

170 FERC ¶ 61,212
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

Sky River LLC

Docket No. ER19-2112-000

ORDER ON COMPLIANCE

(Issued March 19, 2020)

1. On June 12, 2019, Sky River LLC (Sky River) submitted proposed revisions to its Open Access Transmission Tariff (Tariff) in compliance with the requirements of Order Nos. 845 and 845-A,¹ which amended the Commission's *pro forma* Large Generator Interconnection Agreement (LGIA) and *pro forma* Large Generator Interconnection Procedures (LGIP).² As discussed below, we find that Sky River's filing partially complies with the requirements of Order Nos. 845 and 845-A. Accordingly, we accept Sky River's compliance filing, effective May 22, 2019 and direct Sky River to submit a further compliance filing within 120 days of the date of this order.

I. Background

2. On April 19, 2018, the Commission issued Order No. 845, which revised the Commission's *pro forma* LGIA and the *pro forma* LGIP to improve certainty for interconnection customers, promote more informed interconnection decisions, and enhance the interconnection process. The Commission stated that it expects that these reforms will provide interconnection customers better information and more options for obtaining interconnection service, and as a result, there will be fewer overall interconnection requests and fewer interconnection requests failing to reach commercial operation. The Commission also stated that it expects that, as a result of these reforms,

¹ *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043 (2018), *errata notice*, 167 FERC ¶ 61,123, *order on reh'g*, Order No. 845-A, 166 FERC ¶ 61,137 (2019), *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

² The *pro forma* LGIP and *pro forma* LGIA establish the terms and conditions under which public utilities that own, control, or operate facilities for transmitting energy in interstate commerce must provide interconnection service to large generating facilities. Order No. 845, 163 FERC ¶ 61,043 at P 6.

transmission providers will be able to focus resources on those interconnection requests most likely to reach commercial operation.³ In Order No. 845-A, the Commission generally upheld the reforms it required in Order No. 845, but granted certain requests for rehearing and clarification.

3. In Order No. 845, the Commission adopted 10 different reforms in three categories to improve the interconnection process. First, in order to improve certainty for interconnection customers, the Commission: (1) removed the limitation that interconnection customers may exercise the option to build the transmission provider's interconnection facilities⁴ and stand alone network upgrades⁵ only in instances when the transmission provider cannot meet the dates proposed by the interconnection customer;⁶ and (2) required that transmission providers establish interconnection dispute resolution procedures that allow a disputing party unilaterally to seek non-binding dispute resolution.⁷

4. Second, to promote more informed interconnection decisions, the Commission: (1) required transmission providers to outline and make public a method for determining contingent facilities;⁸ (2) required transmission providers to list the specific study

³ *Id.* P 2; Order No. 845-A, 166 FERC ¶ 61,137 at P 1.

⁴ Transmission provider's interconnection facilities are "all facilities and equipment owned, controlled or operated by the Transmission Provider from the Point of Change of Ownership to the Point of Interconnection as identified in Appendix A to the Standard Large Generator Interconnection Agreement, including any modifications, additions or upgrades to such facilities and equipment. Transmission Provider's Interconnection Facilities are sole use facilities and shall not include Distribution Upgrades, Stand Alone Network Upgrades or Network Upgrades." *Pro forma* LGIA art. 1 (Definitions).

⁵ Stand alone network upgrades are "Network Upgrades that an Interconnection Customer may construct without affecting day-to-day operations of the Transmission System during their construction. Both the Transmission Provider and the Interconnection Customer must agree as to what constitutes Stand Alone Network Upgrades and identify them in Appendix A to the Standard Large Generator Interconnection Agreement." *Id.*

⁶ Order No. 845, 163 FERC ¶ 61,043 at P 85.

⁷ *Id.* P 3.

⁸ Contingent facilities are "those unbuilt Interconnection Facilities and Network Upgrades upon which the Interconnection Request's costs, timing, and study findings are dependent, and if delayed or not built, could cause a need for Re-Studies of the

processes and assumptions for forming the network models used for interconnection studies; (3) revised the definition of “Generating Facility” to explicitly include electric storage resources; and (4) established reporting requirements for aggregate interconnection study performance.⁹

5. Third, the Commission adopted reforms to enhance the interconnection process by: (1) allowing interconnection customers to request a level of interconnection service that is lower than their generating facility capacity; (2) requiring transmission providers to allow for provisional interconnection agreements that provide for limited operation of a generating facility prior to completion of the full interconnection process; (3) requiring transmission providers to create a process for interconnection customers to use surplus interconnection service¹⁰ at existing points of interconnection; and (4) requiring transmission providers to set forth a procedure to follow when assessing and, if necessary, studying an interconnection customer’s technology changes without affecting the interconnection customer’s queue position.¹¹

II. Sky River’s Compliance Filing

6. Sky River states that it owns and operates a 77 MW wind-powered electric generating facility located in Kern County, California. Sky River owns the Sky River Line and holds an interest in the Wilderness Line, both in Kern County, which Sky River describes as radial generator-tie-lines, which together “comprise the entirety of the transmission facilities subject to the Sky River [Tariff].”¹²

7. Sky River explains that its compliance filing adopts many of the Commission’s revisions to the *pro forma* LGIP and *pro forma* LGIA required by Order Nos. 845 and 845-A. However, Sky River also explains that, in recognition of the limited nature of Sky River’s transmission system, the Commission previously granted Sky River certain

Interconnection Request or a reassessment of the Interconnection Facilities and/or Network Upgrades and/or costs and timing.” *Pro forma* LGIP § 1 (Definitions).

⁹ Order No. 845, 163 FERC ¶ 61,043 at P 4.

¹⁰ Order No. 845 added a definition for “Surplus Interconnection Service” to § 1 of the *pro forma* LGIP and art. 1 of the *pro forma* LGIA, defining the term as “any unused portion of Interconnection Service established in a Large Generator Interconnection Agreement, such that if surplus interconnection service is utilized the Interconnection Service limit at the Point of Interconnection would remain the same.” *Id.* P 459.

¹¹ *Id.* P 5.

¹² Sky River Transmittal at 1-2.

modifications from *pro forma* tariff changes.¹³ Accordingly, Sky River proposes to continue to use these modifications and requests similar waivers, consistent with prior Commission orders that approved Sky River variations from the *pro forma* open access transmission tariff, and granted waivers of certain provisions.¹⁴ Specifically, Sky River states that the Commission previously agreed with certain variations from the *pro forma* open access transmission tariff that were proposed by Sky River, e.g., describing itself as a “Tie Line Owner” rather than a Transmission Provider¹⁵ and deleting network transmission service provisions because Sky River’s system is comprised of two non-contiguous transmission lines.¹⁶ Sky River states that the Commission also granted Sky River waivers from certain requirements in its Tariff, e.g., having an Open Access Same-Time Information System (OASIS).¹⁷

8. Similarly, Sky River proposes several variations from Order Nos. 845 and 845-A *pro forma* language.

9. Finally, Sky River requests that the proposed Tariff revisions become effective on May 22, 2019.¹⁸

III. Notice and Responsive Pleadings

10. Notice of Sky River’s compliance filing was published in the *Federal Register*, 84 Fed. Reg. 28,547 (June 19, 2019), with interventions and protests due on or before July 3, 2019. None was filed.

