

140 FERC ¶ 61,070
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. ER12-1855-000

ORDER CONDITIONALLY ACCEPTING TARIFF REVISIONS

(Issued July 24, 2012)

1. On May 25, 2012, the California Independent System Operator Corporation (CAISO) filed revisions to its open access transmission tariff to integrate its transmission planning process (TPP) and generation interconnection procedures (GIP). In this order we conditionally accept CAISO's proposed tariff revisions, subject to modification as discussed below, to become effective July 25, 2012.

I. Background

2. In 2010, CAISO proposed and the Commission accepted CAISO's revised transmission planning process.¹ The revised process was intended to facilitate long-term planning for the transmission additions and upgrades needed to meet California's ambitious renewable portfolio standards. Notably, this revised process established tariff provisions for identifying and approving a public policy-driven category of transmission additions and upgrades.²

3. CAISO also made substantial revisions to its generator interconnection procedures in 2010 in order to combine its small generator and large generator interconnection procedures.³ CAISO stated that California's renewable portfolio standard, which established a goal that at least 33 percent of California's retail load be served by renewable energy by 2020, had resulted in a large and rapidly increasing volume of small generator interconnection requests. CAISO reported that this increase, in combination

¹ *Cal. Indep. Sys. Operator. Corp.*, 133 FERC ¶ 61,224 (2010) (2010 TPP Order).

² *Id.* PP 141-166.

³ *Cal. Indep. Sys. Operator. Corp.*, 133 FERC ¶ 61,223 (2010) (2010 GIP Order).

with the serial study process⁴ used at the time to study small generator interconnection requests, had made it impossible for CAISO to study projects within the specified timelines. The result of these revisions was the GIP, which established procedures for small and large generator interconnection requests to be studied under a set of common rules, on the same timeline, in queue clusters based on electrical relatedness.⁵

4. In this proposal, CAISO states that having separate and parallel TPP and GIP had been mostly workable in the context of relatively steady, predictable growth in load and incremental changes to the supply fleet. However, CAISO points out that over the past several years California's ambitious renewable portfolio standards have triggered a massive increase in the number of interconnection requests, particularly by developers of renewable generation projects. CAISO claims its interconnection queue currently contains approximately four times the amount of new generation needed to meet the 33 percent renewable portfolio standard. CAISO predicts that at least 75 percent of these projects will fail to be completed, a problem not effectively addressed by prior Commission-approved enhancements to its generator interconnection procedures.

5. Because of this high project failure rate, CAISO contends its current interconnection procedures yield invalid outcomes with regard to what network upgrades are necessary, along with the costs and time it will take to build the required network upgrades. To address these challenges, CAISO proposes to integrate its interconnection procedures with its TPP. This integration is intended to better align developer cost responsibilities with the results of the TPP. CAISO contends that this alignment would promote the development and interconnection of the new generation necessary to meet the renewable portfolio standard in a way that is consistent with the TPP. CAISO refers to the overall new framework established by its proposed revisions as the generator interconnection and deliverability allocation procedures (GIDAP), which it proposes to apply prospectively, beginning with queue cluster 5.⁶

II. CAISO Proposal

6. CAISO does not propose revisions to the TPP tariff provisions. Rather, CAISO limits its proposed revisions to the GIP to make the TPP, particularly the TPP provisions regarding public policy-driven transmission expansion, the primary vehicle for

⁴ Under a serial study process, each individual interconnection request is studied separately in order to determine its effects on the transmission system.

⁵ A queue cluster is a group of interconnection requests that is studied together, rather than serially, for the purpose of conducting the system impact study.

⁶ Clusters 1 through 4 comprise interconnection requests CAISO received in prior years, which have already progressed through at least a portion of the study process. The application window for queue cluster 5 closed on March 31, 2012.

identifying the large-scale network upgrades associated with the interconnection of renewable generation necessary to achieve the renewable portfolio standards.

7. CAISO states that under the proposed GIDAP, the capability of the CAISO grid, as modified by the network upgrades identified through the TPP, will be referred to as transmission plan deliverability. As discussed in greater detail below, CAISO proposes to integrate the TPP into its interconnection procedures through a process where, for each identified study area,⁷ it will determine the megawatt (MW) volume of new generation that can be added based on the transmission plan deliverability. CAISO will then allocate that volume of transmission plan deliverability to those proposed generating facilities in each study area that it determines to be most viable based on a set of specified project development milestones. The assignment of cost responsibilities and eligibility for reimbursement under the GIDAP are tied to the allocation of transmission plan deliverability and CAISO's assessment of the likelihood that specific projects are likely to achieve commercial operation. Thus, under the GIDAP, developers that request interconnection for projects that are not consistent with the outcome of the TPP are less likely to be eligible for reimbursement for their project than those developers who are allocated transmission plan deliverability.

8. CAISO asserts that the TPP-GIP revisions will achieve several important objectives, including (1) providing incentives for generation developers to choose interconnection points that are consistent with public policy-driven transmission development, and limit ratepayer responsibility for inefficient or underutilized upgrades; (2) producing more realistic study result and cost estimates, thereby improving chances that viable projects will achieve commercial operation; (3) providing greater certainty for generation developers that the needed delivery upgrades will be granted permits by relevant state siting authorities; (4) providing greater transparency into the transmission development process; and (5) providing increased opportunities for independent transmission developers to build and own transmission.⁸

9. CAISO acknowledges that the revisions in the instant filing differ from the standardized *pro forma* interconnection procedures and agreement contained in Order No. 2003,⁹ but argues that the differences satisfy the Order No. 2003 "independent entity

⁷ Like the GIP, the GIDAP groups interconnection requests within a cluster into smaller group studies that are defined electrically for purposes of identifying required upgrades.

⁸ CAISO May 25, 2012 Proposal at 5 (CAISO Proposal).

⁹ *Standardization of Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005).

variation” standard applicable to independent system operators (ISO) and regional transmission organizations (RTO). CAISO asserts that, pursuant to Order No. 2003, the Commission permits RTOs and ISOs, such as CAISO, more flexibility to customize their interconnection procedures to meet their regional needs, because independent entities such as RTOs and ISOs are “less likely to act in an unduly discriminatory manner than is a market participant.”¹⁰

10. Moreover, despite the amount of detail in the proposal, CAISO asserts that, at a high level, the GIDAP is structurally very similar to the GIP. The GIDAP retains the queue cluster study approach for interconnection requests and follows the same sequence of procedural activities. Under the GIDAP, like the GIP, the interconnection studies for each queue cluster will consist of a Phase I and a Phase II study. The Phase I study will preliminarily identify the necessary network upgrades and provide cost estimates and/or establish maximum cost responsibilities, depending on the type of upgrade. The Phase II study will identify final network upgrades and cost estimates. The GIDAP adds a new reassessment process in between Phases I and II, intended to “true-up” the base case before starting Phase II, which will reflect developments in the immediately preceding queue cluster. The GIDAP will also require interconnection customers to make certain elections related to their deliverability status between Phases I and II. After the Phase II studies are completed, CAISO will allocate available transmission plan deliverability to interconnection customers who demonstrate that they meet the requirements for such allocation. Like the GIP, the GIDAP requires interconnection customers to make three postings of interconnection financial security. The postings correspond to various milestones throughout the study process; the posting amounts are based on percentages of customer’s assigned cost responsibility for upgrades, with certain dollar limits. Similar to the GIP, the GIDAP generally requires up-front interconnection customer funding for the construction of upgrades, but exempts large-scale network upgrades provided for through the TPP. The primary change to the construction and financing provisions is that the GIP requires ratepayers to reimburse generation projects for all grid upgrades, while the new, integrated process would allow ratepayer-funded upgrades only for projects that align with the TPP resource portfolios.

A. Interconnection Studies

11. As discussed above, the GIDAP includes modified versions of the Phase I and Phase II interconnection studies used under the current GIP and adds a new reassessment process between the Phase I and Phase II studies. CAISO asserts that these revisions will allow CAISO to better coordinate the TPP and the generator interconnection procedures, which will result in greater efficiency in the design of network upgrades and the use of

¹⁰ CAISO Proposal at 12, n.20 (citing Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at PP 26, 827).

planning resources. Thus, CAISO contends that the revisions satisfy the purposes of Order No. 2003 and the independent entity variation standard.¹¹

12. CAISO proposes to modify the Phase I study process to take into consideration the most recent annual transmission plan and resource portfolios identified for the next TPP cycle. Specifically, the proposed GIDAP distinguishes between area and local deliverability network upgrades, based on the type of transmission deliverability constraint they are intended to address.¹² This distinction will form the basis for assigning cost responsibility for the upgrades, as discussed in greater detail below. CAISO proposes to conduct a deliverability assessment as part of the Phase I interconnection studies to determine the extent to which transmission approved through the TPP will meet the area delivery network upgrade needs for projects in the queue and to identify incremental area delivery network upgrades that would be needed if generation development in an area exceeds the amount assumed in the TPP portfolio. The deliverability assessment will also identify local constraints and the local deliverability network upgrades needed to relieve those constraints. In addition, the Phase I studies identify reliability network upgrades¹³ needed to address impacts of the interconnection requests on the grid in specific locations.

13. CAISO asserts that the revised Phase I interconnection studies will produce more realistic and informative results than the current GIP. Further, CAISO asserts that this information will be useful for regulatory authorities that oversee resource procurement, as well as bilaterally contracting parties, regarding potential cost impacts of procuring generation that exceeds the amount supported by transmission plan deliverability.¹⁴

14. CAISO states that the proposed GIDAP provides for network upgrade cost estimates after the completion of the Phase I studies. CAISO proposes to use the same methodology under the current GIP to establish the maximum cost responsibility for local

¹¹ *Id.* at 10, 23.

¹² The current GIP does not distinguish between area and local, but broadly identifies deliverability network upgrades, which are defined as transmission facilities at or beyond the point of interconnection, other than reliability network upgrades, identified in interconnection studies to relieve transmission constraints. CAISO Tariff, Appendix A.

