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

Before Commissioners: Neil Chatterjee, Chairman;
Cheryl A. LaFleur and Richard Glick.

Public Service Company of Colorado Docket Nos. ER19-366-000
ER19-366-001

ORDER DENYING REHEARING AND CLARIFICATION

(Issued May 16, 2019)

1. Public Service Company of Colorado (PSCo) seeks rehearing and clarification of the Commission's January 31, 2019 order[1] rejecting PSCo's proposal to reform its Large Generator Interconnection Procedures (LGIP) and Large Generator Interconnection Agreement (LGIA). We deny PSCo's rehearing and clarification request, as discussed below.

I. Background

2. PSCo currently processes interconnection requests in a serial manner, which means that if a higher-queued generator modifies its project or withdraws from the queue, all lower-queued projects may need to be restudied. On November 19, 2018, PSCo submitted a filing to revise its LGIP and LGIA to address the large volume of generation interconnection requests pending in its LGIP interconnection queue.[2] In support of its filing, PSCo stated that it had a native load of approximately 6,900 MW and a peak load in its balancing authority area of approximately 8,500 MW. PSCo also stated that it had

[1] *Pub. Serv. Co. of Colo.*, 166 FERC ¶ 61,076 (2019) (January 2019 Order).

[2] PSCo filed a prior request in March 2018 seeking to address interconnection queue issues by limiting the terms under which an interconnection customer could place a project in suspension. Although the Commission found that PSCo had not demonstrated that this proposal was consistent with or superior to the *pro forma* LGIA, it encouraged PSCo to work with its stakeholders to develop potential reforms to the PSCo interconnection procedures to help alleviate its interconnection queue problems. *Pub. Serv. Co. of Colo.*, 163 FERC ¶ 61,146, at PP 30, 33-34 (2018) (May 2018 Order).

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over 23,000 MW of generation interconnection requests pending in its LGIP interconnection queue, virtually all of which are for network resource interconnection service[3] to deliver power to load in the PSCo balancing authority area. PSCo stated that, due to the configuration of the PSCo system and the fact that most requests are for network resource interconnection service, almost all lower-queued requests, regardless of study phase, are affected by changes to higher-queued projects.[4] PSCo stated that in order to alleviate the backlog in its interconnection queue and to avoid backlogs in the future, it was proposing revisions to its LGIP and LGIA to transition from a serial first-come, first-served approach to a clustered first-ready, first-served approach. As relevant on rehearing, in its November 19, 2018 filing, PSCo proposed to revise its LGIP to implement two distinct study processes: (1) the Informational Interconnection Study and (2) the Definitive Interconnection Study Process. PSCo stated that the Informational Interconnection Study would be an optional study intended to help potential interconnection customers evaluate their project's interconnection feasibility prior to entering the interconnection queue while the proposed Definitive Interconnection Study Process was intended for projects that are ready to move toward interconnection.

3. With regard to the initiation of a cluster, PSCo stated that to be considered in a cluster under the Definitive Interconnection System Impact Study (DISIS), the first phase of the Definitive Interconnection Study Process, interconnection customers must submit a valid interconnection request before the close of the DISIS Window for the cluster. PSCo stated that the DISIS would consist of three phases, followed by an individual interconnection facilities study phase. PSCo explained that the three DISIS phases are as follows: (1) Phase 1 – an initial power-flow and voltage study; (2) Phase 2 – a stability and short circuit study; and (3) Phase 3 – a restudy, if necessary. PSCo also proposed to require demonstrations of a project's readiness to proceed in the form of readiness

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[3] Network resource interconnection service is an interconnection service that allows the interconnection customer to integrate its large generating facility with the transmission provider's transmission system (1) in a manner comparable to that in which the transmission provider integrates its generating facilities to serve native load customers; or (2) in an regional transmission organization (RTO) or independent system operator (ISO) with market based congestion management, in the same manner as all other network resources. *Reform of Generator Interconnection Procedures and Agreements*, Order No. 845, 163 FERC ¶ 61,043, at P 469 nn.828, 830 (2018), *order on reh'g* 166 FERC ¶ 61,137 (2019).

[4] PSCo Transmittal Letter at 10-12.

