171 FERC ¶ 61,115
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Public Service Company of Colorado Docket No. ER20-1153-000

ORDER REJECTING TARIFF REVISIONS

(Issued May 15, 2020)

1. On March 3, 2020, Public Service Company of Colorado (PSCo) submitted, pursuant to section 205 of the Federal Power Act (FPA),[1] proposed revisions to its Large Generator Interconnection Procedures (LGIP), contained in Attachment N of the Xcel Energy Operating Companies Open Access Transmission Tariff (PSCo Tariff),[2] to define the process to modify or replace existing generation facilities, including generation of a new fuel type. In this order, we reject PSCo's proposed tariff revisions, as discussed below.

I. Background

A. Order No. 2003

2. In Order No. 2003,[3] the Commission required public utilities that own, control, or operate transmission facilities to file standard generator interconnection procedures and a standard agreement to provide interconnection service to generating facilities with a

[1] 16 U.S.C. § 824d (2018).

[2] PSCo is a wholly-owned subsidiary of Xcel Energy, Inc. (Xcel Energy). PSCo is the designated eTariff filing entity for the PSCo Tariff, under the Joint Tariff Filing procedures outlined in Order No. 714. *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270, at P 63 (2008).

[3] *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).

capacity greater than 20 MW. To this end, the Commission adopted the *pro forma* LGIP and *pro forma* Large Generator Interconnection Agreement (LGIA), and required all public utilities subject to Order No. 2003 to modify their tariffs to incorporate the *pro forma* LGIP and LGIA.[4] Transmission providers were also permitted to seek variations from the *pro forma* LGIP and LGIA if they were "consistent with or superior to" the terms of the *pro forma* LGIP and LGIA.[5]

B. PSCo's Current Tariff

3. Under section 4.4 of PSCo's existing LGIP, an interconnection customer can modify its interconnection request and retain its queue position if the modification is not a material modification. PSCo's existing LGIP defines material modifications as "modifications that have a material impact on the costs or timing of any Interconnection Request with a later or equal Queue Position."[6] If PSCo determines that a modification is material, the interconnection customer can choose to abandon the proposed modification or proceed with the modification and lose its queue position.

4. Article 5.19.1 of PSCo's existing LGIA provides that a party to the agreement may undertake modifications to its facilities. If a party plans to undertake modifications to its facilities that may affect the other party's facilities, the modifying party must provide the other party sufficient information to evaluate the impact of the modification, including the timing of such modifications and whether such modifications are expected to interrupt the flow of electricity from the large generating facility. Next, the modifying party must provide relevant drawings, plans, and specifications to the other party at least 90 days before the work commences. If the proposed modifications do not require the interconnection customer to submit an interconnection request, PSCo must provide an estimate of any additional modifications to PSCo's transmission system, interconnection

[4] Order No. 2003, 104 FERC ¶ 61,103 at PP 1-2.

[5] *Id.* PP 825-826. The Commission also permitted transmission providers to justify a variation from the *pro forma* LGIP or LGIA based on regional reliability requirements, and required transmission providers to submit these regional reliability variations to the Commission for approval under the relevant reliability standard. In addition, with regard to regional transmission organizations and independent system operators (RTOs/ISOs), the Commission stated that it would allow independent entity variations for pricing and non-pricing provisions, and that RTOs/ISOs "shall have greater flexibility to customize [their] interconnection procedures and agreements to fit regional needs." *Id.* PP 824, 826.

[6] PSCo Tariff, Attachment N (0.6.1), LGIP §§ 1 (Definition of Material Modification), 4.4.3 (Modifications).

facilities or network upgrades that are necessitated by the interconnection customer's proposed modification.[7]

II. PSCo's Filing

5. As discussed in greater detail below, PSCo proposes revisions to its LGIP to: (1) more clearly define the process for requests to modify existing generating facilities; and (2) create a new process for requests to replace existing generating facilities, including where the generating facility is being replaced with a new facility that uses a different fuel type. PSCo asserts that its proposed reforms would allow owners of existing generating facilities that seek to make infrastructure investments to keep their existing interconnection service and to avoid incurring significant costs to obtain replacement interconnection service at the same location. PSCo further asserts that its proposed revisions would benefit interconnection customers by providing a transparent process for existing generators to repower or replace their aging facilities, while leveraging significant investments already made at the existing generator's site, thus avoiding unnecessary study costs that would be imposed if the existing facility went through PSCo's full interconnection study queue process.[8]