IV. Discussion

A. Substantive Matters

11. As discussed below, we find that Sky River’s filing partially complies with the requirements of Order Nos. 845 and 845-A. Accordingly, we accept Sky River’s

¹³ Sky River Transmittal at 1-2 (citing *Sky River LLC*, 134 FERC ¶ 61,064 (2011); *Sky River LLC*, 136 FERC ¶ 61,162 (2011)).

¹⁴ Sky River Transmittal at 1

¹⁵ *Sky River LLC*, 145 FERC ¶ 61,224, at P 4 (2013).

¹⁶ *Sky River LLC*, 136 FERC ¶ 61,162 at P 24.

¹⁷ Sky River Transmittal at 2 (citing *Sky River LLC*, 134 FERC ¶ 61,064 at P 14).

¹⁸ *Id.* at 4-5.

compliance filing, effective May 22, 2019, and direct Sky River to submit a further compliance filing within 120 days of the date of this order.

1. Proposed Variations

12. As discussed further below, Sky River has proposed certain variations from the Commission's requirements in Order Nos. 845 and 845-A. The Commission explained in Order No. 845 that such variations would be reviewed under the same standard allowed by Order No. 2003.¹⁹ In Order No. 2003, when adopting the *pro forma* LGIA and LGIP, the Commission permitted transmission providers to seek variations from the *pro forma* LGIP and/or *pro forma* LGIA if they were "consistent with or superior to" the terms of the *pro forma* LGIP and *pro forma* LGIA.²⁰ A transmission provider seeking a "consistent with or superior to" variation must demonstrate why its proposal is consistent with or superior to the *pro forma* LGIP and/or *pro forma* LGIA.²¹ The Commission also permitted transmission providers to justify a variation to the *pro forma* LGIA or LGIP based on regional reliability requirements and required transmission providers submitting such regional reliability variations to the Commission for approval to identify the proposed variations and explain why such variations are necessary.²² We will evaluate Sky River's proposed variations from the requirements of Order Nos. 845 and 845-A accordingly.

2. Interconnection Customer's Option to Build

13. In Order No. 845, the Commission revised articles 5.1, 5.1.3, and 5.1.4 of the *pro forma* LGIA to allow interconnection customers to unilaterally exercise the option to build for stand alone network upgrades and the transmission provider's interconnection facilities, regardless of whether the transmission provider can complete construction of such facilities by the interconnection customer's proposed in-service date, initial

¹⁹ Order No. 845, 163 FERC ¶ 61,043 at P 43.

²⁰ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103, at P 26 (2003), *order on reh'g*, Order No. 2003-A, 106 FERC ¶ 61,220, *order on reh'g*, Order No. 2003-B, 109 FERC ¶ 61,287 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007).

²¹ *See, e.g., Nev. Power Co.*, 167 FERC ¶ 61,086, at P 3 (2019).

²² Order No. 2003, 104 FERC ¶ 61,103 at P 826; Order No. 2003-A, 106 FERC ¶ 61,220 at P 45.

synchronization date, or commercial operation date.²³ Prior to Order No. 845, this option to build was available to an interconnection customer only if the transmission provider did not agree to the interconnection customer's preferred construction timeline.²⁴ The Commission stated in Order No. 845 that this reform of the option to build will "benefit the interconnection process by providing interconnection customers more control and certainty during the design and construction phases of the interconnection process."²⁵

14. In Order No. 845-A, the Commission granted rehearing and clarification of certain aspects of the revised option to build. Specifically, the Commission revised the definition of stand alone network upgrade in the *pro forma* LGIP and *pro forma* LGIA to: (1) state that, when there is a disagreement, the transmission provider must provide the interconnection customer a written technical explanation outlining why the transmission provider does not consider a specific network upgrade to be a stand alone network upgrade;²⁶ and (2) clarify that the option to build does not apply to stand alone network upgrades on affected systems.²⁷ The Commission also made revisions to article 5.2 of the *pro forma* LGIA to allow transmission providers to recover oversight costs related to the interconnection customer's option to build.²⁸ In addition, the Commission clarified that the revised option to build provisions apply to all public utility transmission providers, including those that reimburse the interconnection customer for network upgrades.²⁹

a. Sky River's Compliance Filing

15. Sky River proposes to revise the definition of stand alone network upgrade in its LGIP and *pro forma* LGIA to incorporate the revisions to the definition adopted by Order Nos. 845 and 845-A with one modification. Specifically, Sky River proposes to change the term "Transmission Provider" to "Tie Line Owner." Sky River also proposes revisions to its *pro forma* LGIA to amend articles 5.1, 5.1.3, 5.1.4, and 5.2 to incorporate

²³ Order No. 845, 163 FERC ¶ 61,043 at PP 85-87.

²⁴ Order No. 2003, 104 FERC ¶ 61,103 at P 353; *see also pro forma* LGIP § 5.1.3.

²⁵ Order No. 845, 163 FERC ¶ 61,043 at P 85.

²⁶ Order No. 845-A, 166 FERC ¶ 61,137 at P 68.

²⁷ *Id.* P 61.

²⁸ *Id.* P 75.

²⁹ *Id.* P 33.

the *pro forma* LGIA revisions adopted by Order Nos. 845 and 845-A with the same modifications.³⁰

b. Commission Determination

16. We find that Sky River’s proposed revisions regarding the option to build are consistent with or superior to the requirements of Order Nos. 845 and 845-A. With the exception of one variation, Sky River adopts the Commission’s *pro forma* LGIA and *pro forma* LGIP revisions. Sky River’s proposed variation, to use the term “Tie Line Owner” in place of “Transmission Provider,” comports with an earlier Commission order granting Sky River’s request to substitute Tie Line Owner for Transmission Provider.³¹

3. Dispute Resolution

17. In Order No. 845, the Commission revised the *pro forma* LGIP by adding new section 13.5.5, which establishes generator interconnection dispute resolution procedures that allow a disputing party to unilaterally seek non-binding dispute resolution.³² The Commission established these new procedures because dispute resolution was previously unavailable when the parties did not mutually agree to pursue a binding arbitration under section 13.5 of the pre-Order No. 845 *pro forma* LGIP. The Commission further explained that participation in the new non-binding dispute resolution process in *pro forma* LGIP section 13.5.5 does not preclude disputing parties from pursuing binding arbitration after the conclusion of the non-binding dispute resolution process if they seek a binding result.³³

³⁰ Sky River OATT, attach. M, LGIA art. 5 (Interconnection Facilities Engineering, Procurement and Construction), art. 5.1 (Options), art. 5.1.3 (Option to Build), art. 5.1.4 (Negotiated Option) and art. 5.2 (General Conditions Applicable to Option to Build).