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milestones (Milestones 1-5) and increasing levels of Site Control that must be satisfied before moving to the next phase.[5]

4. PSCo stated that the results from Phase 1 would provide the interconnection customer with a "free look" at its costs to interconnect. PSCo proposed to refund the Milestone 1 payments of interconnection customers that withdrew after seeing these initial results, but before committing to move on to Phase 2. PSCo stated that if interconnection customers withdrew at the end of Phase 2, or if other modifications created a need for restudy, the cluster would proceed to Phase 3 for a system impact restudy. If no interconnection customers withdrew their interconnection requests after the Phase 2 study report is published, or at the end of Phase 3 once the cluster is deemed stable, the cluster would move to Phase 4, the interconnection facilities study. PSCo stated that Phase 4 would be followed by LGIA negotiation and execution.[6] The transition between each phase was proposed to be accompanied by increasing milestone payments.

5. PSCo represented that its proposal was consistent with or superior to the procedures promulgated under Order No. 2003.[7]

6. On January 31, 2019, the Commission issued an order, rejecting PSCo's proposed tariff revisions without prejudice. As relevant here, the Commission found that PSCo had not demonstrated that its proposed readiness milestone provisions were consistent with or superior to the *pro forma* LGIP.[8] The Commission also found that PSCo's proposed treatment of suspending interconnection customers was not consistent with or superior to the *pro forma* LGIA, because it assigned costs to a suspending interconnection customer other than those costs specifically permitted in Order No. 2003.[9] Finally, the Commission found that PSCo's proposal to prohibit suspension

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[5] *Id.* at 38. Under the proposal, a Provisional LGIA could be used as a milestone.

[6] *Id.* at 40.

[7] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 104 FERC ¶ 61,103 (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), *cert. denied*, 552 U.S. 1230 (2008).

[8] January 2019 Order, 166 FERC ¶ 61,076 at P 55.

[9] *Id*. P 72 (citing Order No. 2003, 104 FERC ¶ 61,103 at PP 409-410).

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of a Provisional LGIA was inconsistent with the approach set forth in Order No. 845 and the standard LGIA.[10]

II. Motion for Errata and Responsive Pleadings

7. On February 11, 2019, PSCo filed a Motion for Errata Order Correcting Order on Tariff Filing. PSCo requests that the Commission correct what PSCo believes to be an error in a sentence in paragraph 55 of the January 2019 Order which stated that "it is not appropriate for forfeited financial security to be non-refundable in the event that an interconnection customer withdraws from the queue."[11] PSCo argues that this statement appears to be the result of a drafting error because it was included in the middle of a discussion of a separate issue (regarding customers that do not withdraw from the queue) and because the January 2019 Order contains no other discussion or analysis of at-risk deposits made by customers that withdraw.[12]

8. E.ON Climate & Renewables North America, LLC (E.ON) filed an answer opposing the motion for errata arguing that the motion for errata should be denied because it was a veiled request for rehearing.[13] PSCo filed an answer to E.ON's answer, arguing that the motion for errata was only attempting to fix a perceived drafting error,[14] and NextEra Energy Resources, LLC (NextEra) filed an answer supporting PSCo's motion for errata.[15] E.ON filed an additional answer to PSCo and NextEra's answers on February 26, 2019.

III. Rehearing and Clarification Request

9. On rehearing, PSCo challenges three aspects of the January 2019 Order. First, as the Commission has not yet acted on its motion for errata, PSCo seeks clarification or rehearing of the Commission's statement in paragraph 55 that "it is not appropriate for forfeited financial security to be non-refundable in the event that an interconnection

[10] *Id.* P 80 (citing Order No. 845, 163 FERC ¶ 61,043, at PP 440, 442).

[11] Motion for Errata at 5-7.

[12] *Id*. at 1-2.

[13] E.ON Answer at 1-2.

[14] PSCo Answer at 1-2.

[15] NextEra Answer at 1-2.

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customer withdraws from the queue."[16] PSCo argues that the Commission should correct this statement if it was made in error or else should confirm that this statement was intentional. PSCo argues that if the Commission did not make this statement in error and intended to prohibit at-risk financial deposits in all situations, then this conclusory holding was not adequately supported by an appropriate explanation or analysis.[17] Second, PSCo asserts that the Commission erred in rejecting PSCo's proposal to require that interconnection customers suspending their LGIAs provide security for their projects' assigned upgrade costs. Third, PSCo asserts that the Commission erred in rejecting its proposal to allow use of Provisional Interconnection Service in a way that would permit Provisional LGIAs to be used by interconnection customers to demonstrate readiness.[18]

IV. Discussion

A. Procedural Matters

10. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2018), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We accept PSCo's February 14, 2019 answer and E.ON's February 26, 2019 answer because they have provided information that assisted us in our decision-making process.