¹³ The GIDAP retains the current definition of reliability network upgrades, which are facilities necessary to mitigate thermal overloads and voltage violations, and address short circuit, stability, and reliability issues associated with the requested interconnection service. CAISO Tariff, Appendix Y, § 2.4.3; *see also* CAISO Tariff, Proposed Appendix DD, § 2.4.3.1.

¹⁴ CAISO Proposal at 24-25.

deliverability network upgrades.¹⁵ For area deliverability network upgrades, CAISO proposes a new methodology based on a per-MW calculation.¹⁶ The proposed GIDAP will continue to use the method specified in the GIP for establishing cost estimates for reliability network upgrades.¹⁷

15. To address the situation that the majority of the projects in the interconnection queue may never achieve commercial operation, CAISO proposes a new reassessment process between the Phase I and Phase II interconnection studies. This reassessment will reflect any status changes of earlier queued projects on the network upgrades identified in the studies conducted for the immediately preceding queue cluster and permit CAISO to conduct the Phase II studies based on the latest available data. In addition, prior to the Phase II interconnection studies, each interconnection customer would be required to confirm or modify its desired deliverability status (i.e., full capacity, partial capacity, or energy-only).¹⁸

16. Customers seeking full or partial capacity deliverability status will be required to select one of two options related to cost responsibility for deliverability network upgrades. The selection of “Option A” indicates that a customer needs an allocation of the transmission plan deliverability made available from the results of the TPP in order to be commercially viable, so it will be assessed cost responsibility only for local deliverability and reliability network upgrades. The underlying premise is that if an

¹⁵ Local deliverability network upgrade costs will continue to be estimated on the basis of benchmark per unit costs calculated by the participating transmission owners under the direction of the CAISO and published annually. CAISO Tariff, Attachment Y, §§ 6.5.2.1, 6.6; CAISO Tariff, Proposed Appendix DD, §§ 6.3.2.1.1, 6.4.

¹⁶ CAISO Proposal at 25-26.

¹⁷ Reliability network upgrade costs are estimated on the basis of benchmark per unit costs. CAISO Tariff, Appendix Y, § 6.6; CAISO Tariff, Proposed Appendix DD, § 6.4.

¹⁸ In the GIDAP, CAISO proposes to modify the definitions of full capacity and partial capacity deliverability status to account for how variable renewable resources are counted in the resource adequacy program. Specifically, instead of defining “full capacity” with reference to a resource’s full output, CAISO proposes to measure deliverability against a resource’s qualifying capacity, which is the maximum resource adequacy capacity a resource is eligible to provide, based on annual calculations performed by CPUC. Partial capacity under the proposed GIDAP is defined as a customer-specified fraction of that resource’s qualifying capacity. Energy-only resources do not provide capacity and cannot be considered to become resource adequacy resources. CAISO Proposal at 15-17.

Option A customer does not receive its requested deliverability, it will ultimately convert its status to energy-only or withdraw from the queue. Interconnection customers will not be assessed cost responsibility for the network upgrades identified in the TPP, so Option A customers will never be responsible for financing and building area deliverability network upgrades. Option A customers will also be reimbursed fully for their assigned cost responsibility for local deliverability network upgrades. The selection of “Option B” indicates that a customer is willing to be assessed cost responsibility for all upgrades, including area deliverability network upgrades, if it is not allocated transmission plan deliverability. Option B customers will also be reimbursed for their portion of the costs of local deliverability network upgrades only if they receive deliverability.¹⁹

17. CAISO explains that the Phase II studies under the proposed GIDAP differ in several respects from the current GIP Phase II studies, primarily because the GIDAP Phase II interconnection studies will use the classification of projects as either Option A or Option B to focus on needed area deliverability network upgrades only for Option B projects. The GIDAP Phase II studies, as proposed, will conduct an updated deliverability assessment to identify final local deliverability network upgrades and reliability network upgrades for all projects, similar to the process under the current GIP. CAISO notes that the assessment of area deliverability network upgrades for Option B projects has been designed to identify the “worst case” upgrade requirements, assuming that the projects do not receive any transmission plan deliverability. Cost responsibility for upgrades will then be assigned on the basis of the Phase II deliverability assessment.²⁰

B. Allocation of Transmission Plan Deliverability

18. CAISO states that after the Phase II study reports have been issued, it will allocate available transmission plan deliverability to interconnection customers who demonstrate they meet the requirements for such allocation. The two-step allocation process will (1) account for transmission plan deliverability used by prior commitments, and (2) allocate the remaining transmission plan deliverability to interconnection customers in the current study cycle that meet the criteria specified in the GIDAP. In the first step, with respect to reserving deliverability for projects in queue clusters 1-4, CAISO states that it will take into account the projects’ development status (i.e., having an executed power purchase agreement and a generator interconnection agreement in good standing), but notes that these earlier projects’ deliverability is governed by the requirements of the GIP and their interconnection agreements. Thus, CAISO avers that as long as those projects remain in compliance with the GIP milestones and their respective interconnection agreements, CAISO is committed to providing them their

¹⁹ *Id.* at 21-22.

²⁰ *Id.* at 29-31.

deliverability.²¹ For cluster 5 and going forward, projects will retain their prior deliverability awards based on continued progress in the factors that contributed to the original deliverability allocation.

19. In the second step of the allocation process, CAISO will consider the viability of the projects in the current study cycle, based on material progress towards permitting, financing, and land acquisition for a particular project,²² and will assign a numerical score to each project according to a methodology to be set forth in the business practice manual. If CAISO cannot accommodate all the current interconnection requests after accounting for the deliverability needs of earlier-queued interconnection requests, CAISO will allocate the remaining transmission plan deliverability to projects with the highest viability scores.²³

20. CAISO states that if customers are allocated less transmission plan deliverability than requested, the GIDAP offers the following options for Option A generating facilities: (1) accept the allocated amount and reduce the MW capacity of the proposed generating facility accordingly; (2) accept the allocated amount and adjust the project's deliverability status to a partial status corresponding to the allocated amount; (3) convert to an energy-only deliverability status; (4) "park" the interconnection request, which enables the generating facility to remain in the interconnection queue to be considered for transmission plan deliverability during the next queue cycle; or (5) withdraw the interconnection request. Option B projects would be required to withdraw the request or enter into a generator interconnection agreement committing to fund, without reimbursement, the necessary network upgrades.²⁴

C. Interconnection Financial Security

21. CAISO states that the proposed GIDAP carries over from the current GIP many of the interconnection financial security requirements, but it establishes specific requirements to account for the differences in cost responsibility between Option A and Option B projects. The proposed GIDAP applies the same percentages and dollar limits

²¹ *Id.*, Exh. ISO-2 at 9.

²² CAISO sets forth in the proposed tariff a comprehensive list of criteria that may be used to demonstrate project viability. CAISO, Proposed Tariff § 8.9.2. CAISO proposes to include the details regarding the scoring of these criteria in its business practice manual, similar to the approach taken with respect to the project sponsor selection criteria under the TPP at section 24 of the current CAISO tariff.

²³ CAISO Proposal at 35.

²⁴ *Id.* at 35-37.

for the financial security postings as the GIP,²⁵ but differs from the GIP in that postings for customers selecting the energy-only deliverability option will be based on the cost of reliability network upgrades, postings for Option A projects will be based on the costs of local deliverability and reliability network upgrades, and Option B customers must initially post for the costs of all network upgrades (area, local, and reliability).

22. With respect to refunds of financial security, CAISO states that the proposed GIDAP includes the same list of circumstances as currently set forth in the GIP that entitle an interconnection customer to receive a partial refund of financial security upon withdrawal of an interconnection request or generator interconnection agreement.²⁶ In addition, the proposed GIDAP provides for two additional circumstances, specific to Option A and Option B customers, that entitle those customers to partial refunds: (1) when an Option A customer is not allocated transmission plan deliverability and notifies CAISO of its intent to withdraw from the queue in accordance with section 11.4.1; and (2) when an Option B's Phase II cost estimate exceeds its Phase I estimate by the lesser of either 20 percent or 20 million dollars, and timely notifies CAISO of its intent to withdraw its request. CAISO asserts that these additional provisions benefit customers by enhancing their ability to partially recover financial security in appropriate circumstances.²⁷

23. CAISO asserts that the primary purpose of the interconnection financial security provisions contained in the GIDAP, like those contained in the GIP, is to ensure that developers have sufficient "skin in the game" such that they are encouraged to make decisions regarding the status of their projects as early in the process as possible, and so that non-viable projects can be identified and not inhibit the overall progress of other projects in the queue. CAISO notes that the Commission has previously accepted this interconnection process design element as just and reasonable.²⁸ Thus, CAISO argues that the interconnection financial security provisions satisfy the purposes of Order No. 2003 and the independent entity variation standard.²⁹

²⁵ The amount security required for each of the three postings is based on a percentage of the interconnection customer's total cost responsibility for the upgrade, subject to specified dollar limits.

²⁶ Compare CAISO Tariff, Proposed Appendix DD, § 11.4.1 with CAISO Tariff, Appendix Y, § 9.4.1.

²⁷ CAISO Proposal at 42-43.

²⁸ *Id.* at 39 (citing *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292, at PP 151-157 (2008)).

²⁹ *Id.*

D. Construction and Payment of Network Upgrades

24. Under the proposed GIDAP, similar to the current GIP provisions,³⁰ reliability network upgrades and local deliverability network upgrades will be initially funded by the interconnection customer. This funding will come from either drawing down the interconnection financial security or the provision of additional capital, up to the maximum amount established by the cost responsibility assigned to each interconnection customer, as identified in the interconnection studies. The applicable participating transmission owner will be responsible for funding any capital costs that exceed those maximums.

