

191 FERC ¶ 61,120
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Mark C. Christie, Chairman;
David Rosner, Lindsay S. See,
and Judy W. Chang.

El Paso Electric Company

Docket No. ER24-1868-000

ORDER ON COMPLIANCE

(Issued May 15, 2025)

1. On April 30, 2024, El Paso Electric Company (El Paso) submitted proposed revisions to its Open Access Transmission Tariff (Tariff) in compliance with the requirements of Order Nos. 2023 and 2023-A,¹ which amended the Commission's *pro forma* Large Generator Interconnection Procedures (LGIP), *pro forma* Large Generator Interconnection Agreement (LGIA), *pro forma* Small Generator Interconnection Procedures (SGIP), and *pro forma* Small Generator Interconnection Agreement (SGIA).² As discussed below, we find that El Paso's filing partially complies with the requirements of Order Nos. 2023 and 2023-A. Accordingly, we accept El Paso's compliance filing in part, effective June 3, 2024, and direct El Paso to submit a further compliance filing within 60 days of the date of this order.

I. Background

2. On July 28, 2023, the Commission issued Order No. 2023. Order No. 2023 requires all public utility transmission providers to adopt revised *pro forma* LGIPs,

¹ *Improvements to Generator Interconnection Procs. & Agreements*, Order No. 2023, 184 FERC ¶ 61,054, *order on reh'g*, 185 FERC ¶ 61,063 (2023), *order on reh'g*, Order No. 2023-A, 186 FERC ¶ 61,199, *errata notice*, 188 FERC ¶ 61,134 (2024).

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 generating facilities larger than 20 MW. The *pro forma* SGIP and *pro forma* SGIA 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 generating facilities no larger than 20 MW. Order No. 2023, 184 FERC ¶ 61,054 at P 2.

pro forma LGIAs, *pro forma* SGIPs, and *pro forma* SGIAs. These revisions ensure that interconnection customers are able to interconnect to the transmission system in a reliable, efficient, transparent, and timely manner, and will prevent undue discrimination.³ In Order No. 2023, the Commission adopted a comprehensive package of reforms in three general categories: (1) reforms to implement a first-ready, first-served cluster study process; (2) reforms to increase the speed of interconnection queue processing; and (3) reforms to incorporate technological advancements into the interconnection process.

3. To implement a first-ready, first-served cluster study process, Order No. 2023: (1) requires transmission providers to post public interconnection information in an interactive heatmap to provide interconnection customers information before they enter the queue; (2) eliminates individual serial feasibility and system impact studies; (3) creates a cluster study; (4) creates a range of allowable allocations of cluster study costs; (5) requires transmission providers to use a proportional impact method to assign network upgrade costs within a cluster; (6) requires increased financial commitments and readiness requirements from interconnection customers, including increased study deposits, site control, commercial readiness deposits, and an LGIA deposit; (7) requires transmission providers to institute penalties for withdrawn interconnection requests; and (8) creates a transition mechanism for moving to the cluster study process adopted in Order No. 2023 from the existing serial study process.⁴

4. To increase the speed of interconnection queue processing, Order No. 2023: (1) eliminates the reasonable efforts standard for completing interconnection studies and adopts study delay penalties applicable when transmission providers fail to complete interconnection studies by the deadlines in their tariff; and (2) establishes a more detailed affected system study process in the *pro forma* LGIP, including *pro forma* affected system agreements and uniform modeling standards.⁵

5. To incorporate technological advancements into the interconnection process, Order No. 2023: (1) requires transmission providers to allow more than one generating facility to co-locate on a shared site behind a single point of interconnection and share a single interconnection request; (2) requires transmission providers to evaluate the proposed addition of a generating facility to an existing interconnection request prior to deeming such an addition a material modification; (3) requires transmission providers to allow interconnection customers to access the surplus interconnection service process once the original interconnection customer has an executed LGIA or requests the filing of an unexecuted LGIA; (4) requires transmission providers, at the request of the

³ *Id.* P 1.

⁴ *Id.* P 5.

⁵ *Id.* P 6.

interconnection customer, to use operating assumptions in interconnection studies that reflect the proposed charging behavior of electric storage resources; (5) requires transmission providers to evaluate an enumerated list of alternative transmission technologies during the study process; (6) requires each interconnection customer requesting to interconnect a non-synchronous generating facility to submit to the transmission provider certain specific models of the generating facility; (7) establishes ride through requirements during abnormal frequency conditions and voltage conditions within the “no trip zone” defined by North American Electric Reliability Corporation Reliability Standard PRC-024-3 or successor mandatory ride through reliability standards; and (8) requires that all newly interconnecting large generating facilities provide frequency and voltage ride through capability consistent with any standards and guidelines that are applied to other generating facilities in the balancing authority area on a comparable basis.⁶