B. Substantive Matters

11. We deny PSCo's motion for errata and its request for rehearing of the January 2019 Order. With regard to the motion for errata, to the extent that the January 2019 Order was unclear, we affirm the Commission's determination that PSCo did not demonstrate that its proposal regarding at-risk (i.e., non-refundable) financial security in the event that an interconnection customer withdraws from the queue was consistent with or superior to the *pro forma* LGIP. This finding was not made in error and was intentional, as discussed in further detail in section IV.B.1 below. We therefore deny PSCo's motion for errata.

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[16] Rehearing Request at 15 (citing January 2019 Order, 166 FERC ¶ 61,076 at P 55).

[17] *Id.* at 15-16.

[18] *Id.*

(continued ...)

1. At-Risk Readiness Milestones

a. Request for Clarification or Rehearing

12. PSCo argues that the Commission's statement that "it is not appropriate for forfeited financial security to be non-refundable in the event that an interconnection customer withdraws from the queue" is conclusory and was made without discussion or rational explanation. PSCo further argues that the at-risk milestones are a primary component of its proposal and should be evaluated in light of the backlogged circumstances the PSCo queue has been facing.[19]

13. PSCo notes that, for the first four readiness milestones (Milestones 1 through 4), customers can demonstrate readiness in several ways, using a mix of financial and non-financial demonstrations (including Provisional LGIAs). However, PSCo notes that for the final milestone (Milestone 5), only financial deposits are acceptable. PSCo explains that, in all cases, the financial security would be non-refundable only if a customer withdraws from the queue and: (1) the customer's withdrawal from the queue would harm other equal- or lower-queued projects, and (2) the cost of the network upgrades assigned to the withdrawing interconnection customer have not significantly increased from PSCo's initial estimates.[20] PSCo argues that the use of at-risk deposits is needed to ensure that only viable projects enter or remain in the queue, and that without any level of risk, the financial security option would not be a valid demonstration of readiness.[21]

14. PSCo avers that the use of at-risk financial deposits is consistent with the Commission's guidance to transmission providers in its 2008 Technical Conference Order. PSCo states that the Commission noted that due to "surges in … new generation development" it "may be appropriate to increase the requirements for getting and keeping

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[19] *Id.* at 19-20 (citing Administrative Procedure Act, 5 U.S.C. § 706(2)(A) (2012) ("The reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law . . . .") (APA); *Nw. Corp. v. FERC*, 884 F.3d 1176, at 1181 (D.C. Cir. 2018) (explaining that the APA "requires that FERC's decision be reasonable and reasonably explained"); *Farmers Union Cent. Exch., Inc. v. FERC*, 734 F.2d 1486, at 1522 (1984) (rejecting a determination for which the Commission "offered no rational explanation")).

[20] PSCo clarifies that the financial security is not at-risk if the customer does not withdraw from the queue. *Id.* at 21 n.58.

[21] *Id.* at 20-21.

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a queue position."[22] PSCo argues that its proposal is squarely in line with this guidance.[23]

15. PSCo also argues that the Commission has previously approved interconnection procedures in RTOs that require customers to post at-risk financial securities.[24] At the same time, PSCo acknowledges that the Commission's independent entity variation does not apply to its proposal and that it must demonstrate that any deviations from the Commission's *pro forma* LGIP are consistent with or superior to the *pro forma* LGIP.[25] However, PSCo asserts that because its queue backlog is proportionally similar to those queues used to justify RTOs' use of at-risk financial securities, the Commission should accept its proposal. PSCo concludes by stating that the Commission's *pro forma* LGIP has ceased to function for the majority of PSCo's pending interconnection requests, and, therefore, the effects of its proposal would be indisputably superior to the *pro forma* procedures.[26]

b. Commission Determination

16. We affirm the Commission's determination that PSCo has not demonstrated that its proposal regarding at-risk financial security in the event that an interconnection customer withdraws from the queue is consistent with or superior to the *pro forma* LGIP. As described above, PSCo proposed that if a withdrawing interconnection customer meets the conditions for financial security to be forfeited, any forfeited amount would be used to fund network upgrades needed to interconnect other projects in the same DISIS study cluster, or in lower-queued study clusters (i.e., equal- or lower-queued projects). However, longstanding Commission policy establishes that the costs of network upgrades

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[22] *Id.* at 21-22 (citing *Interconnection Queuing Practices*, 122 FERC ¶ 61,252, at P 16 (2008) (2008 Technical Conference Order)).