25. CAISO asserts that a key element of the GIDAP proposal concerns the model for reimbursement of interconnection customers by ratepayers for the costs of network upgrades. Under the GIP, generation developers are guaranteed cash reimbursement from ratepayers for 100 percent of their financial security expended on upgrades, regardless of the costs of the upgrades. The proposed GIDAP includes a limit on cash reimbursements, while providing that customers will receive congestion revenue rights associated with transmission capacity added to the grid by any upgrades that are not eligible for cash reimbursement. CAISO asserts that the two main reasons for this revision are to ensure that the reimbursement provisions support the goal of identifying major upgrades necessary to realize California's renewable energy policy under the TPP, and to promote efficient siting decisions by generation developers in order to protect ratepayers from excessive costs.³¹

26. Specifically, CAISO proposes to limit cash reimbursement for area and local deliverability network upgrades by specifying that Option B customers that were not allocated transmission plan deliverability will not receive cash reimbursement. For all other local deliverability network upgrades, customers will receive cash reimbursement in accordance with the customer's assigned cost responsibility. To the extent a customer does not receive cash reimbursement for area and local deliverability network upgrades, the customer will be eligible for compensation in the form of congestion revenue rights. With respect to reliability network upgrades, the proposed GIDAP sets a maximum reimbursement rate of \$60,000 per MW of generating capacity; the customer will be eligible for congestion revenue rights as a form of reimbursement for costs that exceed that amount. CAISO contends that the \$60,000 limit represents the 71st percentile of GIP Phase II costs for clusters 1 and 2.³²

³⁰ Compare CAISO Tariff, Proposed Appendix DD, § 14.3.1 with CAISO Tariff, Appendix Y, § 12.3.1.

³¹ CAISO Proposal at 45-46.

³² *Id.* at 48-50.

27. CAISO argues that the reimbursement revisions are consistent with Order No. 2003, in which the Commission acknowledged that providing cash repayment for the cost of network upgrades “mutes somewhat the interconnection customer’s incentive to make an efficient siting decision that takes new transmission costs into account.”³³ CAISO contends that, while ISOs/RTOs are required to compensate interconnection customers for the cost of network upgrades, this reimbursement need not be solely in the form of cash repayment. CAISO asserts that the Commission has recognized that as an independent entity an ISO has no incentive to treat interconnection customers differently,³⁴ and has, therefore allowed flexibility regarding interconnection pricing policies. CAISO states that the Commission has authorized provisions in other ISO/RTO tariffs that provide funding for network upgrades in the form of financial transmission rights.³⁵

E. Effective Date and Application of the GIDAP to Current and Future Queue Clusters

28. CAISO proposes to apply the GIDAP to interconnection requests that are assigned to queue cluster 5 and subsequent clusters, but not to queue clusters 1-4, which are already subject to the GIP. CAISO asserts that its Phase II interconnection studies for clusters 1 -4 are in their later stages, and customers in those queues have already made significant expenditures based on their expectation that the GIP rules would continue to apply. Thus, CAISO contends that applying the GIDAP to these earlier clusters would significantly disrupt the process. CAISO notes that its decision not to apply the proposed GIDAP to clusters 1- 4 is consistent with prior Commission guidance concerning interconnection reforms.³⁶

29. CAISO proposes to revise the schedule for submitting interconnection requests for future clusters under the GIDAP. Specifically, CAISO proposes to discontinue the GIP

³³ *Id.* at 46 (quoting Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 695).

³⁴ *Id.* at 47 (quoting Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 701).

³⁵ *Id.* (citing *Midwest Independent Transmission System Operator, Inc. and the Midwest ISO Transmission Owners*, 129 FERC ¶ 61,060, at P 27, n.38 (2009); *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106, at P 65 (2006)); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, 122 FERC ¶ 61,267, at PP 42-43 (2008); *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025, at PP 19-20 (2004); *Southwest Power Pool, Inc.*, 122 FERC ¶ 61,060, at P 30 (2008).

³⁶ *Id.* at 50-52 (quoting *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 19 (2008) (“reforms that would affect existing interconnection requests that are in later stages of the [interconnection] process ... could significantly disrupt the activities of customers who may have taken action in reliance upon the existing process.”)).

practice of providing for two cluster application windows and will, instead, provide a single application window that will open on April 1 and close on April 30 of each year. Because the cluster 5 window closed on March 31, customers applying during that window did not have an opportunity to wait until the Commission issued an order on the GIDAP before deciding whether to enter the queue cluster. Now, the proposed GIDAP gives each cluster 5 customer the option to withdraw from the queue within 10 days of the date the Commission issues an order on the GIDAP. Customers that withdraw during this period will receive a refund of the interconnection study deposit, less actual costs expended on the studies up to the date of the withdrawal.³⁷

30. Because the cluster 5 customers will have the option to withdraw, the cluster 5 Phase I study cannot begin until after the Commission issues an order on the GIDAP and the 10 day withdrawal period expires. In addition, CAISO states that the cluster 5 Phase I study must be completed by January 2013 so that the Phase II study can begin in May 2013, which is two months before the cluster 6 Phase I study will begin, based on the timelines specified in the GIDAP. CAISO asserts that the timing is important to ensure coordination between clusters 5 and 6 and to provide cluster 5 customers sufficient time in between Phases I and II to make their Option A or B selections. Thus, CAISO requests that the revisions in the instant filing be made effective July 25, 2012. CAISO contends that a later effective date will necessitate problematic adjustments to the planned scheduled for clusters 5 and 6.³⁸

III. Notice and Responsive Pleadings

31. Notice of CAISO's Filing was published in the *Federal Register*, 77 Fed. Reg. 33,209 (2012), with interventions and comments due on or before June 15, 2012. On June 11, 2012, the American Energy Wind Association (AWEA) filed a motion to extend by fourteen days the period for filing comments on CAISO's proposal. AWEA also requested a shortened period for filing answers to its motion. On the same day, the Commission issued a notice shortening the comment period for answers on the motion to and including June 14, 2012. The California Wind Energy Association (CalWEA) filed comments in support of AWEA's motion for extension. CAISO and the Bay Area Municipal Transmission Group (BAMx) filed answers opposing AWEA's request for extension, arguing that CAISO market participants have been working toward CAISO's Filing for over a year and should, therefore, not require additional time to formulate comments.

32. Notice granting a seven-day extension of time for comments on CAISO's proposal was published on June 15, 2012, with comments due on or before June 22, 2012. Notices

³⁷ *Id.* at 52-53.

³⁸ *Id.* at 61-62.

of intervention and timely motions to intervene were filed by 24 entities, as listed in Appendix A to this order.³⁹ Motions to intervene out of time were submitted by Iberdrola Renewables, LLC (Iberdrola) and Solar Energy Industries Association (SEIA). K Road, Large-scale Solar, Wellhead, Iberdrola, Six Cities, CMUA, SoCal Edison, PG&E, NCPA, jointly by Zephyr and Pathfinder, and jointly by AWEA and CalWEA (collectively Wind Energy) filed comments and/or protests. PG&E's comments stated generally that it supports CAISO's proposal. CAISO, Wellhead, and SoCal Edison filed answers. CAISO filed an answer to Wellhead's answer. Zephyr/Pathfinder filed an answer to CAISO's answer.

IV. Discussion

A. Procedural Issues

33. 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. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d) (2012), the Commission will grant Iberdrola's and SEIA's late-filed motions to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

34. 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 or an answer unless otherwise ordered by the decisional authority. We will accept the answers filed by CAISO, Wellhead, SoCal Edison, and Zephyr/Pathfinder because they have provided information that assisted us in our decision-making process.

B. Interconnection Studies

1. Comments and Protests

35. Wellhead asserts that the proposed GIDAP fails to fix the fundamental problem with the GIP, which is that the interconnection studies assume that all projects requesting interconnection are viable when in fact only a fraction of those projects will be built. As a result, Wellhead predicts that the GIDAP will continue to identify unnecessary transmission facilities and provide inaccurate information regarding transmission costs, which misinforms load serving entities' competitive procurement efforts and creates excessive financial security deposits and risks for developers.⁴⁰

³⁹ Appendix A also includes short cites of select parties' names.

⁴⁰ Wellhead June 22, 2012 Comments at 5-6 (Wellhead Comments).

36. Wellhead offers that to mitigate the problem of excessive cost estimates, CAISO should be required to produce a “what fits” report that shows the amount of new generation that can be accommodated on existing and TPP approved transmission facilities, based on the assumption that the subject project is the only project being added to the grid. The “what fits” report would also show the cost of network upgrades for the project if additional increments of generation were added in its study area. Wellhead states that with such information a developer would have the information it needs to make good downsizing decisions. Wellhead argues that, because CAISO does not propose to use a “what fits” approach for identifying local deliverability or reliability network upgrades, developers and load serving entities will not be properly informed regarding the costs associated with specific projects.⁴¹

37. Wellhead asserts that CAISO’s proposed methodology for estimating upgrade costs for area deliverability network upgrades is consistent with a “what fits” approach and should, therefore, help reduce costs. However, Wellhead expresses concern that the proposed definitions of area versus local deliverability network upgrades are ambiguous and not transparent with respect to how CAISO designates any particular upgrade as area or local. Wellhead also questions CAISO’s testimony regarding the potential reclassification of certain local network upgrades as area upgrades apply only to the policy-driven portfolio areas set forth in the TPP.⁴² If so, Wellhead points out that areas of high commercial interest for solar projects would be excluded from this methodology and, therefore, would be burdened with unrealistically high cost estimates.⁴³

38. Wellhead requests that Commission direct CAISO to initiate a stakeholder process to consider further refinements to the GIDAP. Specifically, Wellhead suggests that an obvious solution to the excess cost estimate problem is to coordinate the interconnection process with the procurement activities of the load serving entities, such that only projects that have been short listed for a Power Purchase Agreement (PPA), along with qualified merchant projects, would be studied. Wellhead argues that producing Phase I studies of projects that have been screened for competitiveness and viability through the load serving entity procurement process would be more productive than the approach proposed in the GIDAP.⁴⁴

39. Wind Energy argues that the timing requirement for the selection of Option A and Option B is not just and reasonable. Wind Energy asserts that CAISO has not explained why it is important for interconnection customers to make that choice prior to Phase II.

⁴¹ *Id.* at 6-10.

⁴² *Id.* at 9 (quoting CAISO Proposal, Exh. ISO-1 at 8).

⁴³ *Id.* at 8-10.

⁴⁴ *Id.* at 12-15.