6. In Order No. 2023-A, the Commission granted certain requests for rehearing and clarification. The Commission set aside Order No. 2023 in part, to specify that: (1) where an interconnection customer is in the interconnection queue of a transmission provider that currently uses, or is transitioning to, a cluster study process and the transmission provider proposes on compliance to adopt the new readiness requirements in Order No. 2023 or a variation for its annual cluster study, the interconnection customer must comply with the transmission provider’s new readiness requirements within 60 days of the Commission-approved effective date of the transmission provider’s compliance filing, where such readiness requirements are applicable given the status of the individual interconnection customer in the queue; (2) a network upgrade that is required for multiple interconnection customers in a cluster, not part of an affected system, and may be constructed without affecting day-to-day operations of the transmission system during its construction, may be considered a stand alone network upgrade if all such interconnection customers mutually agree to exercise the option to build; (3) a transmission provider must complete its determination that an interconnection request is valid by the close of the cluster request window such that only interconnection customers with valid interconnection requests proceed to the customer engagement window; and (4) acceptable forms of security for the commercial readiness deposit and deposits prior to the transitional serial study, the transitional cluster study, the cluster restudy, and the interconnection facilities study should include not only cash or an irrevocable letter of credit, but also surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider.⁷

⁶ *Id.* P 7.

⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at P 7.

7. Additionally, in Order No. 2023-A, the Commission granted several clarifications on the following topics: (1) conflicts with ongoing interconnection queue reform efforts; (2) public interconnection information; (3) the cluster study process; (4) allocation of cluster network upgrade costs; (5) shared network upgrades; (6) withdrawal penalties; (7) study delay penalties and the appeal structure; (8) affected systems; (9) revisions to the material modification process to require consideration of generating facility additions; (10) availability of surplus interconnection service; (11) operating assumptions for interconnection studies; (12) consideration of the enumerated alternative transmission technologies in interconnection studies; and (13) ride-through requirements.⁸

II. El Paso's Compliance Filing

8. El Paso states that it has incorporated the *pro forma* LGIP, *pro forma* LGIA, *pro forma* SGIP, and *pro forma* SGIA reforms as required by Order Nos. 2023 and 2023-A. El Paso requests that the proposed Tariff revisions become effective on June 3, 2024.

III. Notice and Responsive Pleadings

9. Notice of El Paso's compliance filing was published in the *Federal Register*, 89 Fed. Reg. 38123 (May 7, 2024), with interventions and protests due on or before May 21, 2024. White Spring Wind, LLC (White Spring) and Mesquite PV I, LLC (Mesquite) (together, Joint Protesters) filed a timely joint motion to intervene. Alluvial Energy LLC (Alluvial) filed an out-of-time motion to intervene. Enchantment Solar LLC (Enchantment) and Interwest Energy Alliance (Interwest) filed out-of-time motions to intervene and protests. El Paso filed a request for leave to answer and answer. Joint Protesters filed an out-of-time protest.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2024), the timely, unopposed motion to intervene serves to make the entities that filed it parties to this proceeding.

11. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant Alluvial, Enchantment, and Interwest's late-filed motions to intervene given their interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

⁸ *Id.* P 8.

12. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2024), prohibits an answer to a protest or an answer unless otherwise ordered by the decisional authority. We accept El Paso's answer because it has provided information that assisted us in our decision-making process.

B. Substantive Matters

13. As discussed below, we find that El Paso's filing partially complies with the requirements of Order Nos. 2023 and 2023-A. Accordingly, we accept El Paso's compliance filing in part, effective June 3, 2024, and direct El Paso to submit a further compliance filing within 60 of days of the date of this order.

14. As a preliminary matter, we find that El Paso has complied with the following requirements of Order Nos. 2023 and 2023-A by proposing to adopt without modification the *pro forma* LGIP, *pro forma* LGIA, *pro forma* SGIP, and *pro forma* SGIA provisions:⁹ (1) public interconnection information;¹⁰ (2) commercial readiness;¹¹ (3) LGIA deposit;¹²

⁹ Although El Paso submitted the *pro forma* language of Order Nos. 2023 and 2023-A without modification regarding the reform categories noted in this paragraph, to the extent that a specific section or article appears in this paragraph as well as in another determination section below, the Commission's determinations below concerning that specific section or article govern.

¹⁰ See Order No. 2023, 184 FERC ¶ 61,054 at P 135; *pro forma* LGIP § 6.1; El Paso Elec. Co., Open Access Transmission Tariff, attach. M (Large Generator Interconnection Procs. & Agreement (LGIP)) (1.3.0), § 6.1 (Publicly Posted Interconnection Information) (Proposed OATT).

¹¹ See Order No. 2023, 184 FERC ¶ 61,054 at PP 690, 692-693; *pro forma* LGIP §§ 1, 3.4.2, 7.5, 8.1, 11.3; El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions), 3.4.2 (Initiating an Interconnection Request), 7.5 (Cluster Study Restudies), 8.1 (Interconnection Facilities Study Agreement), 11.3 (Execution and Filing).