[23] *Id.* (citing *Midcontinent Indep. Sys. Operator Inc.*, 158 FERC ¶ 61,003, at PP 23-24, 32 (2017); *see also Midwest Indep. Transmission Sys. Operator. Inc.*, 138 FERC ¶ 61,233, at PP 142, 146 (2012)).

[24] *Id.* at 22 (citing *Sw. Power Pool, Inc.*, 147 FERC ¶ 61,201, at PP 67-68 (2014)).

[25] *Id.* at 23.

[26] *Id.* at 22-23.

may not be directly assigned to the interconnection customer because network upgrades are not "sole use" facilities and they provide a benefit to all transmission system users.[27] Therefore, we continue to find that PSCo has not demonstrated that its proposal is consistent with or superior to the *pro forma* LGIA.

17. Moreover, we disagree with PSCo that the use of at-risk financial deposits is consistent with the 2008 Technical Conference Order. The 2008 Technical Conference Order guidance concerned increasing the monetary amount of deposits, such as the existing *pro forma* generator interconnection deposits that are eventually trued-up, to "accurately reflect the cost of the necessary studies."[28] By contrast, PSCo proposes to make the deposits non-refundable, which the 2008 Technical Conference Order did not address. Moreover, as discussed above, using financial security from customers who have withdrawn from the queue to fund other customers' network upgrades appears to run afoul of Commission precedent prohibiting the direct assignment of network upgrade costs.

18. Finally, in approving interconnection procedures in Midcontinent Independent System Operator, Inc. (MISO) that require customers to post at-risk financial securities, the Commission relied on the independent entity variation standard, which allows RTOs/ISOs additional flexibility in proposing variations from the *pro forma* LGIP/LGIA.[29] As PSCo recognizes, the independent entity variation does not apply to PSCo as a non-independent transmission provider,[30] and it must demonstrate instead that its proposal is consistent with or superior to the *pro forma* LGIA. Based on the record in this proceeding, PSCo has not shown that its proposal to require at-risk financial security meets this higher standard. Although the Commission has previously found an interconnection reform proposal filed by a non-RTO/ISO that included at-risk deposits to be consistent with or superior to the *pro forma* LGIA, in that case the forfeited funds

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[27] Order No. 2003-A, 106 FERC ¶ 61,220 at P 424 ("Since Network Upgrades provide a system-wide benefit, expenses associated with owning, maintaining, repairing, and replacing them shall be recovered from all Transmission Customers rather than being directly assigned to the Interconnection Customer.").

[28] Specifically, in the 2008 Technical Conference Order, the Commission stated that "it may be appropriate to increase the amount of the deposits required at the different stages of the process to more accurately reflect the cost of the necessary studies." 2008 Technical Conference Order, 122 FERC ¶ 61,252 at P 16.

[29] *Midcontinent Indep. Sys. Operator, Inc.,* 158 FERC ¶ 61,003 at P 21.

[30] Rehearing Request at 23.

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were proposed to be used for interconnection study costs, which does not raise the same concerns as PSCo's proposal.[31]

2. Suspension Security

a. Request for Rehearing

19. PSCo contends that the problems it faces managing its queue backlog are exacerbated by LGIA suspensions, due to the possibility that the cost of upgrades assigned to suspended projects may shift to other equal- or lower-queued projects. PSCo avers that its proposal to require the suspending project to submit a deposit for the full costs of those upgrades depended on by equal- or lower-queued projects was intended to mitigate harms to those projects by requiring suspending interconnection customers to fully fund their portion of shared upgrade costs. PSCo adds that the remaining projects in the cluster are the beneficiaries of this proposal, not PSCo, because they will not experience cost shifts from a suspended project.[32]

20. PSCo also argues that the Commission failed to explain why PSCo's proposal to require interconnection customers that place their LGIAs into suspension to fully fund any upgrades relied upon by equal- or lower-queued projects was not consistent with or superior to the *pro forma* LGIA. PSCo argues that deviations from the standard should be allowed based on the transmission provider's circumstances and how the entire package of proposed tariff changes interacts with the deviation.[33]

21. PSCo next argues that the Commission's decision in the January 2019 Order was inconsistent with the Commission's guidance in the May 2018 Order. PSCo states that in the January 2019 Order, the Commission failed to consider the factors enumerated in the May 2018 Order, and failed to explain why the steps PSCo took in its November 19, 2018 filing to address the Commission's concerns in the May 2018 Order were insufficient. PSCo asserts that the Commission did not object to its proposal to require interconnection customers entering suspension to fund any assigned upgrades which are relied upon by other interconnection projects.[34]

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[31] *See Pub. Serv. Co. of N.M.*, 136 FERC ¶ 61,231, at P 80 (2011).