6. PSCo represents that its proposed changes will provide interconnection customers with transparency and will ensure reasonable and non-discriminatory evaluation of requests to modify or replace existing facilities. PSCo argues that its proposal is consistent with or superior to the *pro forma* LGIP and the *pro forma* OATT because: (1) it improves the interconnection process; (2) it provides benefits to both interconnection customers and ratepayers; (3) it removes the potential for discretion; and (4) it is not contrary to Commission policy.[9]

7. PSCo explains that under its proposal it will evaluate generator modifications and replacements in a manner similar to the material modification analysis under section 4.4.3 of the *pro forma* LGIP. PSCo states that the evaluations will be performed outside of PSCo's Definitive Interconnection Study Process,[10] and that if the modification or

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[7] *Id.* at LGIA art. 5.19.1.

[8] Transmittal at 1-2.

[9] *Id.* at 8.

[10] The Definitive Interconnection Study Process is the existing interconnection process by which PSCo evaluates the impact of interconnection project requests on the transmission system, and assigns the cost of upgrades required to interconnect the projects. *Id.* at 12; *see also Pub. Serv. Co. of Colo.*, 169 FERC ¶ 61,182 (2019)

replacement results in no material adverse impact to the transmission system, the modification or replacement may proceed without going through the full interconnection process. PSCo explains that, if a modification or replacement has a material adverse impact on the transmission system, or if it does not meet the additional requirements associated with a replacement request, it must be studied in the Definitive Interconnection Study Process as a new interconnection request.[11]

A. Proposed Generator Modification Process

8. PSCo proposes revisions to its LGIP to more clearly define the process for modifying existing generating facilities. PSCo states that, pursuant to proposed LGIP section 3.9.1, generator modification requests will be processed in a manner consistent with article 5.19 of the interconnection customer's LGIA.[12] Under proposed LGIP section 3.9.1, the interconnection customer must provide the transmission provider sufficient information regarding the modification, including information concerning the timing of the modification and whether the modification is expected to interrupt the flow of electricity from the generating facility, at least 90 days in advance of the commencement of the work.[13]

9. PSCo will perform a study to determine whether the proposed modification would result in a material adverse impact to the transmission system. This study may include steady-state (thermal/voltage), reactive power, short circuit/fault duty, and stability analyses, as necessary, to ensure that required reliability conditions are evaluated. PSCo may evaluate the performance of the transmission system to determine if thermal and/or voltage violations of applicable North American Electric Reliability Corporation (NERC) standards and transmission provider planning criteria are caused by an expected interruption of flow of electricity. In such an event, the existing generating facility will be responsible for mitigating any reliability violation for the period of interrupted electrical flow identified in the study and may not interrupt the flow of electricity until all mitigations are implemented.[14]

(accepting PSCo's interconnection queue reforms, including the Definitive Interconnection Study Process).

[11] Transmittal at 6, 8.

[12] *Id.* at 8.

[13] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.1.

[14] *Id.*

10. PSCo will provide the results of any modification studies, including an estimate of any additional modifications to the transmission system, transmission provider's interconnection facilities or network upgrades necessitated by such a modification, and a good faith estimate of the costs thereof, within 30 days of receipt, or such other time as the parties agree.[15]

B. Proposed Generator Replacement Process

11. PSCo proposes revisions to its LGIP to create a new process for requests to replace existing generating facilities, including where the generating facility is being replaced with a new facility that uses a different fuel type. PSCo represents that its proposal would create an interconnection process for generator replacements that meet certain requirements, including, among other things, that: (1) the replacement generator is at the same electrical point of interconnection; (2) the requested interconnection service is for an equivalent or lower number of MW; (3) the requested interconnection service is at the same level of service as the existing interconnection service; and (4) PSCo's studies show that the requested interconnection for the replacement generating facility will not have a material adverse impact on the PSCo transmission system.[16] PSCo explains that if any of the requirements are not met, then the request will be studied in PSCo's Definitive Interconnection Study Process as a new interconnection request.[17] PSCo states that the replacement generating facility may be of a different fuel type.[18]

12. Under the proposed generator replacement process tariff provisions, the interconnection customer seeking to replace its existing generating facility must submit with each generator replacement request the planned or actual date of cessation of operation for the existing generating facility and the expected commercial operation date

[15] *Id.*

[16] *Id.* at Proposed LGIP § 3.9.2.