³¹ *Sky River, LLC*, 145 FERC ¶ 61,224 at P 4.

³² Order No. 845, 163 FERC ¶ 61,043 at P 133; *see also pro forma* LGIP § 13.5.5.

³³ Order No. 845, 163 FERC ¶ 61,043 at P 139.

a. **Sky River's Compliance Filing**

18. Sky River proposes revisions to its LGIP that adopt the language required by Order Nos. 845 and 845-A with one modification. Specifically, Sky River proposes to change the term "Transmission Provider" to "Tie Line Owner."³⁴

b. **Commission Determination**

19. We find that Sky River's proposed LGIP revisions regarding dispute resolution are consistent with or superior to the requirements of Order Nos. 845 and 845-A. With the exception of one modification, Sky River adopts the Commission's *pro forma* LGIA and *pro forma* LGIP revisions. Sky River's modification, to use the term "Tie Line Owner" in place of "Transmission Provider," comports with an earlier Commission order granting Sky River's request to substitute Tie Line Owner for Transmission Provider.

4. **Identification and Definition of Contingent Facilities**

20. In Order No. 845, the Commission added a new definition to section 1 of the *pro forma* LGIP, providing that contingent facilities shall mean those unbuilt interconnection facilities and network upgrades upon which the interconnection request's costs, timing, and study findings are dependent, and if delayed or not built, could cause a need for restudies of the interconnection request or a reassessment of the interconnection facilities and/or network upgrades and/or costs and timing.³⁵ The Commission also added new section 3.8 to the *pro forma* LGIP, which requires transmission providers to include, within section 3.8, a method for identifying the contingent facilities that they will provide to the interconnection customer at the conclusion of the system impact study and include in the interconnection customer's generator interconnection agreement.³⁶ The Commission specified that the method must be sufficiently transparent to determine why a specific contingent facility was identified and how it relates to the interconnection request.³⁷ The Commission stated that this transparency will ensure that the method is applied on a non-discriminatory basis.³⁸ The Commission further required that

³⁴ Sky River Transmittal at 4; Sky River OATT, attach. M, LGIP § 13.5.5 (Non-Binding Dispute Resolution Procedures).

³⁵ Order No. 845, 163 FERC ¶ 61,043 at P 218; *see also pro forma* LGIP § 1 (Definitions).

³⁶ Order No. 845, 163 FERC ¶ 61,043 at P 199.

³⁷ *Id.*; *see also pro forma* LGIP § 3.8.

³⁸ Order No. 845, 163 FERC ¶ 61,043 at P 200.

transmission providers provide, upon the interconnection customer's request, the estimated network upgrade costs and estimated in-service completion date associated with each identified contingent facility when this information is readily available and not commercially sensitive.³⁹

a. Sky River's Compliance Filing

21. Sky River does not fully adopt the Commission's *pro forma* LGIP definition of contingent facilities. Specifically, Sky River proposes to delete the reference to network upgrades in its definition of contingent facilities. Sky River also proposes revisions to its LGIP to add a new section 3.8, which includes a method for identifying contingent facilities to be provided to the interconnection customer as part of the system impact study and included in the interconnection customer's *pro forma* LGIA.⁴⁰ Specifically, Sky River proposes that it will:

(1) identify contingent facilities by reviewing and assessing the study cases used to perform the system impact study, particularly in the geographic area of the interconnection customer's project, to identify unbuilt facilities upon which the interconnection request's cost, timing, and study findings may be dependent; (2) include the system impact study report, and the list of contingent facilities identified in (1); (3) provide, upon request, the study cases with the identified contingent facilities removed in order to demonstrate the dependency of the contingent facility to the customer's proposed project so the customer can verify the timing and necessity of identified contingent facilities; (4) provide, upon request of the interconnection customer, the estimated interconnection facility *and estimated interconnection facility*⁴¹ and estimated in-service completion time of each identified contingent facility when the information is readily available and not commercially sensitive; and (5) include the list of contingent facilities in the interconnection customer's LGIA.⁴²

³⁹ *Id.* P 199; *see also pro forma* LGIP § 3.8.

⁴⁰ Sky River OATT attach. M, LGIP § 3.8 (Identification of Contingent Facilities).

⁴¹ Emphasis added.

⁴² *Id.* § 3.8 (1)-(5).

b. Commission Determination

22. We find that the revised provisions that identify and describe Sky River’s method for determining contingent facilities, as Sky River proposes in its LGIP, partially comply with the requirements of Order Nos. 845 and 845-A. We find that Sky River’s proposed definition of contingent facilities is consistent with or superior to the requirements of Order Nos. 845 and 845-A because Sky River largely adopts the Commission’s definition of contingent facilities. In addition, Sky River’s proposed deletion of references to network upgrades is consistent with or superior to the requirements of Order Nos. 845 and 845-A because the proposed change accounts for the fact that Sky River does not own any network facilities. Further, Sky River’s proposed Tariff revisions comply with the requirements related to providing estimated in-service completion dates associated with contingent facilities to the interconnection customer. However, in section 3.8(4), Sky River does not comply with the costs requirements associated with contingent facilities because Sky River’s proposal does not include references to interconnection facilities costs. In addition, we note that in section 3.8(4) of Sky River’s LGIP the term “estimated interconnection facility” inadvertently appears twice. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing that adopts the relevant *pro forma* LGIP provisions or submit a variation and demonstrate that it is consistent with or superior to the requirements of Order Nos. 845 and 845-A.

23. However, as specified in Order No. 845, transmission providers must include, in section 3.8 of their LGIPs, a method for determining contingent facilities.⁴³ The Commission required that this method provide sufficient transparency to determine why a specific contingent facility was identified and how it relates to the interconnection request.⁴⁴ The Commission also required that a transmission provider’s method to identify contingent facilities be transparent enough to ensure that it will be applied on a non-discriminatory basis.⁴⁵ Sky River’s proposed Tariff revisions lack the requisite transparency required by Orders No. 845 and 845-A because the proposed Tariff revisions do not detail the specific technical screens or analyses and the specific thresholds or criteria that Sky River will use as part of its method to identify contingent facilities.⁴⁶ Without this information, an interconnection customer will not understand how Sky River will evaluate potential contingent facilities to determine their relationship

⁴³ Order No. 845, 163 FERC ¶ 61,043 at P 199.