¹² See Order No. 2023, 184 FERC ¶ 61,054 at PP 693, 714, 717; *pro forma* LGIP §§ 1, 11.3; *pro forma* LGIA arts. 1, 11.5; El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions), 11.3 (Execution and Filing); *id.* app. 5 (Large Generator Interconnection Agreement), arts. 1 (Definitions), 11.5 (Provision of Security).

(4) elimination of reasonable efforts;¹³ (5) co-located generating facilities;¹⁴ (6) revisions to the modification process;¹⁵ (7) availability of surplus interconnection service;¹⁶ (8) operating assumptions for interconnection studies;¹⁷ (9) incorporation of the enumerated alternative transmission technologies;¹⁸ and (10) modeling and ride-through requirements.¹⁹

¹³ See Order No. 2023, 184 FERC ¶ 61,054 at PP 962-963, 972, 974-978; Order No. 2023-A, 186 FERC ¶ 61,199 at P 439; *pro forma* LGIP §§ 2.2, 3.5.4, 3.9, 7.4, 8.3; *pro forma* LGIP, app. 3, attach. A; El Paso, Proposed OATT, attach. M (1.3.0), §§ 2.2 (Comparability), 3.5.4, 3.9 (Penalties for Failure to Meet Study Deadlines), 7.4 (Cluster Study Procedures), 8.3 (Interconnection Facilities Study Procedures); *id.* app. 3 (Interconnection Facilities Study Agreement), attach. A (Interconnection Customer Schedule Election for Conducting the Interconnection Facilities Study).

¹⁴ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1346, 1351-1352, 1355; *pro forma* LGIP § 3.1.2; El Paso, Proposed OATT, attach. M (1.3.0), § 3.1.2 (Submission).

¹⁵ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1406-1407, 1409-1411; *see also pro forma* LGIP § 4.4.3; El Paso, OATT, attach. M (1.3.0), § 4.4.3.

¹⁶ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1436-1437, 1445, 1447; *pro forma* LGIP § 3.3.1; El Paso, Proposed OATT, attach. M (1.3.0), § 3.3.1 (Surplus Interconnection Service Request).

¹⁷ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1509, 1511, 1520-1521; *pro forma* LGIP §§ 3.1.2, 3.2.1.2, 3.2.2.2, 3.3.1, 3.4.2, § 3.4.2(v), 4.4.3, 7.3, 8.2, app.1; *pro forma* LGIA art. 17.2, app. H; El Paso, Proposed OATT, attach. M (1.3.0), §§ 3.1.2 (Submission), 3.2.1.2 (The Study), 3.2.2.2 (The Study), 3.3.1 (Surplus Interconnection Service Request), 3.4.2 (Initiating an Interconnection Request), 4.4.3, 7.3 (Scope of Cluster Study), 8.2 (Scope of Interconnection Facilities Study); *id.* app. 1 (Interconnection Request for a Large Generating Facility); *id.* app. 5, art. 17.2 (Violation of Operating Assumptions for Generating Facilities), app. H (Operating Assumptions for Generating Facility).

¹⁸ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1580, 1578; Order No. 2023-A, 186 FERC ¶ 61,199 at PP 623-27; *pro forma* LGIP § 7.3; *pro forma* SGIP §§ 1, 3.3.6, 3.4.10; El Paso, OATT, attach. M (1.3.0), § 7.3; *id.* attach. N (0.6.0), §§ 1 (Application), 3.3.6, 3.4.10.

¹⁹ See Order No. 2023, 184 FERC ¶ 61,054 at PP 1659-1660, 1715, 1733, 1735; *pro forma* LGIP §§ 1, 4.4.4, app. 1, attach. A; *pro forma* LGIA art. 1, 9.7.3; *pro forma* SGIP, § 1.4, attach. 2; *pro forma* SGIA art. 1.5.7; El Paso, Proposed OATT, attach. M (1.3.0), § 1 (Definitions), Applicable Reliability Standards, Balancing Authority, Balancing

15. We address the remaining compliance requirements and protests below.

1. Proposed Variations

16. As discussed further below, El Paso has proposed certain variations from the Commission's requirements in Order Nos. 2023 and 2023-A. The Commission explained in Order No. 2023 that such variations filed by a non-Regional Transmission Organization (RTO)/Independent System Operator (ISO) transmission provider would be reviewed under the same "consistent with or superior to" standard allowed by Order Nos. 888, 890, 2003, 2006, and 845.²⁰ In Order No. 2003, when adopting the *pro forma*

Authority Area, Electric Reliability Organization, 4 (Interconnection Request Evaluation Process), 4.4.4; *id.* app. 1 (Interconnection Requests for Large Generating Facility), attach. A (Large Generating Facility Data); *id.* app. 5, LGIA, arts. 1 (Definitions) Applicable Reliability Standards, Balancing Authority, Balancing Authority Area, Electric Reliability Organization, 9 (Operations), 9.7.3 (Ride Through Capability and Performance); *id.* attach. N. (0.6.0), art. 1 (Scope & Limitations of Agreement), 1.5.7; *id.* attach. N (0.6.0), attach. 1 (Glossary of Terms), (defining Balancing Authority, Balancing Authority Area); *id.* attach. N. (0.6.0), §§ 1 (Application), 1.4 (Modification of the Interconnection Request); *id.* attach. N (0.6.0), LGIP attach. 2 (Small Generator Interconnection Request).