[17] Transmittal at 7; Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.2 (Process for Generating Facility Replacement).

[18] Transmittal at 8; Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 1 (Definition of Generating Facility Replacement).

for the replacement generating facility.[19] The request must include a $60,000 study deposit and an executed Generating Facility Replacement Study Agreement.[20]

13. Generator replacement requests are subject to several additional requirements under the proposed process. First, the request for generating facility replacement must be submitted to PSCo by the owner of the existing generating facility at least one year prior to the date the existing generating facility will cease operation or up to one year after a unit is determined as an "unplanned (forced) outage" as reported to NERC through the Generating Availability Data System.[21]

14. Second, the proposed commercial operation date of a replacement generating facility must be no more than three years from the date of cessation of commercial operation of the existing generating facility in the case of a planned retirement, or four years from the date a unit is determined as an unplanned (forced) outage.[22]

15. Third, any replacement generating facility must connect to the transmission system at the same electrical point of interconnection as the existing generating facility.[23]

16. Fourth, the interconnection customer must request only energy resource interconnection service[24] for the replacement generation facility if the existing generating facility has only energy resource interconnection service. If the existing generating facility has network resource interconnection service,[25] the interconnection customer may

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[19] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.2(i).

[20] *Id.* at Proposed LGIP § 3.9.2(viii). PSCo proposes a standard form Generating Facility Replacement Study Agreement in Appendix 5.6 to PSCo's LGIP.

[21] *Id.* at Proposed LGIP § 3.9.2(i).

[22] *Id.* at Proposed LGIP § 3.9.2(ii).

[23] *Id.* at Proposed LGIP § 3.9.2(iii).

[24] Energy resource interconnection service is interconnection service that allows the interconnection customer to deliver its generating facility's electric output using the existing firm or non-firm capacity of the transmission system on an as-available basis. PSCo Tariff, Attachment N (0.6.1), LGIP § 1 (Definition of Energy Resource Interconnection Service).

[25] Network resource interconnection service is interconnection service that allows the interconnection customer to integrate its generating facility with the transmission system in a manner comparable to that in which PSCo integrates its generating facilities

request either energy resource interconnection service or network resource interconnection service for the replacement generating facility.[26]

17. Fifth, PSCo states that generator replacements must be at the same or a lower level of interconnection service (e.g., 400 MW to 400 MW, or 400 MW to 300 MW).[27] If the replacement generating facility requires interconnection service in excess of the interconnection service of the existing generating facility that is being replaced, the excess capacity must be processed as a new interconnection request for a new generating facility.[28] Sixth, if the request for generating facility replacement is for fewer MW of interconnection service than that of the existing generating facility, the interconnection customer must forfeit the remainder of the interconnection service, which will be released for use by other interconnection customers.[29]

18. Finally, requests for generating facility replacements may not be made until 12 months after the date of any assignment of the generator interconnection agreement applicable to the existing generating facility or the date of sale or transfer of the existing generating facility. Upon submission of the request, the interconnection customer cannot sell or transfer the existing generating facility until PSCo completes evaluation of the request unless the interconnection customer withdraws such request.[30]

19. Under the proposed tariff provisions, PSCo will evaluate generating facility replacement requests in the order in which they are submitted. PSCo states that the evaluation process consists of two new studies, a Replacement Impact Study and a Replacement Interim Reliability Assessment Study. PSCo states that it will use reasonable efforts to complete these studies within 180 calendar days of the request.[31]

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to serve native load customers, or in the same manner as network resources in an RTO/ISO with market-based congestion management. *Id. at* LGIP § 1 (Definition of Network Resource Interconnection Service).

[26] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.2(iv).

[27] Transmittal at 9; Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.2(v).

[28] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.2(v).

[29] *Id.* at Proposed LGIP § 3.9.2(vi).

[30] *Id.* at Proposed LGIP § 3.9.2(vii).

[31] Transmittal at 9; Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.3.