⁴⁴ *Id.* P 200.

⁴⁵ *Id.*

⁴⁶ The Commission declined to implement a standard threshold or criteria, such as a specific distribution factor threshold, because different thresholds may be more appropriate for different queue types and geographical footprints. *Id.* P 220.

to an individual interconnection request.⁴⁷ Further, including provisions regarding specific thresholds or criteria in Sky River's LGIP will ensure Sky River's technical screens or analyses will be applied to interconnection requests on a consistent, not unduly discriminatory or preferential basis.

24. We therefore direct Sky River to describe in its Tariff the technical screens or analyses that it will employ to determine which facilities are contingent. Further, we also direct Sky River to describe specific triggering thresholds or criteria, including the quantitative triggers beyond which Sky River would consider an identified facility to be contingent. For example, if Sky River uses a distribution factor analysis as a technical screen for determining how a new generating facility impacts the surrounding electrically-relevant facilities, its Tariff must provide the triggering percentage beyond which a facility would be considered contingent. As another example, if Sky River proposes to detail how the system impact study would show which facilities the new generating facility will impact, Sky River must explicitly state in its Tariff which features of a specific facility⁴⁸ would cause Sky River to conclude that the facility is contingent for the new generating facility. Sky River may use multiple screens or analyses as part of its method, but it must include a corresponding specific triggering threshold or criterion to indicate how Sky River will apply each screen or analysis.

25. Because Sky River has not provided the specificity outline above and thus does not fully comply with the contingent facility requirements of Order Nos. 845 and 845-A, we direct Sky River to submit a further compliance filing, within 120 days of the date of this order, which adds in section 3.8 of Sky River's LGIP: (1) the method Sky River will use to determine contingent facilities, including technical screens or analyses it proposes to use to identify these facilities; and (2) the specific thresholds or criteria it will use in its technical screens or analysis to achieve the level of transparency required by Order No. 845, as discussed above.

5. Transparency Regarding Study Models and Assumptions

26. In Order No. 845, the Commission revised section 2.3 of the *pro forma* LGIP to require transmission providers to maintain network models and underlying assumptions on either an OASIS site or a password-protected website. If the transmission provider posts this information on a password-protected website, a link to the information must be provided on its OASIS site. Revised *pro forma* LGIP section 2.3 also requires that "network models and underlying assumptions reasonably represent those used during the

⁴⁷ See *pro forma* LGIP § 3.8 ("The method shall be sufficiently transparent to determine why a specific Contingent Facility was identified").

⁴⁸ For example, a range for facility per unit voltage may constitute a specific triggering threshold, beyond which Sky River will identify the facility as contingent.

most recent interconnection study and be representative of current system conditions.”⁴⁹ In addition, the Commission revised *pro forma* LGIP section 2.3 to allow transmission providers to require interconnection customers, OASIS site users, and password-protected website users to sign a confidentiality agreement before the release of commercially sensitive information or critical energy infrastructure information (CEII).⁵⁰

27. In Order No. 845-A, the Commission reiterated that neither the Commission’s CEII regulations nor Order No. 845 precludes a transmission provider from taking necessary steps to protect information within its custody or control to ensure the safety and security of the electric grid.⁵¹ The Commission also clarified that, to the extent any party would like to use the Commission’s CEII regulations as a model for evaluating entities that request network model information and assumptions (prior to signing a non-disclosure agreement), it may do so.⁵² The Commission further clarified that the phrase “current system conditions” does not require transmission providers to maintain network models that reflect current real-time operating conditions of the transmission provider’s system. Instead, the network model information should reflect the system conditions currently used in interconnection studies.⁵³

a. Sky River’s Compliance Filing

28. In proposed section 2.3, with the exception of changing the word “provide” to “maintain,” Sky River does not propose to adopt other revisions concerning base case data. Specifically, Sky River’s proposed section 2.3 (Base Case Data) states:

Tie Line Owner shall maintain base power flow, short circuit and stability databases, including all underlying assumptions, and contingency list upon request subject to confidentiality provisions in LGIP Section 13.1. Tie Line Owner is permitted to require that Interconnection Customer sign a confidentiality agreement before the release of commercially sensitive information or Critical Energy Infrastructure

⁴⁹ Order No. 845, 163 FERC ¶ 61,043 at P 236.

⁵⁰ *Id.*; see also *pro forma* LGIP § 2.3.

⁵¹ Order No. 845-A, 166 FERC ¶ 61,137 at P 84 (citing Order No. 845, 163 FERC ¶ 61,043 at P 241).

⁵² *Id.* P 85 (citing 18 C.F.R. § 388.113(g)(5)(i) (2019)).

⁵³ *Id.* P 88.

Information in the Base Case data. Such databases and lists, hereinafter referred to as Base Cases, shall include all: (1) generation projects; and (2) transmission projects.

29. As described above, Sky River also notes that the Commission previously granted it waiver from the requirement to maintain an OASIS site. Sky River states that, in addition to not having an OASIS or other website, the base case data relied upon by Sky River in a study is CAISO's base case data. Sky River also states that any interconnection customer seeking that data can obtain it from CAISO, provided that it executes a non-disclosure agreement with CAISO. Sky River states that, given how infrequently Sky River undertakes interconnection studies, maintaining its last used base case data separately from the CAISO could be misleading given the probability of Sky River's data being stale.⁵⁴

b. Commission Determination

30. We find Sky River's new section 2.3 that does not adopt the Commission's *pro forma* LGIP language concerning base case data to be consistent with or superior to the requirements of Order Nos. 845 and 845-A because Sky River's proposed section 2.3 comports with waivers from the OASIS requirements that the Commission previously granted Sky River. As Sky River explains, it does not have an OASIS or other website and instead, the base case data Sky River relies upon in a study is CAISO's base case data, which any interconnection customer can obtain from CAISO upon execution of a non-disclosure agreement.⁵⁵ Under these circumstances, we agree that a prospective interconnection customer will have all necessary base case data information available through CAISO.⁵⁶ Therefore, we direct Sky River to add to its Tariff a relevant link to the location of the base case data information on either CAISO's public website or CAISO's OASIS where customers may access this information.

6. Definition of Generating Facility

31. In Order No. 845, the Commission revised the definition of "Generating Facility" to include electric storage resources and to allow electric storage resources to interconnect pursuant to the Commission-jurisdictional large generator interconnection

⁵⁴ Sky River Transmittal at 5.

⁵⁵ CAISO Tariff, app. DD § 2.3.