[32] Rehearing Request at 25-27.

[33] *Id.* at 24.

[34] *Id.* at 28.

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22. In addition, PSCo contends that its revised proposal complied with the Commission's May 2018 Order, because it: (1) allowed customers to suspend for any reason; (2) offered a comprehensive package of reforms; and (3) arose from a stakeholder process. PSCo argues that the Commission should have evaluated the revised proposal by the same criteria used under the May 2018 Order.[35]

23. PSCo also argues that there are additional policy considerations supporting its proposal. PSCo asserts that when the Commission issued Order No. 2003, which allowed suspensions to affect lower-queued customers, it did not appreciate the extent to which interconnection queues would become clogged with speculative projects.[36] PSCo states that the Commission acknowledged the difficulties of growth in new interconnection requests on queue management in the 2008 Technical Conference Order.[37] PSCo argues that, in light of the 2008 Technical Conference Order, it presented a reasonable and balanced proposal that was part of a reform package to address its growing queue backlog.[38] Finally, PSCo avers that its suspension reform was intended to benefit PSCo's interconnection customers by better allocating risk among them; PSCo states that the proposal does not provide any advantage to PSCo or its affiliate generation.[39]

b. Commission Determination

24. We affirm the Commission's determination that PSCo has not demonstrated that its proposal to require interconnection customers that suspend their LGIAs to provide security for the cost of upgrades assigned because of their suspended projects is consistent with or superior to the *pro forma* LGIA. In the January 2019 Order, the Commission explained the importance of the *pro forma* LGIA suspension provision in providing flexibility that allows an interconnection customer to accommodate permitting and other delays to its project's construction schedule.[40] The Commission explained that in Order Nos. 2003 and 2003-A, the Commission weighed concerns that suspension may result in cost-shifts to other customers but concluded that such consequences were

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[35] *Id.* at 28-29.

[36] *Id.* at 29-30 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 409).

[37] *Id.* (citing 2008 Technical Conference Order, 122 FERC ¶ 61,252 at P 3).

[38] *Id.* at 30.

[39] *Id.* at 31.

[40] January 2019 Order, 166 FERC ¶ 61,076 at P 70 (citing Order No. 2003, 104 FERC ¶ 61,103 at P 410).

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business risks.[41] In those orders, the Commission balanced, on the one hand, providing flexibility to suspending interconnection customers with, on the other hand, the business risks of increased costs to lower-queued interconnection customers who may be responsible for network upgrade costs that were originally assigned to a higher-queued customer that withdrew. PSCo's suspension proposal would change that balance. It would limit the flexibility for suspending interconnection customers in order to lessen the business risk of increased network upgrade costs for other equal- or lower-queued interconnection customers. PSCo defends its proposal as necessary for "customers with LGIAs [to] be protected from the late-stage, unexpected harms which result from other projects' suspensions."[42] But, in Order No. 2003-A, the Commission determined in the context of the suspension provision that such a risk "is simply a business risk that Interconnection Customers must face; the Commission cannot protect them from all uncertainty."[43] PSCo's proposal would limit the flexibility of a suspending interconnection customer for the benefit of other interconnection customers in a way that the Commission declined to do in Order Nos. 2003 and 2003-A. In the January 2019 Order, the Commission evaluated similar concerns raised by PSCo to justify its proposal and concluded that PSCo's proposal to require interconnection customers in suspension to fund network upgrades if they are needed by other customers was not consistent with or superior to the *pro forma* LGIA.[44]

25. We also disagree with PSCo's assertion that the Commission applied different standards on this issue in the May 2018 and January 2019 Orders. In the January 2019 Order, the Commission evaluated PSCo's interconnection reforms under the same criteria as it used in the May 2018 Order to evaluate PSCo's March 2018 filing. The Commission specifically acknowledged that PSCo's proposal was part of a comprehensive queue reform developed through a stakeholder process.[45] Nonetheless, PSCo was responsible for demonstrating that its proposal was consistent with or superior to the *pro forma* LGIA, as is required when a transmission provider seeks to deviate from the *pro forma* tariff.