20. For the Replacement Impact Study, PSCo will conduct steady-state (thermal/voltage), reactive power, short circuit/fault duty, and stability analyses, as necessary, to evaluate whether the generator replacement has a material adverse impact on the system compared to the existing generating facility.[32] For the Replacement Interim Reliability Assessment Study, PSCo will study the performance of the transmission system during the time period between the date the existing generating facility ceases commercial operations and the commercial operation date of the replacement generating facility to determine if thermal and/or voltage violations of applicable NERC standards and transmission provider planning criteria are caused by removing the existing generating facility from service. The Replacement Interim Reliability Study may include stability analysis, as necessary. The existing generating facility is responsible for mitigating reliability violations identified in the Replacement Interim Reliability Study and may not cease operation until all mitigation measures are implemented.[33]

21. The proposed tariff provisions provide that after receiving the results of the Replacement Impact Study and Replacement Interim Reliability Assessment Study, the interconnection customer must inform PSCo within 30 days of its election to proceed.[34] After receiving the notice to proceed, PSCo will initiate an Interconnection Facilities Study focusing on the interconnection facilities or network upgrades located at or near the point of interconnection for the replacement generating facility, if PSCo determines such a study is necessary. The Interconnection Facilities Study will identify estimates for cost and time required to construct the transmission facilities. PSCo will use reasonable efforts to complete the Interconnection Facilities Study within 90 days.[35] PSCo will tender a draft or amended LGIA within 30 days after the Interconnection Facilities Study is provided to the interconnection customer, or, if no Interconnection Facilities Study is necessary, within 30 days after the interconnection customer communicates its notice to proceed. The replacement request will be considered withdrawn if the interconnection customer does not provide notice to proceed within 30 days of receiving the Replacement Impact Study and Replacement Interim Reliability Assessment Study, or if the LGIA is

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[32] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.3.1.

[33] *Id.* at Proposed LGIP § 3.9.3.2.

[34] Transmittal at 9; Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.4.

[35] Proposed PSCo Tariff, Attachment N (0.7.0), LGIP § 3.9.5.

not executed (or requested to be filed unexecuted) within 60 days of PSCo tendering the draft LGIA.[36]

22. The draft LGIA must include appendices describing the timing of the generating facility replacement and include the following conditions: (1) the LGIA cannot be assigned and the replacement generating facility cannot be transferred to another party, including an affiliate of the interconnection customer, until the replacement generating facility achieves commercial operation; and (2) the commercial operation date of the replacement generating facility must be no more than three years from the date of the existing generating facility's cessation of commercial operation in the case of a planned retirement, or four years from the date a unit is determined as a forced outage. All new and amended generator replacement LGIAs must be filed with the Commission.[37]

C. PSCo's Asserted Benefits and Support

23. PSCo indicates that it is modeling its proposal after the amended Midcontinent Independent System Operator, Inc. (MISO) generator interconnection procedures in Attachment X of the MISO OATT.[38] As a result, PSCo argues that the proposal will provide the same benefits that the Commission recognized in accepting MISO's generator replacement process.[39] PSCo notes that the Commission did not state that it was approving MISO's proposal under the independent entity variation standard, but instead appeared to be recognizing that generator replacement procedures have generally-applicable benefits and are therefore just and reasonable.[40]

24. PSCo argues that its proposal improves the interconnection process for both existing customers that are requesting replacements or modifications, as well as for new interconnection customers. PSCo states that its proposal will help new interconnection customers by ensuring that the process used to evaluate a new interconnection request is efficient and is not encumbered by existing generators evaluating potential replacement options. PSCo contends that its proposal will keep PSCo's Definitive Interconnection Study Process streamlined, because if a modification or replacement does not have a

[36] *Id.* at Proposed LGIP § 3.9.6.

[37] *Id.*

[38] Transmittal at 4.

[39] *Id.* at 4-6, 11 (citing *Midcontinent Indep. Sys. Operator, Inc.*, 167 FERC ¶ 61,146, at PP 61-62 (2019) (MISO Generator Replacement Order)).

[40] *Id.* at 5.

material adverse impact on the transmission system, then no upgrades are required and it is unnecessary to include those requests in the cluster studies of the Definitive Interconnection Study Process. PSCo argues that the evaluation of new requests is not impacted if the existing generation or the new generator is in the base model. PSCo asserts that if a replacement generator was required to enter the Definitive Interconnection Study Process simply to evaluate the potential for material adverse impact, and the interconnection customer decided to retain the existing generator and not move forward with the replacement, its withdrawal would cause delays to the Definitive Interconnection Study Process.[41]

25. PSCo asserts that, for customers with existing generating facilities, the proposed process: (1) improves transparency about how modification and replacement requests will be processed; (2) reduces opportunities for discriminatory treatment for evaluating replacement and modification requests; and (3) avoids unnecessary study costs that otherwise would occur if the request would have to proceed through the Definitive Interconnection Study Process.[42]