⁵⁶ We note that CAISO explained that this information is located on its public website, rather than its OASIS. See *Cal. Indep. Sys. Operator Corp.*, 170 FERC ¶ 61,112, at P 35 (2020).

processes. Specifically, the Commission revised the definition of “Generating Facility” in the *pro forma* LGIP and *pro forma* LGIA as follows:

Generating Facility shall mean Interconnection Customer’s device for the production *and/or storage for later injection* of electricity identified in the Interconnection Request, but shall not include the Interconnection Customer’s Interconnection Facilities.⁵⁷

32. The Commission found that this definitional change will reduce a potential barrier to large electric storage resources with a generating facility capacity above 20 MW that wish to interconnect pursuant to the terms in the *pro forma* LGIP and *pro forma* LGIA.⁵⁸

a. Sky River’s Compliance Filing

33. Sky River proposes revisions to section 1 of its LGIP and its *pro forma* LGIA to incorporate the definition of “Generating Facility” adopted by Orders No. 845 and 845-A without modification.⁵⁹

b. Commission Determination

34. We find that Sky River’s revisions regarding the definition of a “Generating Facility” comply with the requirements of Order Nos. 845 and 845-A because Sky River adopts the Commission’s *pro forma* LGIP and *pro forma* LGIA provisions without modification.

7. Interconnection Study Deadlines

35. In Order No. 845, the Commission modified the *pro forma* LGIP to add sections 3.5.2 and 3.5.3, which require transmission providers to calculate and maintain on their OASIS sites or public websites summary statistics related to the timing of the transmission provider’s processing of interconnection studies and to update those statistics on a quarterly basis.⁶⁰ In these Sections, the Commission included bracketed

⁵⁷ Order No. 845, 163 FERC ¶ 61,043 at P 275 (additions italicized); *see also pro forma* LGIP § 1(Definitions).

⁵⁸ Order No. 845, 163 FERC ¶ 61,043 at P 275.

⁵⁹ Sky River OATT, attach. M, LGIP § 1 (Definitions) and app. 6, LGIA art. 1 (Definitions).

⁶⁰ Order No. 845, 163 FERC ¶ 61,043 at P 305; *see also pro forma* LGIP §§3.5.2, 3.5.3.

Tariff language to be completed by the transmission provider in accordance with the timelines established for the various studies in their LGIPs.⁶¹ The Commission also revised the *pro forma* LGIP to add section 3.5.4 to require transmission providers to file informational reports with the Commission if a transmission provider exceeds its interconnection study deadlines for more than 25% of any study type for two consecutive calendar quarters.⁶² In adopting these reporting requirements, the Commission found that the reporting requirements strike a reasonable balance between providing increased transparency and information to interconnection customers and not unduly burdening transmission providers.⁶³ In Order No. 845-A, the Commission revised *pro forma* LGIP section 3.5.3 to clarify that the data reporting and retention requirements begin in the first calendar quarter of 2020.⁶⁴

c. Sky River's Compliance Filing

36. Sky River states, “Given the prior waiver from the OASIS requirements, [it] also is seeking waiver from the new OASIS posting requirements in *pro forma* [sections] 3.5.2, 3.5.2.1, 3.5.2.2, 3.5.2.3 and 3.5.2.4.”⁶⁵ Sky River does not provide any additional information regarding this request and does not propose any relevant provisions in its LGIP or *pro forma* LGIA with regard to statistics regarding the timing for processing interconnection studies.

d. Commission Determination

37. We find that Sky River has not provided sufficient justification for not complying with the study deadline and information reporting requirements of Order Nos. 845 and 845-A. While we recognize that Sky River has previously received a waiver of the Commission's OASIS requirements, Order No. 845 also gives transmission providers the “flexibility to post this information . . . on a public website.”⁶⁶ We also recognize, as

⁶¹ Order No. 845, 163 FERC ¶ 61,043 at P 305; *see also pro forma* LGIP §§ 3.5.2, 3.5.3.

⁶² Order No. 845, 163 FERC ¶ 61,043 at P 305; *see also pro forma* LGIP § 3.5.4.

⁶³ Order No. 845, 163 FERC ¶ 61,043 at P 307.

⁶⁴ Order No. 845-A, 166 FERC ¶ 61,137 at P 107.

⁶⁵ Sky River Transmittal at 5.

⁶⁶ Order No. 845, 163 FERC ¶ 61,043 at P 313.

noted above, that Sky River states that it does not maintain an OASIS or other website.⁶⁷ Nonetheless, Sky River has provided no basis for us to conclude that its proposal is consistent with or superior to the requirements of Order Nos. 845 and 845-A. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing that adopts the relevant *pro forma* LGIP provisions or demonstrates that, consistent with waivers the Commission previously granted Sky River, a variation is consistent with or superior to the requirements of Order Nos. 845 and 845-A.

8. Requesting Interconnection Service below Generating Facility Capacity

38. In Order No. 845, the Commission modified sections 3.1, 6.3, 7.3, 8.2, and Appendix 1 of the *pro forma* LGIP to allow interconnection customers to request interconnection service that is lower than the proposed generating facility's capacity,⁶⁸ recognizing the need for proper control technologies and flexibility for transmission providers to propose penalties to ensure that the generating facility does not inject energy above the requested level of service.⁶⁹

39. The Commission required, in *pro forma* LGIP revised section 3.1, that transmission providers have a process in place to consider requests for interconnection service below the generating facility capacity. The Commission stipulated that such requests should be studied at the level of interconnection service requested for purposes of determining interconnection facilities, network upgrades, and associated costs, but that such requests may be subject to other studies at the full generating facility capacity to ensure safety and reliability of the system.⁷⁰ In addition, *pro forma* LGIP revised section 3.1 states that the interconnection customer is responsible for all study costs and interconnection facility and/or network upgrade costs required for safety and reliability. The Commission also required in *pro forma* LGIP revised section 3.1 that any necessary control technologies and/or protection systems be memorialized in the LGIA.

⁶⁷ Sky River Transmittal at 5.

⁶⁸ The term generating facility capacity is defined as “the net capacity of the Generating Facility and the aggregate net capacity of the Generating Facility where it includes multiple energy production devices.” *Pro forma* LGIA art. 1 (Definitions).

⁶⁹ Order No. 845, 163 FERC ¶ 61,043 at P 367; *see also pro forma* LGIP §§3.1, 6.3, 7.3, 8.2, *pro forma* LGIP app. 1.

⁷⁰ Order No. 845, 163 FERC ¶ 61,043 at PP 383-84.