²⁰ *Id.* P 1764 (citing *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission on Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. & Transmitting Utils.*, Order No. 888, FERC Stats. & Regs. ¶ 31,036, at 31,769-70 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (cross-referenced at 78 FERC ¶ 61,220), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Pol'y Study Grp. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y. v. FERC*, 535 U.S. 1 (2002); *Preventing Undue Discrimination & Preference in Transmission Serv.*, Order No. 890, 118 FERC ¶ 61,119, at P 109, *order on reh'g*, Order No. 890-A, 121 FERC ¶ 61,297 (2007), *order on reh'g*, Order No. 890-B, 123 FERC ¶ 61,299 (2008), *order on reh'g*, Order No. 890-C, 126 FERC ¶ 61,228, *order on clarification*, Order No. 890-D, 129 FERC ¶ 61,126 (2009); *Standardization of Generator Interconnection Agreements & Procs.*, Order No. 2003, 104 FERC ¶ 61,103, at P 825 (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 Regul. Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007); *Standardization of Small Generator Interconnection Agreements & Procs.*, Order No. 2006, 111 FERC ¶ 61,220, at PP 546-47, *order on reh'g*, Order No. 2006-A, 113 FERC ¶ 61,195 (2005), *order granting clarification*, Order No. 2006-B, 116 FERC ¶ 61,046 (2006); *Reform of Generator Interconnection Procs. & Agreements*,

LGIP and *pro forma* LGIA, 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.²¹ 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 and/or *pro forma* SGIP and/or *pro forma* SGIA.²² The Commission also explained in Order No. 2023 that, consistent with Order Nos. 888, 890, 2003, 2006, and 845, transmission providers may justify a variation to the *pro forma* LGIP and/or *pro forma* LGIA and/or *pro forma* SGIP and/or *pro forma* SGIA based on established reliability requirements using the regional differences rationale.²³ The Commission 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.²⁴ We evaluate El Paso’s proposed variations from the requirements of Order Nos. 2023 and 2023-A accordingly.

a. El Paso’s Compliance Filing

17. El Paso proposes various unexplained revisions throughout its LGIP, *pro forma* LGIA, SGIP, and *pro forma* SGIA, including, but not limited to, the following examples: (1) deleting punctuation in LGIP section 1 (Affected System Study Report, Commercial Readiness Deposit, Hazardous Substances); (2) revising “an” to “any” in LGIP section 1

Order No. 845, 163 FERC ¶ 61,043, at P 43 (2018), *order on reh’g*, Order No. 845-A, 166 FERC ¶ 61,137, *order on reh’g*, Order No. 845-B, 168 FERC ¶ 61,092 (2019)).

²¹ Order No. 2003, 104 FERC ¶ 61,103 at P 26.

²² *See, e.g., Nev. Power Co.*, 167 FERC ¶ 61,086, at P 3 (2019).

²³ Order No. 2023, 184 FERC ¶ 61,054 at P 1764 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,770; Order No. 890, 118 FERC ¶ 61,119 at P 109; Order No. 2003, 104 FERC ¶ 61,103 at P 826 (“[I]f on compliance a non-RTO or ISO Transmission Provider offers a variation from the Final Rule LGIP and Final Rule LGIA, and the variation is in response to established (i.e., approved by the Applicable Reliability Council) reliability requirements, then it may seek to justify its variation using the regional difference rationale.”); Order No. 2006, 111 FERC ¶ 61,220 at PP 546-547; Order No. 845, 163 FERC ¶ 61,043 at P 43).

²⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 1764 (citing Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,770; Order No. 890, 118 FERC ¶ 61,119 at P 109; Order No. 2003, 104 FERC ¶ 61,103 at P 826; Order No. 2006, 111 FERC ¶ 61,220 at PP 546-547; Order No. 845, 163 FERC ¶ 61,043 at P 43).