Wind Energy expresses concern that interconnection customers will be required to decide what they are willing to pay for prior to receiving adequate cost information.⁴⁵

40. SoCal Edison generally supports CAISO's proposed revisions but notes that careful coordination between CAISO, CPUC, and other local regulatory authorities is essential to achieve CAISO's stated goal of incorporating the Phase I study results into the load serving entities' procurement process.⁴⁶

2. Answers

41. CAISO argues that its GIDAP proposal is just and reasonable and, therefore, Wellhead's claim that the "what fits" report would produce superior results is immaterial. CAISO stresses that the relevant inquiry here is whether CAISO's proposal satisfies the applicable legal standard. In addition, CAISO states that it will continue to conduct stakeholder processes in the future to address queue issues, so there is no need for the Commission to order further procedures.⁴⁷

42. Wellhead requests that the Commission direct CAISO to include in its tariff language to make clear that it will use a "what fits" approach in the Phase I interconnection studies to evaluate the need for each type of network upgrade.⁴⁸

43. In its answer to Wellhead's answer, CAISO reiterates that Wellhead's suggested approach constitutes an alternative proposal that the Commission need not evaluate if finds that CAISO's proposal is just and reasonable. CAISO also asserts that using Wellhead's "what if" approach with respect to reliability network upgrades would represent a serious departure from CAISO's current, Commission-approved cluster study method. Moreover, CAISO points out that the GIDAP retains the existing GIP provisions for reliability network upgrade cost estimates, so considering Wellhead's approach would require a comprehensive reevaluation of the current process. Finally, CAISO argues that Wellhead's "what if" approach would require a dramatic increase in the volume of studies to be performed.⁴⁹

⁴⁵ Wind Energy June 22, 2012 Protest at 25-26 (Wind Energy Protest).

⁴⁶ SoCal Edison June 22, 2012 Comments (SoCal Edison Comments).

⁴⁷ CAISO July 3, 2012 Answer at 21-25 (CAISO Answer).

⁴⁸ Wellhead July 6, 2012 Answer.

⁴⁹ CAISO July 10, 2012 Answer.

3. Commission Determination

44. The Commission issued Order No. 2003 to standardize the agreements and procedures related to the interconnection of large generating facilities, finding that “[a] standard set of procedures as part of the [open access transmission tariff] for all jurisdictional transmission facilities will minimize opportunities for undue discrimination and expedite the development of new generation, while protecting reliability and ensuring that rates are just and reasonable.”⁵⁰ Under the independent entity variation standard, an RTO/ISO seeking to deviate from the Order No. 2003 *pro forma* generator interconnection procedures must demonstrate that its proposal is just and reasonable and accomplishes the purposes of Order No. 2003.⁵¹ As discussed below, we find that CAISO’s proposed tariff revisions are just and reasonable and not unduly discriminatory or preferential and meet the objectives of Order No. 2003 by increasing the efficiency of CAISO’s interconnection procedures and aligning those procedures with its TPP, which should help to protect ratepayers against the costs of unnecessary or under-utilized transmission upgrades.

45. With regard to the interconnection studies, we find that CAISO’s proposed modifications should produce more realistic study results and cost estimates for network upgrades, thereby improving the chances that viable projects will achieve commercial operation. Thus, we disagree with Wellhead’s claim that the proposed revisions to the interconnection studies will provide inaccurate information on transmission costs by inappropriately continuing to assume that all interconnection requests are viable. We find that the new reassessment process, between the Phase I and Phase II interconnection studies, is designed to address the specific problem identified by Wellhead. The reassessment process will reflect any status changes of earlier queued projects on the network upgrades identified in the preceding study cycle and permit CAISO to conduct the Phase II studies based on the latest available data. We therefore find the reassessment process reasonable because it serves as a true-up mechanism to the base case before proceeding to finalize the Phase II interconnection study results.

46. We decline to require CAISO to use a “what fits” report, as described above, to mitigate the problem of excessive cost estimates. We remind Wellhead that CAISO is not required to demonstrate, and we are not required to find, that the proposal at hand is the only approach, or even superior to alternative approaches, to solve the excessive cost estimate challenge. Rather, we are required to review the proposal to ensure that CAISO adopts just and reasonable rates, terms and conditions.⁵² Here, we find that the GIDAP

⁵⁰ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 11.

⁵¹ *Interconnection Queuing Practices*, 122 FERC ¶ 61,252 at P 13, n.10.

⁵² 16 U.S.C. § 824d (2006); *see also Cal. Indep. Sys. Operator Corp.*, 121 FERC ¶ 61,193, at P 106 (2007), (citing *Louisville Gas and Elec. Co.*, 114 FERC ¶ 61,282, at

interconnection study procedures are just and reasonable, not unduly discriminatory or preferential, and accomplish the purposes of Order No. 2003. Further, because CAISO states its intention to continue to conduct stakeholder processes to address queue cluster issues, we find no need to order further procedures to consider options.

47. Regarding CAISO's classification of deliverability network upgrades as either local or area, we find that CAISO expressly states in proposed section 6.3.2 of the GIDAP that it will conduct a deliverability assessment to identify local and area constraints and identify the upgrades necessary to address those constraints. The proposed GIDAP specifies that the methodology for the assessment will be included in a business practice manual. Thus, we find that the proper forum for Wellhead's concerns and questions is CAISO's revision process of its business practice manual.

48. We reject Wind Energy's objections to the timing of the Option A/Option B election. Given the overall structure of the GIDAP, we find that the selection of Option A or Option B prior to the start of the Phase II studies is critical to the accuracy of the study process. Without this information, CAISO would not be able to identify, in the Phase II studies, the area deliverability network upgrades needed beyond the transmission plan deliverability amount reflected in the latest transmission plan.

C. Allocation of Transmission Plan Deliverability

1. Comments and Protests

49. Wind Energy contends that, despite the fact that CAISO purports to examine several factors regarding a project's continued viability, CAISO's determination rests almost entirely on whether a project has a PPA. Wind Energy argues, therefore, that CAISO's delivery allocation plan will not likely be effective at determining which projects will succeed. Wind Energy asserts that CAISO fails to provide evidence that PPAs are valid measures of project viability, especially given the high failure rate of projects with PPAs. Wind Energy argues that CAISO's failure to present evidence addressing PPA failure means that its allocation plan is unsupported by substantial

P 29 (2006) (the just and reasonable standard under the Federal Power Act is not so rigid as to limit rates to a "best rate" or "most efficient rate" standard; rather, a range of alternative approaches often may be just and reasonable), *reh'g denied*, *E. ON U.S. LLC*, 116 FERC ¶ 61,020 (2006)); *see also New England Power Co.*, 52 FERC ¶ 61,090, at 61,336 (1990), *aff'd*, *Town of Norwood v. FERC*, 962 F.2d 20 (D.C. Cir. 1992) (rate design proposed need not be perfect, it merely needs to be just and reasonable), *citing Cities of Bethany, et al. v. FERC*, 727 F.2d 1131, 1136 (D.C. Cir.), *cert. denied*, 469 U.S. 917 (1984) (utility needs to establish that its proposed rate design is reasonable, not that it is superior to all alternatives).

evidence. Thus, the Commission cannot render a reasoned judgment on whether the proposal is just and reasonable.⁵³

50. Wind Energy also argues that CAISO's deliverability allocation plan is unduly discriminatory and therefore does not satisfy the Order No. 2003 independent entity variation standard. Wind Energy explains that participating transmission owners, which are not independent entities, have complete discretion to pick the generating projects they are willing to buy power from and to dictate the terms of those contracts. Thus, Wind Energy contends that CAISO's proposal invites undue discrimination by over-relying on the PPA, which gives participating transmission owners too much control over which projects have access to available transmission capacity. Further, Wind Energy asserts that the proposed allocation plan effectively gives participating transmission owners leverage over generators during PPA negotiations which will enable them to force generators into uneconomic contracts just so they can receive transmission plan deliverability allocation. Wind Energy argues that CAISO proposes no controls to guard against these unduly discriminatory outcomes.⁵⁴

51. In addition, Wind Energy argues that CAISO's plan is unduly discriminatory because it treats two groups of generators differently without providing evidence that they are not similarly situated. Wind Energy suggests that the premise behind CAISO's deliverability allocation plan is that projects that are deemed viable are not similarly situated to those that are not, even though the distinction turns primarily on whether the project has a PPA. However, Wind Energy contends that CAISO relies solely on "conventional wisdom" to support this distinction without presenting evidence that the two groups of projects face materially different prospects. Wind Energy asserts that CAISO's key assumption is clearly invalid given the high failure rates of projects with PPAs and must, therefore, be rejected by the Commission.⁵⁵

52. Finally, Wind Energy contends that CAISO's plan pre-ordains an unduly discriminatory outcome in the way it distinguishes which projects will be required to pay for upgrades. Wind Energy argues that CAISO's proposal does not include a mechanism to make whole projects that did not receive deliverability but nevertheless succeed, whereas projects that receive an allocation of deliverability do not have to pay for deliverability upgrades even if the projects ultimately fail. Wind Energy asserts that these outcomes also conflict with CAISO's stated goal of protecting ratepayers from the cost of unnecessary upgrades. Moreover, Wind Energy argues that CAISO unduly

⁵³ Wind Energy Protest at 2, 6-11. Iberdrola states that it supports Wind Energy's protest regarding the PPA requirement. Iberdrola June 25, 2012 Comments.

⁵⁴ Wind Energy Protest at 12-14.

⁵⁵ *Id.* at 15.

discriminates by including a make-whole provision for pre-cluster 5 projects that did not retain their deliverability due to the lack of a PPA. Wind Energy argues that CAISO offers no plausible rationale for keeping these earlier-queued projects whole while not doing the same for projects in cluster 5 and beyond.⁵⁶ Further, Wind Energy argues that this result represents a substantial departure from settled Commission interconnection policy that prohibits the direct assignment to generators of the cost of network upgrades that benefit all users of the transmission network.⁵⁷

53. Six Cities generally support CAISO's efforts to better align the generator interconnection procedures with the TPP, but express concern that the prior lack of coordination has created significant risks of overbuilding the transmission system. They urge the Commission to direct CAISO to apply stricter criteria for the retention of a deliverability allocation to assure continued progress toward commercial operation. Further, Six Cities assert that CAISO should not consider expanding the TPP portfolio until there has been substantial progress toward actual construction of projects within a study area.⁵⁸

54. Similarly, Wellhead asserts that the deliverability allocation criterion proposed by CAISO (i.e., an executed generator interconnection agreement and PPA) are not necessarily indicative of a viable project. Thus, Wellhead recommends that the deliverability allocation rules should also include requirements that the project be (1) fully permitted and ready for construction, and (2) financially viable as demonstrated by commitments for construction or long-term financing. Wellhead contends that a project that is found to be least total cost in a procurement process should know that it has a path to be fully deliverable when required by the load serving entity.