40. The Commission required, in *pro forma* LGIP revised sections 6.3, 7.3, and 8.2, that the feasibility, system impact, and facilities studies be performed at the level of interconnection service that the interconnection customer requests, unless the transmission provider is otherwise required to study the full generating facility capacity due to safety and reliability concerns. The Commission stated that, if the transmission provider determines that additional network upgrades are necessary based on these studies, it must specify which additional network upgrade costs are based on which studies and provide a detailed explanation of why the additional network upgrades are necessary.⁷¹

41. Finally, the Commission revised sections 4.4.1 and 4.4.2 of the *pro forma* LGIP to allow an interconnection customer to reduce the size of its interconnection request either prior to returning to the transmission provider an executed system impact study agreement or an executed facilities study agreement.⁷²

a. Sky River's Compliance Filing

42. Sky River proposes to adopt most of the Commission's proposed reforms to *pro forma* LGIP sections 3.1, 4.4.1, 4.4.2, 6.3, 7.3, and 8.2 and Appendix 1 to incorporate the language set forth in Order Nos. 845 and 845-A. However, because Sky River does not own network facilities, it proposes to remove language relating to network upgrades in section 3.1 of its LGIP.⁷³

b. Commission Determination

43. We find that Sky River's proposed LGIP revisions that allow an interconnection customer to request interconnection service below its full generating facility capacity comply with the requirements of Order Nos. 845 and 845-A because they incorporate all of the *pro forma* language, except for the provisions relating to network upgrades. We also find that Sky River's proposal to not include network upgrades is consistent with or

⁷¹ *Id.* P 384. The Commission clarified that, if the transmission provider determines, based on good utility practice and related engineering considerations and after accounting for the proposed control technology, that studies at the full generating facility capacity are necessary to ensure safety and reliability of the transmission system when an interconnection customer requests interconnection service that is lower than full generating facility capacity, then it must provide a detailed explanation for such a determination in writing to the interconnection customer. *Id.*

⁷² *Id.* P 406; *see also pro forma* LGIP §§ 4.4.1, 4.4.2.

⁷³ Sky River Transmittal at 5.

superior to the requirements of Order Nos. 845 and 845-A because Sky River only owns two unconnected generation tie lines, and therefore does not own network facilities.

9. Provisional Interconnection Service

44. In Order No. 845, the Commission required transmission providers to allow all interconnection customers to request provisional interconnection service.⁷⁴ The Commission explained that interconnection customers may seek provisional interconnection service when available studies or additional studies, as necessary, indicate that there is a level of interconnection service that can occur to accommodate an interconnection request without the construction of any additional interconnection facilities and/or network upgrades, and the interconnection customer wishes to make use of that level of interconnection service while the facilities required for its full interconnection request are completed.⁷⁵ To implement this service, the Commission revised the *pro forma* LGIP and *pro forma* LGIA to add a definition for “Provisional Interconnection Service”⁷⁶ and for a “Provisional Large Generator Interconnection Agreement.”⁷⁷

45. In addition, the Commission added *pro forma* LGIA article 5.9.2, which details the terms for provisional interconnection service.⁷⁸ The Commission also explained that transmission providers have the discretion to determine the frequency for updating provisional interconnection studies to account for changes to the transmission system to reassess system capacity available for provisional interconnection service, and included bracketed Tariff language to be completed by the transmission provider, to specify the frequency at which they perform such studies in their *pro forma* LGIA.⁷⁹ The

⁷⁴ *Id.* P 438.

⁷⁵ *Id.* P 441.

⁷⁶ *Pro forma* LGIP § 1 (Definitions); *pro forma* LGIA art. 1 (Definitions).

⁷⁷ *Pro forma* LGIP § 1 (Definitions); *pro forma* LGIA art. 1 (Definitions). The Commission declined, however, to adopt a separate *pro forma* provisional large generator interconnection agreement. Order No. 845, 163 FERC ¶ 61,043 at P 444.

⁷⁸ *Id.* P 438; *see also pro forma* LGIP § 5.9.2.

⁷⁹ Order No. 845, 163 FERC ¶ 61,043 at P 448.

Commission stated that interconnection customers are responsible for the costs for performing these provisional interconnection studies.⁸⁰

a. Sky River's Compliance Filing

46. Sky River proposes to partially adopt the Commission's *pro forma* definitions related to provisional interconnection service and the *pro forma* language in LGIA article 5.9.2. Specifically, Sky River proposes to remove language relating to network upgrades and distribution upgrades in article 5.9.2 of its LGIA since Sky River does not own network or distribution facilities. Sky River also proposes to change the term "Transmission Provider" to "Tie Line Owner."⁸¹

47. Additionally, Sky River did not fill in the bracketed placeholder in article 5.9.2 to state the frequency that it will study and update the maximum permissible output of the generating facility subject to a provisional LGIA.

b. Commission Determination

48. We find that Sky River's proposed LGIP and *pro forma* LGIA revisions regarding provisional interconnection service partially complies with Order Nos. 845 and 845-A because, apart from the *pro forma* LGIA article 5.9.2, Sky River proposes to adopt the Commission's *pro forma* LGIP and *pro forma* LGIA provisions. Because of the limited nature of Sky River's transmission system, we accept Sky River's removal of the language relating to network upgrades and distribution upgrades, and change of the term "Transmission Provider" to "Tie Line Owner" as consistent with or superior to the requirements of Order Nos. 845 and 845-A. However, Sky River did not fill in the bracketed placeholder in *pro forma* LGIA article 5.9.2 to state the frequency that it will study and update the maximum permissible output of the generating facility. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing that includes the frequency that it will study and update the maximum permissible output of the generating facility required by Order No. 845.

10. Surplus Interconnection Service

49. In Order No. 845, the Commission adopted *pro forma* LGIP sections 1, 3.3, and 3.3.1 and *pro forma* LGIA article 1 to establish surplus interconnection service, which the Commission defined as any unneeded portion of interconnection service established in an LGIA such that if the surplus interconnection service is utilized the total amount of

⁸⁰ *Id.*

⁸¹ Sky River Transmittal at 5.

interconnection service at the point of interconnection would remain the same.⁸² Surplus interconnection service enables a new interconnection customer to utilize the unused portion of an existing interconnection customer's interconnection service within specific parameters.⁸³ The Commission required transmission providers to revise their tariffs to include the new definition of surplus interconnection service in their *pro forma* LGIP and *pro forma* LGIA, and provide in the *pro forma* LGIP an expedited interconnection process outside of the interconnection queue for surplus interconnection service.⁸⁴ That expedited process must allow affiliates of the existing interconnection customer to use surplus interconnection service for another interconnecting generating facility and allow for the transfer of surplus interconnection service that the existing interconnection customer or one of its affiliates does not intend to use.⁸⁵ The transmission provider must perform reactive power, short circuit/fault duty, and stability analyses studies as well as steady-state (thermal/voltage) analyses as necessary to ensure evaluation of all required reliability conditions to provide surplus interconnection service and ensure the reliable use of surplus interconnection service.⁸⁶ The original interconnection customer must be able to stipulate the amount of surplus interconnection service that is available, designate when that service is available, and describe any other conditions under which surplus interconnection service at the point of interconnection may be used.⁸⁷ When the original interconnection customer, the surplus interconnection service customer, and the transmission provider enter into agreements for surplus interconnection service, they must be filed by the transmission provider with the Commission, because any surplus interconnection service agreement will be an agreement under the transmission provider's open access transmission tariff.⁸⁸

⁸² Order No. 845, 163 FERC ¶ 61,043 at P 467; *see also pro forma* LGIP § 1; *pro forma* LGIA art. 1 (Definitions).