(Withdrawal Penalty);²⁵ (3) deleting a period in the heading for LGIP section 3.2 (Identification of Types of Interconnection Services); (4) deleting “as such term is defined by Transmission Provider” from LGIP section 3.4.2 Initiating an Interconnection Request; (5) deleting a comma in LGIP section 3.5.2.4 Interconnection Service Requests Withdrawn from Interconnection Queue; (6) replacing “customers” with “customer” in LGIP section 3.7.1.2.2 Assessment of Network Upgrade Costs Previously Shared with Withdrawn Interconnection Customers in the Same Cluster; (7) deleting Roman numeral bullets in subsection 5 of LGIP section 3.7.1.2.3(a) Impact Calculation for Withdrawals During the Cluster Study Process; and (8) omitting LGIP section 3.9 from the table of contents.

b. Commission Determination

18. The Commission explained in Order No. 2023 that variations proposed in compliance filings submitted by transmission providers that are not RTOs/ISOs will be reviewed under the “consistent with or superior to” standard, meaning that a transmission provider seeking a variation from the *pro forma* provisions must demonstrate why its proposal is consistent with or superior to the Commission’s *pro forma* LGIP, *pro forma* LGIA, *pro forma* SGIP, and/or *pro forma* SGIA.²⁶ We expect that many of these unexplained variations are simply typographical or other minor errors that El Paso inadvertently included in its compliance filing. Therefore, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that either adjusts the relevant proposed variations to reflect the Commission’s *pro forma* procedures and agreements without modification or justifies the proposed variations as consistent with or superior to the Commission’s *pro forma* procedures and agreements.

2. Cluster Study Process

19. In Order No. 2023, the Commission revised the *pro forma* LGIP and *pro forma* LGIA to require transmission providers to study interconnection requests in clusters. The Commission added several new, and revised several existing, defined terms to facilitate this change.²⁷

²⁵ We note that the section or article title appears in parentheses following the first usage of that section or article in this order.

²⁶ Order No. 2023, 184 FERC ¶ 61,054 at PP 16, 1764; *see, e.g., Nev. Power Co.*, 167 FERC ¶ 61,086 at P 3.

²⁷ Order No. 2023, 184 FERC ¶ 61,054; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

20. The Commission adopted section 3.1.2 (Submission) of the *pro forma* LGIP to require an interconnection customer to select a definitive point of interconnection when executing the cluster study agreement.²⁸ The Commission adopted section 3.4.1 (Cluster Request Window), section 3.4.4 (Deficiencies in Interconnection Request), and section 3.4.5 (Customer Engagement Window) of the *pro forma* LGIP to provide a process for interconnection customers to submit a cluster study interconnection request.²⁹ The Commission adopted section 3.4.6 (Cluster Study Scoping Meetings) of the *pro forma* LGIP to require transmission providers to hold a scoping meeting with interconnection customers in the cluster.³⁰ The Commission revised section 3.5.2 (Requirement to Post Interconnection Study Metrics) of the *pro forma* LGIP to require transmission providers to post metrics for cluster study and restudy processing time.³¹ Additionally, the Commission required the transmission provider to include the number of calendar days after the conclusion of the transition process that the initial cluster request window will open, as well as the month and date of the opening of the annual cluster request window, in *pro forma* LGIP section 3.4.1.

21. The Commission adopted several revisions to the *pro forma* LGIP related to the process by which an interconnection customer can make an interconnection request. The Commission revised section 4.1 (Queue Position) of the *pro forma* LGIP to provide that all interconnection requests within a cluster be considered equally queued and accordingly modified the definition of “queue position.”³² The Commission renamed and revised section 4.2 (General Study Process) of the *pro forma* LGIP to require transmission providers to perform interconnection studies within the cluster study process.³³ The Commission revised section 4.4 (Modifications) of the *pro forma* LGIP to provide that moving a point of interconnection shall result in the loss of a queue position if it is deemed a material modification by the transmission provider.³⁴ The Commission also revised section 4.4.1 of the *pro forma* LGIP to incorporate the material modification

²⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 200; *see also pro forma* LGIP § 3.1.2.

²⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 223; *see also pro forma* LGIP §§ 3.4.1, 3.4.4, 3.4.5.

³⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 245; *see also pro forma* LGIP § 3.4.6.

³¹ Order No. 2023, 184 FERC ¶ 61,054 at P 259; *see also pro forma* LGIP § 3.5.2.

³² Order No. 2023, 184 FERC ¶ 61,054 at PP 277, 283; *see also pro forma* LGIP § 4.1.

³³ Order No. 2023, 184 FERC ¶ 61,054 at P 278; *see also pro forma* LGIP § 4.2.

³⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 283; *see also pro forma* LGIP § 4.4.

process as part of the cluster study process.³⁵ The Commission revised section 4.4.5 of the *pro forma* LGIP to require that an interconnection customer receive an extension of fewer than three cumulative years of the generating facility's commercial operation date without requiring it to request such an extension from the transmission provider.³⁶

22. The Commission adopted revisions to the *pro forma* LGIP to implement several cluster study provisions. The Commission revised section 7 (Cluster Study) of the *pro forma* LGIP to set out the requirements and scope of the cluster study agreement, as well as the cluster study and restudy procedures.³⁷ The Commission revised *pro forma* LGIP section 7.1 (Cluster Study Agreement) to provide that the transmission provider must tender to each interconnection customer that submitted a valid interconnection request a cluster study agreement no later than five business days after the close of the cluster request window.³⁸ The Commission revised *pro forma* LGIP section 7.2 (Execution of Cluster Study Agreement) to provide that, if the interconnection customer does not provide technical data when it delivers the cluster study agreement, the transmission provider must notify the interconnection customer of the deficiency within five business days, and the interconnection customer must cure the deficiency within 10 business days.³⁹ The Commission modified *pro forma* LGIP section 7.3 (Scope of Cluster Study Agreement) to provide that the stability analysis, power flow analysis, and short circuit analysis will be conducted on a clustered basis.⁴⁰

23. The Commission also modified *pro forma* LGIP section 7.4 (Cluster Study Procedures) to provide that the transmission provider shall complete the cluster study within 150 calendar days, using subgroups if it chooses. Within 10 business days of simultaneously furnishing a cluster study report and draft facilities study agreement to each interconnection customer and posting such report on its Open Access Same-Time Information System (OASIS), the transmission provider shall convene an open meeting to discuss the study results.⁴¹ The Commission revised *pro forma* LGIP section 7.5 (Cluster Study Restudies) to require that the interconnection customer must provide,

³⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 285; *see also pro forma* LGIP § 4.4.1.

³⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 293; *see also pro forma* LGIP § 4.4.5.

³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.

³⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.1.

³⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.2.

⁴⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.3.

⁴¹ Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.4.

within 20 calendar days after the cluster study report meeting, a study deposit, demonstration of site control, and a commercial readiness deposit. The Commission also required the transmission provider to complete any cluster restudy within 150 calendar days.⁴²

24. The Commission revised section 8.5 (Restudy) of the *pro forma* LGIP to make clear that restudies can be triggered by the withdrawal or modification by a higher- or equally-queued interconnection request.⁴³ The Commission revised sections 11.1 (Tender) and 11.3 (Execution and Filing) of the *pro forma* LGIP regarding the tendering, execution, and filing of the LGIA to incorporate the site control demonstrations and LGIA deposit requirements of Order No. 2023.⁴⁴

25. The Commission also revised Appendix 2 (formerly Appendix 3) (Cluster Study Agreement) from the *pro forma* interconnection system impact study agreement to the new *pro forma* cluster study agreement.⁴⁵

26. In Order No. 2023-A, the Commission modified the *pro forma* LGIP and *pro forma* LGIA definitions of “stand alone network upgrades” and *pro forma* LGIA article 5.1.3 (Option to Build) to allow an interconnection customer to exercise the option to build whether the stand alone network upgrade is attributable to a single interconnection customer, or multiple interconnection customers in a single cluster study that agree to exercise this option.⁴⁶

27. The Commission also modified *pro forma* LGIP section 3.4.5 to clarify that any interconnection request for which the interconnection customer has not executed a cluster study agreement by the end of the customer engagement window will be deemed withdrawn from the interconnection queue.⁴⁷ The Commission also modified *pro forma* LGIP section 3.4.4 to clarify that all items in *pro forma* LGIP section 3.4.2 (Initiating an

⁴² Order No. 2023, 184 FERC ¶ 61,054 at P 317; *see also pro forma* LGIP § 7.5.

⁴³ Order No. 2023, 184 FERC ¶ 61,054 at P 335; *see also pro forma* LGIP § 8.5.

⁴⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 344; *see also pro forma* LGIP §§ 11.1, 11.3.

⁴⁵ *See pro forma* LGIP app. 2.

⁴⁶ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 141-43; *see also pro forma* LGIP § 1; *pro forma* LGIA arts. 1, 5.1.3.

⁴⁷ Order No. 2023-A, 186 FERC ¶ 61,199 at P 159; *see also pro forma* LGIP § 3.4.5.

Interconnection Request) must be received during the cluster request window and, if they are not, the interconnection request will be deemed withdrawn.⁴⁸

28. The Commission modified *pro forma* LGIP sections 7.3 and 8.1 (Interconnection Facilities Study Agreement) to remove the requirement for the transmission provider to tender an interconnection facilities study agreement simultaneously with the issuance of a cluster study (or restudy) report and instead add a requirement for the transmission provider to tender the interconnection facilities agreement within five business days after the transmission provider notifies the interconnection customers that no further restudies are required.⁴⁹

29. The Commission modified sections 3.4.2, 5.1.1.1 (Transitional Serial Study), 5.1.1.2 (Transitional Cluster Study), 7.5, and 8.1 of the *pro forma* LGIP to reflect that acceptable forms of security for the commercial readiness deposit and deposits prior to the transitional serial study, the transitional cluster study, the cluster restudy, and the interconnection facilities study should include not only cash or an irrevocable letter of credit, but also surety bonds or other forms of financial security that are reasonably acceptable to the transmission provider.⁵⁰