2. Answers

55. CAISO emphasizes that executed PPAs are merely one element of its determination under the two-step deliverability allocation process. CAISO reiterates that interconnection customers seeking transmission plan deliverability must provide information on (1) permitting status, (2) financing status, and (3) land acquisition. CAISO explains that having a PPA is an element only of financing status and is not the exclusive method for demonstrating financial viability. Moreover, to the extent CAISO does use PPAs as a criterion for allocating deliverability, CAISO asserts that such use is

⁵⁶ *Id.* at 15-16.

⁵⁷ *Id.* at 12.

⁵⁸ Six Cities June 22, 2012 Comments at 4-5 (Six Cities Comments).

appropriate and notes that the Commission has previously acknowledged that a PPA is a reliable indicator of the viability of a generating facility project.⁵⁹

56. CAISO also rejects Wind Energy's contention regarding make-whole provisions in the GIDAP for projects deemed viable, but not for those deemed non-viable. CAISO avers that there are no make-whole provisions in the GIDAP. Rather, the GIDAP offers the Option A/Option B election for interconnection customers to make business decisions that reflect their project development models, and requires them to demonstrate their project status so that CAISO can perform its modeling and deliverability allocation. CAISO stresses that these decision points are critical to the effectiveness of the GIDAP. CAISO contends that its proposed process is fair and non-discriminatory because all generators in the queue will be provided open access to the grid and a fair opportunity to seek deliverability status through ratepayer-funded network upgrades.⁶⁰

57. CAISO responds to Wind Energy's claim that its deliverability allocation plan is unduly discriminatory due to "make-whole" provisions for pre-cluster 5 projects, but not for later projects. CAISO asserts that it is not correct to characterize any aspect of the proposed revisions as a make-whole provision. Rather, CAISO states that because the pre-cluster 5 projects will continue to be processed in accordance with the existing GIP provisions, rather than under the GIDAP, CAISO is obligated to honor the commitments in these projects' generator interconnection agreements, so long as the customers remain in good standing.⁶¹

58. CAISO addresses Wind Energy's claims about the potential for undue discrimination due to participating transmission owners' role in the PPA negotiation process. CAISO points out that participating transmission owners do not have *carte blanche* discretion when selecting generating resources, but are subject to the scrutiny and approval of CPUC.⁶²

⁵⁹ CAISO Answer at 6-7 (citing *California Independent System Operator Corp.*, 124 FERC ¶ 61,031, at PP 50-51 (2008) ("We believe this PPA criterion demonstrates a proposed project has reached a significant developmental milestone and the criterion is a reasonable means to identify those projects that are likely to be among the projects first-ready to come on line.")).

⁶⁰ *Id.* at 11-12.

⁶¹ *Id.* at 10-11.

⁶² *Id.* at 14.

59. CAISO argues that parties' alternative proposals for deliverability allocation criteria are immaterial to this proceeding because the relevant inquiry is whether CAISO's proposal satisfies the relevant legal standard.⁶³

60. SoCal Edison argues that a PPA is a useful and legitimate tool in assessing the viability of a generating project. SoCal Edison also points out that the PPA is not the only tool CAISO proposes to use in its viability assessment. Further, SoCal Edison refutes Wind Energy's contention that participating transmission owners will determine which generators receive PPAs, and therefore are allocated deliverability, under CAISO's proposal. SoCal Edison points out that load serving entities, and not participating transmission owners, negotiate the PPAs. SoCal Edison notes that even though many load serving entities are also participating transmission owners, the transmission owner function of the public utility is separate from the load serving entity and does not negotiate or procure PPAs. Finally, SoCal Edison rejects Wind Energy's contention that CAISO's proposal provides load serving entities with additional leverage over generators in the PPA negotiation process and explains that this process is heavily regulated by CPUC.⁶⁴

3. Commission Determination

61. We find that requiring projects that are seeking to retain deliverability to meet the GIDAP milestones is an effective and non-discriminatory method for culling out projects that are not progressing and that are skewing the accuracy of interconnection study results. Thus, we find that CAISO's proposed transmission plan deliverability allocation process is just and reasonable and consistent with CAISO's stated objectives of improving the efficiency of its generator interconnection procedures and protecting ratepayers against excessive costs associated with the development of unnecessary or under-utilized transmission facilities, thereby satisfying the independent entity variation standard.

62. We reject Wind Energy's assertion that CAISO has failed to present substantial evidence to justify its proposal because Wind Energy's arguments rely on a mischaracterization of the role of PPAs in the deliverability allocation process. On several occasions, the Commission has considered and rejected similar arguments related to the appropriateness of PPA as a criterion in the interconnection process. In a prior CAISO interconnection queue reform proceeding, the Commission found that the "PPA criterion demonstrates a proposed project has reached a significant developmental milestone and the criterion is a reasonable means to identify those projects that are likely

⁶³ *Id.* at 21-22.

⁶⁴ SoCal Edison July 9, 2012 Answer.

to be among the projects first-ready to come on line.”⁶⁵ The Commission has also found that a PPA was an appropriate criterion for satisfying a milestone in MISO’s interconnection process because the PPA was only one among several options.⁶⁶ We continue to find that a PPA is relevant to a project’s financing status and is, therefore, a just and reasonable factor for CAISO to consider in combination with the other criteria.

63. Further, we find that CAISO’s evaluation of a project’s viability does not turn solely on whether the project has a PPA. Section 8.9.2 of the GIDAP, which sets forth the transmission plan deliverability allocation criteria for projects in the current queue cluster, plainly provides an assortment of criteria by which CAISO will assess a project’s (1) permitting status, (2) financing status, and (3) land acquisition status. Having a PPA is an element only of the financing status, and is not the exclusive method to demonstrate financial viability of a project.⁶⁷

64. For similar reasons, we find that Wind Energy’s undue discrimination arguments are without merit. Wind Energy correctly states that participating transmission owners, who are responsible for negotiating PPAs with generating facilities, are not independent entities. However, Wind Energy ignores the fact that CAISO’s deliverability allocation process considers criteria beyond a project’s financing status. Thus, we are not persuaded that CAISO’s proposal creates the potential for undue discrimination by inappropriately giving non-independent entities control over which projects have access to available transmission capacity.

65. We agree with Wind Energy that one of the key elements of CAISO’s overall GIDAP proposal is an analysis of which projects are most likely to achieve commercial operation. However, we reject Wind Energy’s assertion that allocating transmission plan deliverability on the basis of this analysis constitutes undue discrimination. Wind Energy incorrectly argues that the GIDAP involves a binary and discrete separation of projects into the categories of “viable” and “non-viable” such that only those deemed viable will receive their requested allocations of deliverability. CAISO’s proposed methodology does not separate projects into two distinct groups, but ranks projects along a scale of viability and uses that ranking to prioritize allocation of transmission plan deliverability. As discussed above, transmission plan deliverability allocations are tied directly to generation developers’ cost responsibilities for transmission upgrades. Thus, we find that CAISO’s proposed deliverability allocation methodology is based on objective criteria that are reasonably related to project viability.

⁶⁵ *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 at PP 50-51.

⁶⁶ *Midwest Indep. Transmission System Operator Corp.*, 124 FERC ¶ 61,183, at P 83 (2008).

⁶⁷ CAISO Tariff, Proposed Appendix DD, § 8.9.2 (2)(a).

66. Further, we reject Wind Energy's contention that the GIDAP produces unduly discriminatory outcomes by distinguishing between which projects will have to pay for network upgrades. We find that Wind Energy's "make-whole" argument relies on a misunderstanding of the Option A/Option B election. The GIDAP does not require interconnection customers to proceed without ratepayer-funded network upgrades. Rather, it provides interconnection customers with preliminary information about necessary upgrades and costs and then permits customers to make a business decision on how to proceed based on their individual project development models.

67. We find that Wind Energy also appears to misunderstand the role of CAISO's viability assessment in how network upgrade costs are assigned. The viability assessment creates a prioritization among projects that will affect which projects are allocated transmission plan deliverability. However, before CAISO considers the project viability criteria or allocates deliverability, an interconnection customer has already determined whether it is willing to proceed without ratepayer-funded upgrades by selecting Option A or Option B. Option A interconnection customers get the benefit of ratepayer-funded network upgrades, but risk having to downsize their projects, convert to energy-only deliverability status, or withdraw from the queue if they do not receive an allocation of the transmission plan deliverability that comes out of the TPP. An Option A customer will never be required to proceed without ratepayer-funded network upgrades. Option B customers may face higher network upgrade costs, but do not have to depend on receiving a deliverability allocation in order to guarantee that the generation project can proceed as planned. Thus, Option B benefits generation developers that have a secure source of financing by enabling them to build generation in areas of commercial interest that have not been identified in a TPP portfolio. Moreover, customers that select Option B do so with the full understanding that they are generally not eligible for ratepayer-funded upgrades⁶⁸ regardless of their progress towards commercial operation. Thus, the question of whether any particular generating project will receive ratepayer-funded network upgrades depends on whether it selects Option A or Option B, not CAISO's assessment of the project's viability. We find that this process is just and reasonable and non-discriminatory, because it affords all generators open access to CAISO's transmission grid and the opportunity to seek deliverability status through ratepayer-funded network upgrades, as well as the flexibility to proceed through the queue in a way that best suits the customer's business needs.