⁸³ Order No. 845, 163 FERC ¶ 61,043 at P 467; Order No. 845-A, 166 FERC ¶ 61,137 at P 119.

⁸⁴ Order No. 845, 163 FERC ¶ 61,043 at P 467; *see also pro forma* LGIP §§ 3.3, 3.3.1.

⁸⁵ Order No. 845, 163 FERC ¶ 61,043 at P 483; *see also pro forma* LGIP § 3.3.

⁸⁶ Order No. 845, 163 FERC ¶ 61,043 at PP 455 and 467.

⁸⁷ *Id.* P 481.

⁸⁸ *Id.* P 499.

a. **Sky River's Compliance Filing**

50. Sky River proposes revisions to sections 1, 3.3 and 3.3.1 to its LGIP, and article 1 to its *pro forma* LGIA, to comply with the Commission's directives in Order Nos. 845 and 845-A. Sky River adopts the Commission's *pro forma* LGIP and *pro forma* LGIA revisions for surplus interconnection service as required by Order Nos. 845 and 845-A without modification.⁸⁹ However, Sky River did not propose a process for evaluating surplus interconnection service.

b. **Commission Determination**

51. We find that Sky River's proposed Tariff revisions regarding surplus interconnection service partially comply with the requirements of Order Nos. 845 and 845-A. While Sky River adopts the *pro forma* definition of surplus interconnection service and *pro forma* provisions in LGIP sections 3.3 and 3.3.1 without modification, Sky River did not propose a process for evaluating surplus interconnection service as required by Order Nos. 845 and 845-A. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing that includes its process for evaluating surplus interconnection service, outside of the non-surplus interconnection queue, as required by Order Nos. 845 and 845-A.

11. **Material Modifications and Incorporation of Advanced Technologies**

52. In Order No. 845, the Commission modified section 4.4.2(c) of the *pro forma* LGIP to allow an interconnection customer to incorporate certain technological advancements to its interconnection request, prior to the execution of the interconnection facilities study agreement,⁹⁰ without risking the loss of its queue position. The Commission required transmission providers to develop and include in their LGIPs a definition of permissible technological advancements that will create a category of technological changes that, by definition, do not constitute a material modification and,

⁸⁹ Sky River OATT, attach. M, LGIP § 1 (Definitions), § 3.3 (Utilization of Surplus Interconnection Service), § 3.3.1 (Surplus Interconnection Service Requests), and app. 6, LGIA art. 1 (Definitions).

⁹⁰ While the Commission clarified that interconnection customers may submit a technological advancement request up until execution of the facilities study agreement, the Commission stated that it will permit transmission providers to propose rules limiting the submission of technological advancement requests to a single point in the study process (prior to the execution of a facilities study agreement), to the extent the transmission provider believes it appropriate. Order No. 845, 163 FERC ¶ 61,043 at P 536.

therefore, will not result in the loss of queue position.⁹¹ In addition, the Commission modified section 4.4.6 of the *pro forma* LGIP to require transmission providers to insert a technological change procedure that includes the requisite information and process that the transmission provider will follow to assess whether an interconnection customer's proposed technological advancement is a material modification.⁹²

53. The Commission required that the technological change procedure specify what technological advancements can be incorporated at various stages of the interconnection process and clearly identify which requirements apply to the interconnection customer and which apply to the transmission provider.⁹³ Additionally, the technological change procedure must state that, if the interconnection customer seeks to incorporate technological advancements into its proposed generating facility, it should submit a technological advancement request, and the procedure must specify the information that the interconnection customer must submit as part of that request.⁹⁴

54. The Commission also required that the technological change procedure specify the conditions under which a study will or will not be necessary to determine whether a proposed technological advancement is a material modification.⁹⁵ The Commission explained that the technological change procedure must also state that, if a study is necessary to evaluate whether a particular technological advancement is a material modification, the transmission provider shall clearly indicate to the interconnection customer the types of information and/or study inputs that the interconnection customer must provide to the transmission provider, including, for example, study scenarios, modeling data, and any other assumptions.⁹⁶ In addition, the Commission required that the technological change procedure explain how the transmission provider will evaluate the technological advancement request to determine whether it is a material modification.⁹⁷

⁹¹ *Id.* P 518.

⁹² *Id.*; *see also pro forma* LGIP § 4.4.6.

⁹³ Order No. 845, 163 FERC ¶ 61,043 at P 519.

⁹⁴ *Id.*

⁹⁵ *Id.*; Order No. 845-A, 166 FERC ¶ 61,137 at P 155.

⁹⁶ Order No. 845, 163 FERC ¶ 61,043 at P 521.

⁹⁷ *Id.*

55. Further, the Commission required that the technological change procedure outline a time frame of no more than 30 days after the interconnection customer submits a formal technological advancement request for the transmission provider to perform and complete any necessary additional studies.⁹⁸ The Commission also found that, if the transmission provider determines that additional studies are needed to evaluate whether a technological advancement is a material modification, the interconnection customer must tender a deposit, and the transmission provider must specify the amount of the deposit in the transmission provider's technological change procedure.⁹⁹ In addition, the Commission explained that, if the transmission provider cannot accommodate a proposed technological advancement without triggering the material modification provision of the pro forma LGIP, the transmission provider must provide an explanation to the interconnection customer regarding why the technological advancement is a material modification.

56. In Order No. 845-A, the Commission clarified that: (1) when studies are necessary, the interconnection customer's technological change request must demonstrate that the proposed incorporation of the technological change will result in electrical performance that is equal to or better than the electrical performance expected prior to the technological change and will not cause any reliability concerns; (2) if the interconnection customer cannot demonstrate in its technological change request that the proposed technological change would result in equal or better electrical performance, the change will be assessed pursuant to the existing material modification provisions in the pro forma LGIP; (3) information regarding electrical performance submitted by the interconnection customer is an input into the technological change study, and this factor alone is not determinative of whether a proposed technological change is a material modification; and (4) the determination of whether a proposed technological change (that the transmission provider does not otherwise include in its definition of permissible technological advancements) is a material modification should include an analysis of whether the proposed technological change materially impacts the timing and costs of lower-queued interconnection customers.¹⁰⁰

⁹⁸ *Id.* P 535.

