISO's efforts to reduce non-viable interconnection requests from its queue, which, according to CAISO, contains in excess of 300 interconnection requests.

46. The Commission finds that the CSOLAR's concern that CAISO potentially could terminate the entirety of a project's LGIA where an earlier project phase is already under construction or in operation and another later phase of the project missed a development deadline, is outside of the scope of this proceeding. The focus of this proceeding is the justness and reasonableness of CAISO's proposed tariff filing to provide customers another downsizing opportunity. CSOLAR's request that the Commission provide clarification regarding the potential termination of an LGIA under specific circumstances exceeds the scope of that consideration.

47. We deny SoCal Edison's request to remove the cost cap on downsizing generators' study deposits, as the Commission finds the cap to be reasonable. The limited, one-time cap allows downsizing generators to better gauge study costs and mitigates the uncertainty of those costs, while preserving the balance struck during the stakeholder process.

48. The Commission agrees with SoCal Edison and CAISO (in its answer) that CAISO should amend its tariff to ensure that downsizing generators bear the costs of their downsizing on all impacted generators, regardless of whether the impacted generator is connected to the CAISO-controlled grid or to the distribution system of one of the PTOs. Accordingly, our acceptance of CAISO's proposed tariff revisions is conditioned upon CAISO submitting, within 30 days from the date of this order, tariff revisions that would clarify that certain terminology used in the downsizing amendment, such as the definitions of "Affected Generator" and "Interconnection Agreement," will not limit the "hold harmless" protections to generators that are interconnecting directly to the CAISO-controlled grid.

49. The Commission finds no inconsistency between CAISO's filing of Appendix HH and Order No. 614 (as it applies after eTariff).<sup>25</sup> CAISO indicates that when an interconnection agreement is filed with the Commission, it will provide a revised form of interconnection agreement that reflects the modifications set forth in Appendix HH. This approach does not represent an impermissible tacked-on supplement that fails to eliminate ineffective provisions. To the contrary, CAISO here has complied with the Commission's regulations,<sup>26</sup> while avoiding the administrative burden, as well as potential confusion by customers, resulting from the creation of more *pro forma* interconnection agreements for execution. This approach is reasonable, appropriate and efficient, particularly in this circumstance where the proposed tariff amendment involves a one-time opportunity.

50. The Commission agrees with CAISO that Appendix HH does not require modification so as to insert a WDAT interconnection agreement amendment into the CAISO tariff. Issues related to the terms of distribution-level interconnection tariffs should be addressed by the investor-owned utilities in the appropriate tariffs.

51. Finally, as part of its compliance filing, CAISO should clarify that Appendix HH, Article 4 (allowing downsizing generators to continue to retain the right to downsize an additional five percent) applies to downsizing generators (as opposed to affected generators) because it will avoid confusion and make the language of Article 4 consistent with Article 2.

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<sup>25</sup> See *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at n.37 (2008) (utilities are still required to eliminate the use of supplements and include in their filings only effective provisions).

<sup>26</sup> See Rules 35.1 and 35.10a of the Commission's Rules of Practice and Procedure, 18 C.F.R §§ 35.1 and 35.10a (filing of service agreements).

The Commission orders:

(A) CAISO's proposed tariff revisions are hereby conditionally accepted, effective January 1, 2013, as requested, subject to the submission of a compliance filing modifying CAISO's proposal, as discussed in the body of this order.

(B) CAISO is hereby directed to submit a compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.