68. We also reject Wind Energy's assertions regarding the alleged make-whole provisions for projects in clusters 1-4. We find that CAISO's commitment to honor its executed generator interconnection agreements that remain in good standing does not constitute undue discrimination in favor of pre-cluster 5 projects. Rather, we find that

⁶⁸ As discussed below, Option B customers have full cost responsibility for all area deliverability network upgrades but may receive reimbursement from ratepayers for local deliverability network upgrades if they receive transmission plan deliverability.

CAISO has committed to providing the specified ratepayer-funded network upgrades to those generators in clusters 1-4 who continue to make the progress required by the GIP and their respective generator interconnection agreements. However, CAISO's proposed GIDAP tariff language does not clearly express this commitment. Thus, we direct CAISO to submit a compliance filing, within 30 days of the date of this order, to modify section 8.9.1 to clarify the procedure described in its answer and confirm that CAISO is not adding the PPA as a requirement for specific projects in clusters 1-4 to receive their requested deliverability status.

69. We reject Wind Energy's contention that CAISO's deliverability allocation proposal represents a substantial departure from settled Commission interconnection policy that prohibits the direct assignment of network upgrade costs to generators. As discussed above, CAISO's proposal does not require any interconnection customer to fund network upgrades without ratepayer reimbursement. Rather, the GIDAP provides an option for generators to voluntarily assume full cost responsibility construction of network upgrades that have not been made available through the TPP, if doing so makes sense financially.

70. Because we find that CAISO's proposed transmission plan deliverability allocation process satisfies the independent entity variation standard, we need not address parties' recommendations for more stringent allocation criteria. As discussed above, we are not required to find that the proposal at hand is the only alternative if we find that it satisfies the applicable legal standard.⁶⁹

D. Interconnection Financial Security

1. Comments and Protests

71. Wellhead characterizes the proposed interconnection financial security partial refund provisions as "forfeiture rules" and argues that they are unreasonable and excessive penalties for failure to complete a project, for reasons that are generally outside a developer's control. Wellhead requests that the Commission instruct CAISO to modify its deposit forfeiture rules to only apply to actual costs incurred by CAISO and load serving entities from customer's project, or to a reasonable proxy for those costs.⁷⁰

2. Commission Determination

72. The Commission has previously considered and rejected arguments that CAISO's interconnection financial security refund rules unjustly penalize developers for failure to complete a project, even when the failure is due to factors beyond the developers'

⁶⁹ *Infra*, n.53.

⁷⁰ Wellhead Comments at 15-16

control.⁷¹ The Commission explained that CAISO's interconnection financial security requirements represented "a reasonable effort to change this regime to deter speculative projects that lack a reasonable chance of achieving commercial operation from entering the queue."⁷² We find that, under the GIDAP, CAISO does not alter the fundamental structure of these requirements, but makes only the necessary refinements to address its revised cost assignment provisions. Moreover, CAISO proposes to retain the Commission-approved list of circumstances that will entitle interconnection customers to a partial refund of posted financial security, and to include two additional circumstances specific to Option A or Option B customers. These new options provide additional opportunities for interconnection customers to recoup a portion of their posted financial security if they are unable to complete their projects and must withdraw from the queue. Thus, we find that CAISO's interconnection financial security continues to be just and reasonable and accomplish the purposes of Order No. 2003.

E. Limits on Cash Reimbursement to Interconnection Customers

1. Comments and Protests

73. Wind Energy argues that the proposed limit on cash reimbursement to interconnection customers from ratepayers for the costs of reliability network upgrades is arbitrary and unreasonable. Wind Energy asserts that a sampling of network upgrade costs from three queue clusters fails to establish the reasonableness of CAISO's proposed \$60,000/MW benchmark. Also, Wind Energy contends that CAISO failed to present evidence that the cost data it relied on reflects the cost of completed projects, or to provide any cost estimates for reliability network upgrades for current queue clusters based on its Phase II interconnection studies.⁷³ Similarly, Large-scale Solar states that the participating transmission owners' published per unit costs demonstrate that the proposed cap does not cover the cost of common reliability network upgrades, such as a switching station and reactive support devices.⁷⁴ Large-scale Solar maintains that there is no scenario at any voltage level under which the per-unit costs of all of the participating transmission owners are at or below the proposed reimbursement cap.⁷⁵

⁷¹ See *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,292 at PP 140, 151-154.

⁷² *Id.* P 154.

⁷³ Wind Energy Protest at 23-24.

⁷⁴ Large-scale Solar June 22, 2012 Protest at 11 (citing the "per unit" benchmark cost guides for each of the California investor-owned utilities, available at <http://www.caiso.com/informed/Pages/StakeholderProcesses/ParticipatingTransmissionOwnerPerUnitCosts.aspx>) (Large-scale Solar Protest).

⁷⁵ *Id.* at 13-14

74. Large-scale Solar argues that the proposed cap introduces an opportunity for undue discrimination by participating transmission owners, and therefore the provisions are not just and reasonable under the independent entity variation standard of review. Large-scale Solar claims that if the limited reimbursement provisions are adopted participating transmission owners, who produce all reliability network upgrade cost estimates, would have both the incentive and the opportunity to treat generation interconnection customers in a discriminatory manner by overestimating costs or inadequately controlling construction costs. According to Large-scale Solar, CAISO does not engage in any meaningful oversight of cost estimations by participating transmission owners and has failed to explain how it will protect interconnection customers from undue discrimination.⁷⁶

75. Further, Large-scale Solar points out that the published per unit costs demonstrate that the three investor-owned participating transmission owners produce vastly different cost estimates. Large-scale Solar argues that without providing some way for interconnection customers to know that the actual and estimated costs of reliability network upgrades are just and reasonable, non-discriminatory, and verified by an independent entity, CAISO has not met its burden under the independent entity variation standard.⁷⁷

76. Large-scale Solar also questions the validity of CAISO's claim that the proposed limits on reliability network upgrade reimbursement will lead to more efficient siting decisions because interconnection customers cannot ascertain the costs of network upgrades prior to making siting decisions and cannot alter the proposed interconnection point after cost estimates are issued. Moreover, Large-scale Solar claims that reliability network upgrades are similar to local deliverability network upgrades for projects that obtain transmission plan deliverability, which are not subject to the \$60,000/MW limit. Large-scale Solar argues that CAISO fails to justify the disparate treatment.⁷⁸

77. Large-scale Solar recognizes that the Commission has allowed forms of compensation other than cash to reimburse interconnection customers, but contends that the consideration must provide at least the opportunity for an interconnection customer to receive compensation for network upgrades it funds.⁷⁹ Large-scale Solar contends that CAISO's proposed provision of compensation in the form of congestion revenue rights

⁷⁶ *Id.* at 9-11.

⁷⁷ *Id.* at 11-12.

⁷⁸ *Id.* at 16-17.

⁷⁹ *Id.* at 19 (citing *Southwest Power Pool, Inc.*, 122 FERC ¶ 61,060 at P 30, *order on reh'g*, 124 FERC ¶ 61,014 (2008)).

for amounts that exceed the reliability network upgrade reimbursement limit does not meet the standard of “valuable consideration.”⁸⁰

78. In addition, Large-scale Solar argues that the proposed limit on cash reimbursement for reliability network upgrades is not just and reasonable without corresponding “first-mover, late-comer” provisions that would require an interconnection customer to be compensated for a portion of the costs of that upgrade if a subsequent interconnection customer or other grid user benefits from those upgrades. Large-scale Solar disagrees with CAISO’s assertion that it would be administratively difficult to administer a “first-comer, late-mover” provision. Large-scale Solar argues that if CAISO is unable to track which reliability network upgrades are being used by which customers, then the facilities should be deemed to have grid-wide benefits and the costs of those facilities should be socialized. Large-scale Solar rejects CAISO’s assertion that reliability network upgrades would likely provide little or no benefit to subsequent projects because typical reliability network upgrades such as switching stations are regularly designed with added expansion capacity. Moreover, Large-scale Solar adds that if CAISO is correct, then it will not have to utilize the “first-comer, late-mover” provisions very often, and its administrative burden will be eased.⁸¹

2. Answer

79. CAISO responds to Large-scale Solar’s assertion that congestion revenue rights do not provide valuable compensation, explaining that the current congestion revenue rights methodology allows flexibility for developers to pick source and sink locations. Further, CAISO notes that, while providing reimbursement for reliability network upgrades solely in the form of congestion revenue rights would be consistent with Order No. 2003, CAISO has agreed nonetheless to provide cash reimbursement for a substantial portion of these costs.⁸²

80. Regarding Large-scale Solar’s claims that the proposed limit of \$60,000 is inadequate and lacks evidentiary support, CAISO argues that Large-scale Solar’s calculations have no basis in historical data and overstates the actual per MW cost by ignoring the total capacity of the network upgrades and the extent to which multiple generators will use the same upgrades. CAISO provides additional data showing typical cost ranges for common reliability network upgrades such as switchyards and substations.⁸³

⁸⁰ *Id.* at 17-19.

⁸¹ *Id.* at 19-22.

⁸² CAISO Answer at 16-17.

⁸³ *Id.* at 17-18.

81. CAISO dismisses Large-scale Solar's concerns about discriminatory cost estimates by participating transmission owners as beyond the scope of this proceeding, noting that it had considered, but later decided not to pursue, a process that would examine per-unit costs.⁸⁴

82. Regarding its decision not to include "first-comer, late-mover" provisions, CAISO asserts that Large-scale Solar fails to refute CAISO's justification with respect to deliverability network upgrades. CAISO maintains that the extra administrative burden related to first-comer, late mover provisions for reliability network upgrades is not warranted in light of the small amount of such upgrades that will be customer-funded.⁸⁵

3. Commission Determination

83. We find that CAISO's proposed limits on cash reimbursement to interconnection customers for network upgrades achieve an appropriate balance between ratepayer and developer cost exposure. We find that the GIDAP achieves this balance by providing financial benefits for customers that interconnect in areas where transmission is being developed, as identified through the TPP, including (1) not being assigned cost responsibility for area network development upgrades, (2) receiving full cash reimbursement for local deliverability network upgrades, and (3) receiving cash reimbursement for a substantial portion of reliability network upgrades.