26. PSCo argues that its proposal will allow greater transparency for interconnection customers, and that by adding a clear process in the LGIP, existing interconnection customers know how modification or replacement requests will be processed. PSCo asserts that, for generator modifications, under the current tariff it may be difficult for an existing interconnection customer to know if a proposed modification will require a new interconnection request and what process PSCo will use to determine if the modification requires a new interconnection request. PSCo notes that the *pro forma* LGIA does not explain how PSCo should determine whether a modification request would require a new interconnection request, and that PSCo's proposal would provide clarity on the process.[43]

27. PSCo also asserts that there is a lack of clarity in the current tariff for interconnection customers that are replacing existing generating facilities. PSCo states that it is industry practice to allow wind farms to completely replace the facility under the modification provisions in the LGIA, and PSCo states that it has permitted such modifications pursuant to section 5.19.1 of the LGIA. PSCo explains that solar and wind facilities consist of a number of separate generating units, and customers are generally permitted to replace parts of the facility under the modification provisions of the *pro forma* LGIA. PSCo asserts that generators utilizing conventional fuel sources

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[41] *Id.* at 12.

[42] *Id.*

[43] *Id.* at 12, 14.

(such as coal or nuclear) may not be permitted to make modifications to improve efficiency or reduce emissions under the provisions of the *pro forma* LGIA. PSCo states that it believes that it is preferable for owners of existing generating facilities to be able to refer to clear tariff language to explain what rights they have to replace existing facilities.[44]

28. PSCo further contends that its proposal will also ensure that all interconnection customers are treated in an equal and non-discriminatory manner. PSCo argues that, by incorporating into the tariff a description of how PSCo will determine whether a new interconnection request is required, PSCo will remove any potential for discriminatory treatment between its own generation resources and third-party resources. PSCo also asserts that its proposal applies the same process for pre- and post-Order No. 2003 projects and prohibits disparity in treatment between fuel types. PSCo maintains that under its proposal all generator modification or replacement requests will be evaluated under the same standards.[45]

29. PSCo asserts that allowing existing, aging generating facilities to be replaced with more cost effective facilities, while reusing the existing land, support buildings, and interconnection service, will benefit ratepayers.[46] PSCo contends that the proposal will not only benefit ratepayers through lower energy costs, but it will also help keep transmission rates low. PSCo argues that if generation owners are not permitted to replace their retiring facilities, those facilities may be replaced by generation in different locations, which would result in additional network upgrades.[47]

30. Additionally, PSCo argues that its proposal allows an existing interconnection customer to retain its contractual interconnection service rights while the underlying generating facility is undergoing modification or replacement.[48]

31. PSCo contends that owners of existing generating facilities with LGIAs and customers requesting new interconnection service are not similarly situated and therefore it makes sense to treat them differently for study purposes. PSCo notes that owners of existing generating facilities have gone through an interconnection process and have

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[44] *Id.* at 14-15.

[45] *Id.* at 15.

[46] *Id.* at 13 (citing MISO Generator Replacement Order, 167 FERC ¶ 61,146 at P 62).

[47] *Id.*

[48] *Id.* at 12.

borne cost responsibility for upgrades that were necessary for their operation at their point of interconnection. Additionally, PSCo states that existing generating facilities have been part of the transmission planning base case, their capacity and electrical characteristics were studied in the interconnection process, and they have a history of actual operations, all of which provides a benchmark regarding the capacity and electrical characteristics that can operate without new network upgrades. PSCo argues that it is therefore unnecessary for existing interconnection projects to go through the Definitive Interconnection Study Process. PSCo asserts that, by contrast, new interconnection customers have not previously gone through the interconnection process, have not been evaluated for their impact on the transmission system, have not faced potential cost responsibility for any necessary upgrades, have not become part of the base case for PSCo's models, and have not demonstrated reliability through actual operation.[49]

32. PSCo argues that Order No. 845[50] did not preclude generator replacement and modification reforms such as PSCo's.[51] PSCo also asserts that its proposal does not contradict the Commission's surplus interconnection service reforms in Order No. 845.[52]

III. Notice of Filing and Responsive Pleadings

33. Notice of PSCo's filing was published in the *Federal Register*, 85 Fed. Reg. 13,887 (Mar. 10, 2020), with interventions and protests due on or before March 24, 2020. None were filed.