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[41] *Id.* PP 71-73 (citing Order No. 2003, 104 FERC ¶ 61,103 at PP 409-410; Order No. 2003-A, 106 FERC ¶ 61,220 at P 320).

[42] Rehearing Request at 27.

[43] Order No. 2003-A, 106 FERC ¶ 61,220 at P 320.

[44] January 2019 Order, 166 FERC ¶ 61,076 at P 73.

[45] *Id.* P 71.

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26. PSCo also argues that requiring suspending projects to fund the upgrades of projects affected by the suspension was part of its original proposal, and that the Commission did not reject that provision in the May 2018 Order. However, in the May 2018 Order, the Commission expressed concern that interconnection customers be given "sufficient flexibility to accommodate delays that may affect their projects."[46] Additionally, the Commission is not required to enumerate every deficiency in a filing when rejecting it.

27. Finally, although we recognize the need for PSCo to reform its queue process to alleviate the backlog, we find that limiting suspension rights, in the manner proposed, is contrary to Commission policy that allows interconnection customers some flexibility to address delays.

3. Provisional LGIAs

a. Request for Rehearing

28. PSCo notes that its proposal to permit interconnection customers to use Provisional LGIAs to demonstrate readiness was not intended as part of its compliance with Order No. 845. Rather, PSCo explains that its proposal regarding Provisional LGIAs was a filing made under section 205 of the Federal Power Act in which it proposed amendments to its existing tariff adopting the Provisional Interconnection Service concept from Order No. 845 and making modifications in order to ensure that concept was consistent with the broader reforms it proposed in its November 19, 2018 filing.[47] PSCo argues that its proposal to prevent the suspension of Provisional Interconnection Service is needed to make Provisional Interconnection Service a useful means of satisfying the Readiness Milestones, and that the proposal is consistent with Order No. 845. PSCo avers that it would not make sense to allow an interconnection customer to execute a Provisional LGIA and then enter suspension.[48]

29. PSCo also argues that queue management would be harmed by allowing interconnection customers to place Provisional LGIAs in suspension. According to PSCo, this is because the suspending customer would be claiming available capacity without actually using it. PSCo reasons that, because there are interconnection customers

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[46] May 2018 Order, 163 FERC ¶ 61,146 at P 31.

[47] PSCo states that Provisional Interconnection Service allows customers to interconnect and begin operating before completing the full LGIP study process, and before all upgrades needed to allow their projects to operate at full output are completed.

[48] Rehearing Request at 32-34.

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legitimately able to make use of this available capacity, it would be inappropriate to allow interconnection customers to suspend Provisional LGIAs.[49]

b. Commission Determination

30. We affirm the Commission's determination that PSCo has not demonstrated that its proposal to prohibit suspensions of Provisional LGIAs that would be used by interconnection customers to demonstrate readiness is consistent with or superior to the *pro forma* LGIA. PSCo's proposed provision limiting suspension of Provisional Interconnection Service is vague and does not set forth objective criteria for determining which projects are "ready projects that demonstrate commitment to achieve interconnection and commercialization."[50]

31. In addition, the Commission found that PSCo's proposal was inconsistent with the approach set forth in the *pro forma* LGIA, because PSCo did not explain why a customer under a Provisional LGIA, which will have construction milestones similar to a standard LGIA, should be denied the same suspension rights as customers constructing facilities under a standard LGIA.[51] As PSCo acknowledges, Provisional Interconnection Service allows customers to make use of an available level of interconnection service while the facilities required for its full interconnection request are completed.[52] PSCo failed to justify the appropriateness of barring an interconnection customer using a Provisional LGIA as a milestone from suspending construction of the facilities required to achieve its full interconnection.[53]

32. PSCo also argues that the Commission should consider the harms that will result to interconnection queues generally if interconnection customers are permitted to place Provisional LGIAs in suspension. This generalized argument about the effect of suspended Provisional LGIAs is outside the scope of this proceeding.

The Commission orders:

(A) PSCo's motion for errata is hereby denied, as discussed in the body of this order.

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[49] *Id.* at 34-35.

[50] January 2019 Order, 166 FERC ¶ 61,076 at P 80.

[51] *Id.*

[52] Rehearing Request at 13.

[53] January 2019 Order, 166 FERC ¶ 61,076 at P 80.

(B) PSCo's rehearing and clarification request is hereby denied, as discussed in the body of this order.

By the Commission. Commissioner McNamee is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.