84. Based on the data submitted by CAISO, we find that the proposed \$60,000/MW limit on cash reimbursement for reliability network upgrades falls within the zone of reasonableness.⁸⁶ Moreover, we find that it is reasonable for CAISO to propose a different reimbursement scheme for reliability network upgrades than for deliverability network upgrades because all interconnection customers, regardless of their selected deliverability status or whether they choose Option A or Option B, are potentially subject to cost responsibility for reliability network upgrades. Whereas the Option A/Option B election helps to control ratepayers' exposure to the costs of deliverability network upgrades, the GIDAP includes no other mechanism for limiting ratepayers' cost responsibility for reliability network upgrades. Thus, we find that the \$60,000 limit on cash reimbursements for reliability network upgrades is just and reasonable and not unduly discriminatory.

⁸⁴ *Id.* at 19.

⁸⁵ *Id.* at 20.

⁸⁶ *See, e.g., Me. Pub. Utils. Comm'n v. FERC*, 520 F.3d 464, 471 (D.C. Cir. 2008) ("The Commission correctly noted that there is not a single 'just and reasonable rate' but rather a zone of rates that are just and reasonable; a just and reasonable rate is one that falls within that zone.") (*citations omitted*), *rev'd in part on other grounds, sub nom. NRG Power Mktg., LLC. v. Me. Pub. Utils. Comm'n*, 130 S. Ct. 693 (2010).

85. Also, we reject objections to CAISO's proposal to provide congestion revenue rights for amounts that exceed the cash reimbursement limit because, as CAISO correctly observes, the Commission has found that compensation solely in the form of financial transmission rights for the costs of network upgrades is fully consistent with Order No. 2003.⁸⁷ Large-scale Solar and Wind Energy have not persuaded us that partial cash reimbursement, coupled with congestion revenue rights, is unjust, unreasonable, or unduly discriminatory when the Commission has previously approved network upgrade reimbursement rules that include no cash and are based entirely on financial transmission rights.

86. Similarly, we find that Large-scale Solar has not provided any convincing arguments as to why compensation through financial transmission rights are acceptable for the cost of network upgrades in other RTOs/ISOs, but not with respect to CAISO's proposal to provide partial compensation through congestion revenue rights. Contrary to Large-scale Solar's assertion that the rights will have no value because the source and sink points for reliability network upgrades will be the same, CAISO explains in its answer that the congestion revenue right rules permit the developer to select the source and sink points. Thus, we find no reason to reject CAISO's proposal to supplement cash reimbursements with congestion revenue rights.

87. We reject Large-scale Solar's contention that the proposed cap introduces an opportunity for undue discrimination by participating transmission owners as beyond the scope of this proceeding. Nothing in CAISO's GIDAP proposal modifies the current tariff provisions regarding the use of the participating transmission owners' published per unit costs to estimate network upgrade costs.⁸⁸ Moreover, section 6.4 of the GIDAP expressly states that the per unit cost estimate process is performed under CAISO's guidance with opportunity for stakeholder comment, and permits deviations from the benchmark per unit costs only if a participating transmission owner provides a reasonable explanation to CAISO and there is no undue discrimination. Thus, we find that CAISO has provided adequate protection against unduly discriminatory cost estimates.

88. We find persuasive CAISO's assertion that the limit on cash reimbursements for network upgrades will encourage more efficient citing decisions by developers.

⁸⁷ See, e.g., *Midwest Independent Transmission System Operator, Inc. and the Midwest ISO Transmission Owners*, 129 FERC ¶ 61,060, at P 27, n.38 (2009); *Midwest Independent Transmission System Operator, Inc.*, 114 FERC ¶ 61,106, at P 65 (2006); *New York Indep. Sys. Operator, Inc. and New York Transmission Owners*, 122 FERC ¶ 61,267, at PP 42-43 (2008); *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025, at PP 19-20 (2004); *Southwest Power Pool, Inc.*, 122 FERC ¶ 61,060 at P 30.

⁸⁸ Compare CAISO Tariff, Proposed Appendix DD, § 6.4 with CAISO Tariff, Appendix Y, § 6.2.

Although developers may not have precise cost estimates, they will have the benchmark per unit costs and the TPP portfolios to guide their decision-making. We find that by limiting cash reimbursement CAISO is effectively placing the risk of loss on developers that choose to pursue projects that are not consistent with the TPP portfolios, rather than burdening ratepayers with the full cost of transmission facilities that have not been identified as needed in the TPP.

89. Finally, because we find that CAISO's proposed reimbursement provisions are just and reasonable and not unduly discriminatory as proposed, we need not address the merits or desirability of first-come, late-mover provisions. As discussed above, we are not required to find that the proposal at hand is the only alternative if we find that it satisfies the applicable legal standard.⁸⁹

F. Prospective Application of GIDAP Provisions

1. Comments and Protests

90. Wind Energy, K Road and Wellhead request clarification that pre-cluster 5 projects' ability to be fully deliverable will not be adversely affected by the GIDAP. Wellhead points out that the GIDAP expressly states that only projects in clusters 1-4 with both PPAs and generator interconnection agreements will retain their previously allocated deliverability, despite the fact that these prior projects made business decisions based on the expectation that they would receive their requested deliverability if they complied with the GIP.⁹⁰ K Road and Wind Energy argue that CAISO's proposed criteria for cluster 1-4 projects to retain previously awarded transmission plan deliverability constitutes improper retroactive ratemaking, because it fails to account for the capacity required for deliverability of pre-cluster 5 projects with executed generator interconnection agreements but not PPAs.⁹¹ K Road and Wind Energy contend that CAISO's proposal to create sufficient additional transmission capacity in the next TPP cycle is unacceptable because it would create additional delays and uncertainty for the pre-cluster 5 projects.⁹² Instead, K Road requests that the Commission direct CAISO to revise its proposal to provide that, in the event of a double booking of capacity in a

⁸⁹ *Infra*, n. 53.

⁹⁰ Wellhead Comments at 11-12.

⁹¹ K Road June 22, 2012 Comments at 10-12 (K Road Comments); Wellhead Comments at 11.

⁹² K Road Comments at 7-8; Wind Energy Protest at 19.

specific study area, the pre-cluster 5 project should have priority rights to the transmission capacity specified in their generator interconnection agreement.⁹³

91. Wind Energy argues that CAISO does not present an analysis of the effect that the new allocation plan may have on the net qualifying capacity that legacy interconnection customers may depend on to obtain PPAs.⁹⁴ Wind Energy also expresses concern that the proposal undermines a generator's ability to determine, at the time a PPA is executed, whether the generator will be able to meet its resource adequacy requirements. Wind Energy posits that this could occur because a project's net qualifying capacity could be reduced at any time by CAISO if transmission plan deliverability is over-committed, leaving an earlier-queued project vulnerable for an interim period until additional transmission is built.⁹⁵

92. CMUA, NCPA, and Six Cities support the proposed GIDAP revisions, but express concern with CAISO's proposal to apply the GIDAP only to cluster 5 and beyond. Six Cities asserts that CAISO projects in clusters 1-4 should be required to show measureable progress toward commercial operation, not just an absence of backsliding, in order to retain a previous allocation of transmission plan deliverability. Six Cities argues that CAISO's current proposal to reserve deliverability for pre-cluster 5 projects may result in an over-estimate of needed transmission capacity, exposing ratepayers to significant costs for under-utilized or unneeded facilities.⁹⁶

93. NCPA asserts that the Commission should order CAISO to apply certain elements of the GIDAP to existing projects in the queue that have inactive or unsigned generator interconnection agreements, and also to generation projects without PPAs and major regulatory permits. NCPA argues that, in any event, the benefits of the proposed GIDAP will be greatly reduced if it is not implemented in time to apply to the cluster 5 projects. Thus, NCPA strongly urges the Commission to accept the revisions on or before July 25, 2012.⁹⁷ CMUA states that it is not convinced that the efforts ongoing at CAISO to manage the queues are aggressive enough and requests that the Commission order further procedures, including perhaps a technical conference, to examine CAISO's ongoing and future queue management efforts. CMUA suggests that part of the solution may lie in

⁹³ K Road Comments at 8.

⁹⁴ Wind Energy Protest at 16-17.

⁹⁵ *Id.* at 18-19.

⁹⁶ Six Cities Comments at 4-5.

⁹⁷ NCPA June 22, 2012 Comments at 5-9.

modifying the deliverability tests, which are driven by resource adequacy considerations under the proposed GIDAP.⁹⁸

2. Answer

94. CAISO contends that its consideration of whether a project has a PPA when setting-aside transmission plan deliverability for pre-cluster 5 projects, before it allocates deliverability to projects in cluster 5, is not unduly discriminatory. CAISO explains that the criteria set forth in section 8.9.1 of the proposed GIDAP do not in any way affect CAISO's contractual obligation to provide the delivery network upgrades identified in pre-cluster 5 generation interconnection agreements. CAISO states that the PPA information will be used only to estimate, as accurately as possible, how much transmission plan deliverability should be reserved as unavailable for projects in cluster 5 and subsequent clusters. CAISO clarifies that, in so doing, it will not earmark the set-aside transmission capacity for any specific pre-cluster 5 generating facilities. CAISO asserts that whichever pre-cluster 5 projects progress in accordance with their generator interconnection agreements to reach commercial operation will receive their requested deliverability status once their required network upgrades are in service, regardless of whether a project has a PPA when CAISO performs its estimate.⁹⁹

95. Regarding Wind Energy and K Road's concerns related to reductions in net qualifying capacity, CAISO states that any such reductions, if needed, would be consistent with section 40.4.6.1 of the existing CAISO tariff, which subjects generating facilities to a potential reduction of net qualifying capacity in situations where grid conditions cause deliverability to be constrained. Thus, CAISO asserts that potential reductions in net qualifying capacity have been an element of the CAISO tariff since 2006 and are not being introduced as part of the instant revisions. Moreover, CAISO reiterates that any reductions to net qualifying capacity would be temporary while construction of needed network upgrades is being completed.¹⁰⁰

96. In response to calls for CAISO to apply certain elements of the GIDAP to pre-cluster 5 projects, CAISO reiterates its belief that applying the tariff revisions to these legacy projects could constitute retroactive ratemaking. However, CAISO asserts that it has addressed NCPA's concerns through its estimated reservation of transmission plan deliverability based on the number of MW of pre-cluster 5 projects that have PPAs and generator interconnection agreements.¹⁰¹ Further, CAISO states that it will continue to

⁹⁸ CMUA June 22, 2012 Comments at 4-5

⁹⁹ CAISO Answer at 9-10.