⁹⁹ *Id.* P 534. The Commission set the default deposit amount at \$10,000 dollars, but stated that a transmission provider may propose a reasonable alternative deposit amount in its compliance filing and include justification supporting this alternative amount. *Id.*

¹⁰⁰ Order No. 845-A, 166 FERC ¶ 61,137 at P 155.

a. **Sky River 's Compliance Filing**

57. Sky River proposes revisions to section 1 of its LGIP to incorporate the following definition of permissible technological advancement:

Permissible Technological Advancement shall mean a change or changes by the Interconnection Customer to its originally submitted technical specifications of the proposed Generating Facility, such as turbines, inverters, excitation system, transformer, plant supervisory controls or other technological advancements, that do not increase the Interconnection Customer's requested Interconnection Service or degrade the electrical characteristics of the generating equipment (e.g., the ratings, impedances, efficiencies, capabilities, and performance of the equipment under steady-state and dynamic conditions.) A change in or addition of a generation technology type or fuel type does not qualify as a Permissible Technological Advancement and must be studied for whether it constitutes a Material Modification.¹⁰¹

58. Sky River proposes revisions to section 4.4.2 of its LGIP that adopt the Commission's *pro forma* language without modification.¹⁰²

59. In addition, LGIP section 4.4.6 sets forth Sky River's proposed technological change procedures. The proposed procedures state that the interconnection customer must submit a request in writing, at least 15 days before its deadline to execute the interconnection facility study agreement. The interconnection customer's technological change request must include: (1) a description of the technological advancement that occurred since the submittal of the original large generating facility interconnection request application; (2) description of how it improves or does not change the performance of the facility; (3) a revised interconnection request application and all attachments including supplemental data with all changes to technical specifications identified; and (4) an attestation from the interconnection customer that the technological advancement does not increase the maximum electrical output of the proposed project above that requested in the original interconnection request. Sky River proposes that, within 10 days of it receiving a written request to propose a technological change, it will provide the results of its evaluation of whether the proposed technological change: (1) is a permissible technological advancement; (2) requires a revision of the feasibility or

¹⁰¹ Sky River OATT attach. M, LGIP § 1 (Definitions)

¹⁰² Sky River OATT attach. M. LGIP § 4.4.2.

system impact study; or (3) requires further study on whether it is a material modification pursuant to section 4.4.3.¹⁰³

60. Sky River proposes that, if it determines that the feasibility or system impact studies must be re-studied, the studies will be performed at the customer's expense after the customer provides a \$10,000 deposit, if necessary. Upon completion of the re-study, Sky River will determine if the technology change is deemed a permissible technological advancement or a material modification. Sky River also proposes that, if the modifications to the large generating facility's technology do not change the technical specifications submitted in the original interconnection request, the customer should clearly state it in the application and the modification will be deemed a permissible technological advancement.¹⁰⁴

b. Commission Determination

61. We find that Sky River's proposed LGIP revisions to incorporate a definition of a permissible technological advancement and technological change procedure partially comply with the requirements of Order Nos. 845 and 845-A. Specifically, we find that Sky River's proposed definition of permissible technological advancement meets the Commission's requirement to provide a category of technological change that does not constitute a material modification. We also find that Sky River's proposed revisions to section 4.4.6 comply with the Commission's requirements in Order Nos. 845 and 845-A because they adopt the Commission's *pro forma* language without modification.

62. With respect to the timing of acceptance of technological advancements, the Commission in Order No. 845 permitted the interconnection customer to submit a request to incorporate technological advancement prior to the execution of the interconnection facility study agreement. The Commission stated that establishing a reasonable cut-off point for allowing technological advancements would enhance the transmission provider's ability to tender an interconnection service agreement and, consequently, would not delay other projects.¹⁰⁵ Sky River's filing, however, proposes to, without justification, accept technological changes up until "15 days before its deadline to execute the interconnection facility study agreement" rather than at the execution of facilities study agreement. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing to justify its proposed timeline for accepting technological advancement requests or comply with the requirement of Order

¹⁰³ Sky River proposed LGIP §§ 4.4.6(1) – 4.4.6(3).

¹⁰⁴ Sky River proposed LGIP §§ 4.4.6(4) – 4.4.6(5).

¹⁰⁵ Order No. 845, 163 FERC ¶ 61,043 at P 536.

Nos. 845 and 845-A that technological advancement requests may be submitted up to the execution of the facilities study agreement.

63. With regard to Sky River's proposed definition of a permissible technological advancement, we find that the use of the undefined term "technical specifications" makes it unclear how Sky River will determine whether a proposed technological change is a permissible technological advancement. Accordingly, we direct Sky River to submit, within 120 days of the date of this order, a further compliance filing that revises section 4.4.6 of its LGIP and its definition of permissible technological advancement to clarify how it will assess changes to a generating facility's technical specifications.

64. With regard to the deadline for completion of a technological advancement request, Order No. 845 provides that the determination of whether a change is a material modification must be made within 30 days of the initial request.¹⁰⁶ Sky River's proposed revisions to section 4.4.6 of its LGIP provides that within 10 days of Sky River receiving a written request to evaluate a proposed technological change, it will provide results of its evaluation of whether the proposed technological change is a permissible technological advancement, requires a revision of the feasibility or system impact study, or required further study on whether it is a material modification. However, Sky River's proposal does not provide that the determination of whether a change is a material modification must be made within 30 days. Accordingly, we direct Sky River to file, within 120 days of the date of this order, a further compliance filing that revises its proposed technological change procedure to provide that Sky River will determine whether or not a technological advancement is a material modification within 30 calendar days of receipt of the initial request.

65. Finally, because Sky River's filing is silent on whether it will provide an explanation to the interconnection customer regarding why the technological advancement is a material modification, we reiterate that the transmission provider is required to do so if it cannot accommodate a proposed technological advancement without triggering the material modification provision of the *pro forma* LGIP.¹⁰⁷

12. Other Issues

66. Sky River proposes two modifications to the Commission's *pro forma* language in its Tariff that appear to be non-material typographical errors. These errors are found in LGIP section 4.4.2, where a citation within the text should be a reference to LGIP section 4.4.6 (Technological Change Procedure), and in LGIP section 8.3, where the

¹⁰⁶ Order No. 845, 163 FERC ¶ 61,043 at P 535; Order No. 845-A, 166 FERC ¶ 61,137 at P 155.

¹⁰⁷ Order No. 845, 163 FERC ¶ 61,043 at P 522.

internal citation to LGIP section 3.5 should be a reference to LGIP section 3.6 (Coordination of Affected Systems). We direct Sky River to submit a further compliance filing within 120 days of the date of this order to remedy these non-substantive errors.

The Commission orders:

(A) Sky River's compliance filing is hereby accepted, effective May 22, 2019, subject to a further compliance filing, as discussed in the body of this order.

(B) Sky River is hereby directed to submit a compliance filing within 120 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.