30. Finally, the Commission also revised *pro forma* LGIP sections 3.4.6, 3.5.2.4 (Interconnection Service Requests Withdrawn from Interconnection Queue), and 7.5, as well as the *pro forma* LGIP definition of “interconnection study,” to remove inadvertent errors and add minor clarifying edits.⁵¹

a. El Paso’s Compliance Filing

31. El Paso proposes revisions to sections 1, 3.1.2, 3.4.2, 3.4.4, 3.4.5, 3.4.6, 3.5.2, 3.5.2.4, 4.1, 4.2, 4.4, 4.4.1, 4.4.5, 5.1.1.1, 5.1.1.2, 7, 7.1, 7.2, 7.4, 7.5, 8.1, 8.5, 11.1, and 11.3 and Appendix 2 of its LGIP, as well as articles 1 and 5.1.3 of its LGIA, to incorporate without modification the cluster study process framework adopted in

⁴⁸ Order No. 2023-A, 186 FERC ¶ 61,199 at P 161; *see also pro forma* LGIP § 3.4.4.

⁴⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 163; *see also pro forma* LGIP §§ 7.3, 8.1.

⁵⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at P 185; *see also pro forma* LGIP §§ 3.4.2, 5.1.1.1, 5.1.1.2, 7.5, 8.1.

⁵¹ Order No. 2023-A, 186 FERC ¶ 61,199 at P 167; *see also pro forma* LGIP §§ 1, 3.4.6, 3.5.2.4, 7.5.

Order Nos. 2023 and 2023-A.⁵² El Paso also proposes in section 3.4.1 of its LGIP that its initial cluster request window will open 30 to 90 calendar days after the conclusion of the transition process but no later than June 1, 2025 and its annual cluster request window will open on February 15 every year thereafter.⁵³

32. El Paso proposes deviations to LGIP section 7.3 to expand the scope of the cluster study to incorporate electromagnetic transient analyses, as appropriate. Specifically, El Paso proposes the following:

The Cluster Study will consist of power flow, stability, and short circuit and, as appropriate, Electromagnetic transient (EMT) analyses, the results of which are documented in a single Cluster Study Report, as applicable. In determining whether an EMT analysis is appropriate, the considerations taken into account by Transmission Provider will include the

⁵² El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions) Cluster, Cluster Request Window, Cluster Restudy, Cluster Restudy Report, Cluster Restudy Report Meeting, Cluster Study, Cluster Study Agreement, Cluster Study Process, Cluster Study Report, Cluster Study Report Meeting, Clustering, Customer Engagement Window, Interconnection Facilities Study, Interconnection Facilities Study Agreement, Interconnection Facilities Study Report, Interconnection Request, Interconnection Study, Material Modification, Optional Interconnection Study Agreement, Queue Position, Scoping Meeting, Stand Alone Network Upgrades, Transmission Provider Interconnection Facilities, 3.1.2 (Submission), 3.4.2 (Initiating an Interconnection Request), 3.4.4 (Deficiencies in Interconnection Request), 3.4.5 (Customer Engagement Window), 3.4.6 (Cluster Study Scoping Meetings), 3.5.2 (Requirement to Post Interconnection Study Metrics), 3.5.2.4 (Interconnection Serv. Requests Withdrawn from Interconnection Queue), 4.1 (Queue Position), 4.2 (General Study Process), 4.4 (Modifications), 4.4.1, 4.4.5, 5.1.1.1 (Transitional Serial Study), 5.1.1.2 (Transitional Cluster Study), 7 (Cluster Study), 7.1 (Cluster Study Agreement), 7.2 (Execution of Cluster Study Agreement), 7.4 (Cluster Study Procs.), 7.5 (Cluster Study Restudies), 8.1 (Interconnection Facilities Study Agreement), 8.5 (Restudy), 11.1 (Tender), 11.3 (Execution & Filing); *id.* app. 2 (Cluster Study Agreement); *id.* app. 5, arts. 1 (Definitions) Cluster, Cluster Restudy, Cluster Study, Clustering, Interconnection Facilities Study, Interconnection Facilities Study Agreement, Interconnection Request, Interconnection Study, Material Modification, Optional Interconnection Study Agreement, Queue Position, Scoping Meeting, Stand Alone Network Upgrades), 5.1.3 (Option to Build).