¹⁰⁰ *Id.* at 12-14.

¹⁰¹ *Id.* at 14-15.

conduct stakeholder processes in the future to address its queue management procedures and, as a result, there is no need for the Commission to establish separate proceedings regarding the interconnection queue.¹⁰²

3. Commission Determination

97. We find that CAISO's use of PPAs to estimate the amount of capacity it needs to set aside for pre-cluster 5 projects does not unduly discriminate against these legacy projects. As CAISO explains in its answer, it will not use PPAs to set aside transmission capacity for any specific project or to deny it to any other. As discussed above, the Commission has previously acknowledged that PPAs are a reasonable means of identifying projects that will likely be first to come on line. Thus, we find that it is just and reasonable for CAISO to use the existence of PPAs and generator interconnection agreements as a way to estimate the amount of transmission capacity that must be reserved for the earlier-queued projects. Moreover, CAISO expressly states that it takes seriously its obligation to honor the generator interconnection agreements of projects in clusters 1-4, which have proceeded through the queue under the current GIP.¹⁰³ Thus, we find that the proposed GIDAP revisions do not unsettle the expectations of developers of generation projects in clusters 1-4.

98. On the other hand, we find that adding new requirements for retaining a project's requested deliverability status at this stage of the process for the pre-cluster 5 projects could be significantly disruptive to CAISO's interconnection process, so we will not require CAISO to adopt additional criteria or apply any element of the GIDAP to these earlier-queued projects. We will also not order separate proceedings to consider additional queue reform measures because CAISO has stated that it will continue to conduct stakeholder processes for this purpose.

99. Regarding the potential reductions to projects' net qualifying capacity, we find that the GIDAP introduces no revisions to CAISO's existing authority, under section 40.4.6.1 of its current tariff, to reduce net qualifying capacity if grid conditions require such reductions. Thus, we find that the protests by Wind Energy and K Road are beyond the scope of this proceeding. Moreover, we find that CAISO's commitment to providing, once the required network upgrades are on line, the requested deliverability status to pre-cluster 5 projects in good standing, constitutes an effective and just and reasonable solution to any temporary reductions that may be necessary.

¹⁰² *Id.* at 25.

¹⁰³ *Id.* at 9-10.

G. TPP Generation Scenario Assumptions

1. Comments and Protests

100. Zephyr/Pathfinder argue that the underlying generation scenario assumptions in the TPP, which form the foundation for allocating transmission plan deliverability under the proposed GIDAP, are unduly discriminatory and inconsistent with sections 205 and 206 of the Federal Power Act and should be rejected. Zephyr/Pathfinder urge the Commission to order CAISO to amend its TPP to allow out-of-state generation a reasonable opportunity to compete in the California market. Zephyr/Pathfinder contend that the GIDAP provides generators located within the geographic areas in California and, therefore, favored by the CPUC and California Energy Commission for purposes of developing the TPP generation scenario assumptions, with two advantages over generators in non-favored areas: (1) greater assurance that the transmission network will be upgraded to allow for the integration of their generating projects into the bulk power system with firm deliverability, and (2) more favorable rate treatment because the costs of network upgrades located in the favored geographic locations will be rolled into transmission rates and paid for by network load rather than directly assigned to individual generators requesting interconnection service. Zephyr/Pathfinder argue that because generators in non-favored geographic areas will bear a much greater share of the interconnection costs they will be unable to compete in the wholesale market on an equal basis.¹⁰⁴

101. Zephyr/Pathfinder allege that the CEC and CPUC generation scenarios used in the TPP, which in turn affect the GIDAP outcomes, are designed to explicitly minimize transmission upgrades and additions. They argue that the use of generation scenarios designed to minimize transmission expansion violates Order Nos. 1000 and 890 principles of promoting interstate competition in interstate wholesale markets. Further, they claim that the assumptions driving the GIDAP will stifle competition, based on comparative delivered prices and other product characteristics, which is unjust and unreasonable.¹⁰⁵

102. Further, Zephyr/Pathfinder assert that the Commerce Clause of the United States Constitution implicitly includes a prohibition against regulatory measures designed to benefit in-state economic interests by burdening out-of-state competitors. Accordingly, Zephyr/Pathfinder contend that the proposed transmission planning rules and interconnection rules may violate the Commerce Clause of the United States Constitution because they favor in-state over out-of-state generation resources.¹⁰⁶

¹⁰⁴ Zephyr/Pathfinder June 22, 2012 Protest and Comments at 4-10.

¹⁰⁵ *Id.* at 8.

¹⁰⁶ *Id.* at 10-11.

103. SoCal Edison supports the proposed GIDAP provisions that limit ratepayer responsibility to only those network upgrades that are identified through the TPP as being needed for public policy reasons. SoCal Edison asserts that these provisions constitute necessary and appropriate limitations on ratepayer exposure. Moreover, SoCal Edison argues that the proposed GIDAP does not preclude any generator from seeking to interconnect at any point on the CAISO Grid and is, therefore, consistent with Order 2003.¹⁰⁷

2. Answers

104. CAISO contends that the Commission should reject Zephyr/Pathfinders arguments as beyond the scope of this proceeding. Specifically, CAISO notes that its existing methodology for identifying public policy-driven transmission elements is addressed in section 24 of its current tariff, for which CAISO does not propose revisions in this proceeding. Further, CAISO offers that it works closely with the relevant authorities to develop plausible study assumptions about renewable energy locations and load serving entity procurement, but notes that such decisions are not within CAISO's jurisdictions and, as such, are not relevant to the instant proceeding. Finally, CAISO asserts that Zephyr/Pathfinder's Order No. 1000 proceeding is inapposite here and suggests that Zephyr/Pathfinder's concerns can be addressed once transmission providers have developed an inter-regional study process under Order No. 1000.¹⁰⁸

105. Zephyr/Pathfinder argues that the fact CAISO does not propose to change its transmission planning assumptions as part of this proceeding does not make those assumptions irrelevant to this proceeding. Zephyr/Pathfinder contend that the generation planning assumptions render the TPP unjust and unreasonable and, therefore, CAISO's proposed application of discriminatory planning assumptions to the generator interconnection procedures makes CAISO's proposal unjust and unreasonable.¹⁰⁹

3. Commission Determination

106. We find no merit in Zephyr/Pathfinder's arguments regarding the TPP generation assumption scenarios, and such arguments are beyond the scope of this proceeding. In the TPP Order, the Commission accepted CAISO's tariff revisions concerning the development of the conceptual statewide plan as just and reasonable. Further, the Commission found that the TPP process provides numerous meaningful opportunities for all stakeholders to review and comment on CAISO's conceptual and comprehensive plans, including commenting on inputs to the planning assumptions. In order to ensure

¹⁰⁷ SoCal Edison Comments at 2-4.

¹⁰⁸ CAISO Answer at 23-24.

¹⁰⁹ Zephyr/Pathfinder July 17, 2012 Answer.

that CAISO weighs the various inputs in a non-discriminatory manner, the Commission directed CAISO to submit revised tariff language on compliance to memorialize its commitments to apply the same criteria and standards to each input into its planning process, without according any undue weight or preference to any input in the planning process.¹¹⁰ CAISO's proposed integration of the TPP into its generator interconnection procedures does nothing to alter the underlying TPP procedures. Thus, we find that Zephyr/Pathfinder's protest is beyond the scope of this proceeding. Further, since we find that the TPP is an open and non-discriminatory process, we reject Zephyr/Pathfinder's contention that applying the TPP assumptions to the interconnection procedures renders the GIDAP unjust and unreasonable.

107. Regarding Zephyr/Pathfinder's contention that the tariff revisions may violate the Commerce Clause of the United States Constitution because they favor in-state over out-of-state generation resources, we reiterate that the proposed tariff revisions do not change CAISO's existing TPP, as described in section 24 of CAISO's current tariff. We find that, pursuant to CAISO's proposed revisions, all generators in the queue will be provided open access to the grid and a fair opportunity to seek deliverability status through ratepayer-funded network upgrades and find, therefore, that the GIDAP does not discriminate against generators located outside of California.

The Commission orders:

(A) CAISO's proposed tariff revisions are hereby accepted, subject to modification, as described in the body of this order, effective July 25, 2012, as requested.

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

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

¹¹⁰ TPP Order, 133 FERC ¶ 61,224 at PP 42-49. The Commission accepted the revised tariff language in an order issued on October 20, 2011. *Cal. Indep. Sys. Operator Corp.*, 137 FERC ¶ 61,072, at PP 37, 39 (2011).

Appendix A

American Wind Energy Association (AWEA)

Bay Area Municipal Transmission Group (BAMx)

California Department of Water Resources State Water Project

California Municipal Utilities Association (CMUA)

California Wind Energy Association (CalWEA)

The Cities of Anaheim, Azusa, Banning, Pasadena, and Riverside, California (Six Cities)

City and County of San Francisco Public Utilities Commission

Cogeneration Association of California & Energy Producers and Users Coalition

Imperial Irrigation District

Independent Energy Producers Association

K Road Power Holdings LLC and its subsidiary K Road Calico Solar LLC (K Road)

Large-scale Solar Association (Large-scale Solar)

MidAmerican Transmission, LLC

Modesto Irrigation District

M-S-R Public Power Agency

Northern California Power Agency (NCPA)

NRG Companies;

Pacific Gas & Electric Company (PG&E)

Public Utilities Commission of the State of California (CPUC)

San Diego Gas & Electric Company

Southern California Edison Company (SoCal Edison)

Trans Bay Cable LLC

Wellhead Electric Company, Inc. (Wellhead)

Zephyr Power Transmission, LLC and Pathfinder Renewable Wind Energy, LLC
(Zephyr/Pathfinder).