IV. Commission Determination

34. Under Order No. 2003, transmission providers that seek a variation from the Commission's *pro forma* LGIP must demonstrate that the variation is consistent with

[49] *Id.* at 16-17 (citing MISO Generator Replacement Order, 167 FERC ¶ 61,146 at PP 63-65).

[50] *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, *errata notice*, 167 FERC ¶ 61,124, *order on reh'g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019).

[51] Transmittal at 17 (citing Order No. 845-A, 166 FERC ¶ 61,137 at PP 144, 147).

[52] *Id.* at 17-18.

or superior to the *pro forma* LGIP.[53] We reject PSCo's proposed tariff revisions because PSCo has not demonstrated that its proposed generator replacement process is consistent with or superior to the *pro forma* LGIP, as discussed below.

35. Order No. 2003 established standard interconnection procedures to, among other things, limit opportunities for transmission providers to favor their own generation and to facilitate market entry for generation competitors by reducing interconnection costs and time.[54] Contrary to these principles, PSCo's proposed generator replacement process may result in a more favorable interconnection process for PSCo's own generation and make it more difficult for its generation competitors to enter the market.

36. Specifically, approximately 60% of PSCo's existing designated network resources are generators owned by PSCo or an affiliate.[55] We find that the proposed generator replacement process could give PSCo an undue preference by allowing its new replacement generation to circumvent the full interconnection process, whereas new generation seeking to compete would be required to go through the full interconnection process.

37. Without the proposed generator replacement process – that is, under the *pro forma* LGIP provisions – replacements for PSCo's existing generation and new generation (whether developed by PSCo or a third-party) will all be required to go through the regular interconnection process and interconnection queue. This will allow all generation to compete on a level playing field, including accessing released interconnection capacity following an existing resource's retirement. For these reasons, we find that PSCo's proposed generator replacement process is not consistent with or superior to the *pro forma* LGIP.

38. PSCo argues that its proposal is similar to a generator replacement process proposed by MISO and should be similarly accepted.[56] That argument is misplaced. MISO, as an RTO, is subject to Order No. 2003's independent entity variation standard, which provides RTOs/ISOs greater flexibility in proposing variations from the *pro forma* LGIP because RTOs/ISOs do not raise the same level of concern regarding undue

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[53] Order No. 2003, 104 FERC ¶ 61,103 at PP 26, 825-26; *see also, e.g.*, *Ameren Servs. Co.*, 106 FERC ¶ 61,261, at P 3 (2004).

[54] Order No. 2003, 104 FERC ¶ 61,103 at P 12.

[55] Transmittal at 3.

[56] MISO Generator Replacement Order, 167 FERC ¶ 61,146 at P 61.

discrimination as a transmission provider that is a market participant.[57] MISO does not own generating facilities or have an incentive to obstruct independent generation from accessing the grid. By contrast, PSCo, as the administrator of its generator interconnection process, is not an independent third-party subject to the independent entity variation standard.

39. With regard to PSCo's proposed tariff provisions that would more clearly define the existing generator modification process,[58] we reject the proposed provisions without prejudice.[59] However, because PSCo submitted its proposal as a package, we reject the entire filing based on the grounds discussed above.

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[57] Order No. 2003, 104 FERC ¶ 61,103 at PP 26, 822, 827. Although the Commission did not explicitly state in the MISO Generator Replacement Order that it was accepting MISO's generator replacement process under the independent entity variation standard, under Order No. 2003 the Commission held that the standard of review for RTO/ISO interconnection filings is the independent entity variation standard. *Id.*; *see also Midcontinent Indep. Sys. Operator, Inc.*, 158 FERC ¶ 61,003, at P 21 (2017) ("The Commission applies an independent entity standard to evaluate RTO and ISO proposals for revisions to the procedures outlined in Order No. 2003."); *PJM Interconnection, L.L.C.*, 116 FERC ¶ 61,021, at P 8 (2006) (evaluating RTO proposal under independent entity variation standard even though the RTO argued the variations met the consistent with or superior to standard).

[58] *See* Proposed PSCo Tariff, Attachment N (0.7.0), LGIP §§ 3.9, 3.9.1; PSCo Tariff, Attachment N (0.6.1), LGIA art. 5.19.

[59] We make no findings in this order regarding current modification practices that may be used by existing generating facilities.

<u>The Commission orders</u>:

PSCo's proposed tariff revisions are hereby rejected, as discussed in the body of this order.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.