⁵³ *Id.* §§ 3.4.1 (Cluster Request Window), 5.1.1.1 (Transitional Facilities Study), 5.1.1.2 (Transitional Cluster Study).

fuel types of the Large Generating Facilities in the Cluster, the total MWs of Generating Capacity represented in the Cluster, and the presence of multiple Large Generating Facilities within a discrete portion of the Transmission System.⁵⁴

El Paso asserts that this language is consistent with or superior to the *pro forma* LGIP because it ensures a more comprehensive study approach.⁵⁵

33. El Paso also proposes deviations to LGIP section 7.3 to incorporate a two-phase cluster study process, whereby phase I will consist of a power flow analysis and phase II will include transient dynamic (stability) analysis, short circuit analysis, and, as appropriate, electromagnetic transient analysis. El Paso claims that this proposal will allow El Paso to more quickly communicate to interconnection customers whether their interconnection requests are feasible before they undergo more lengthy analyses to determine their overall system impact. El Paso proffers that off-ramping infeasible interconnection requests may allow subsequent study work to be performed more quickly. El Paso asserts that its proposal is consistent with or superior to the *pro forma* LGIP because earlier study results may provide a foundation upon which certain interconnection customers may decide that interconnection requests do not warrant further evaluation.⁵⁶

b. Commission Determination

34. We find that El Paso's proposed revisions comply with the requirements of Order Nos. 2023 and 2023-A. Specifically, we find that El Paso's proposed revisions to sections 1, 3.1.2, 3.4.2, 3.4.4, 3.4.5, 3.4.6, 3.5.2, 3.5.2.4, 4.1, 4.2, 4.4, 4.4.1, 4.4.5, 5.1.1.1, 5.1.1.2, 7, 7.1, 7.2, 7.4, 7.5, 8.1, 8.5, 11.1, and 11.3 and Appendix 2 of its LGIP, as well as articles 1 and 5.1.3 of its LGIA, comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the Commission's *pro forma* LGIP and *pro forma* LGIA without modification. We also find that El Paso has complied with the Commission's requirement for the transmission provider to include in section 3.4.1 of its LGIP the number of calendar days after the conclusion of the transition process that the initial cluster request window will open, as well as the month and date of the opening of the annual cluster request window.⁵⁷

⁵⁴ *Id.* § 7.3 (Scope of Cluster Study).

⁵⁵ Transmittal at 10-11.

⁵⁶ *Id.* at 11.

⁵⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1762.

35. We find that El Paso's proposal to add electromagnetic transient analyses to LGIP section 7.3 is consistent with or superior to the *pro forma* LGIP because doing so may ensure a more comprehensive study approach.⁵⁸ We also find that El Paso's proposal to incorporate a two-phase cluster study process to LGIP section 7.3 is consistent with or superior to the *pro forma* LGIP because providing interconnection customers with phase I study results and an opportunity to withdraw earlier in the study process may increase the speed and efficiency of the phase II study.

3. Allocation of Cluster Study Costs

36. In Order No. 2023, the Commission revised section 13.3 (Obligation for Study Costs) of the *pro forma* LGIP to allow each transmission provider to propose its own ratio for allocating the shared costs of cluster studies, provided that between 10% and 50% of study costs must be allocated on a per capita basis, with the remainder (between 50% and 90%) allocated pro rata by MW.⁵⁹

a. El Paso's Compliance Filing

37. El Paso proposes to revise its LGIP section 13.3 to incorporate without modification the *pro forma* LGIP revisions adopted in Order Nos. 2023 and 2023-A. In addition, as directed in Order No. 2023, El Paso proposes to include in its LGIP section 13.3 a description of how the cost of any clustered interconnection study will be allocated.⁶⁰ Specifically, El Paso proposes to allocate 50% of cluster study costs on a per capita basis among interconnection customers in the cluster, and 50% of cluster study costs on a pro rata basis by MW among interconnection customers in the cluster.⁶¹

b. Commission Determination

38. We find that El Paso's proposed revisions to its LGIP section 13.3 comply with the requirements of Order Nos. 2023 and 2023-A because El Paso has adopted the *pro forma* LGIP language on cluster study cost allocation without modification. We also

⁵⁸ In Order No. 2023, the Commission left it to the discretion of a Transmission Provider whether to conduct an electromagnetic transient analysis, although it included a mention of this option in attachments to the *pro forma* LGIP and *pro forma* SGIP. *Id.* PP 1677-1680. Here, El Paso is memorializing this discretion in the cluster study provisions of its LGIP.

⁵⁹ *Id.* P 416; *see pro forma* LGIP § 13.3.

⁶⁰ Transmittal at 12.

⁶¹ El Paso, Proposed OATT, attach. M (1.3.0), § 13.3 (Obligation for Study Costs).

find that El Paso’s proposal to allocate 50% of cluster study costs on a per capita basis among interconnection customers in the cluster, and the remaining 50% of cluster study costs on a pro rata basis by MW among interconnection customers in the cluster, complies with the requirement to allocate between 10% and 50% of study costs on a per capita basis, with the remainder (between 50% and 90%) allocated on a pro rata basis.

4. Allocation of Cluster Network Upgrade Costs

39. In Order No. 2023, the Commission required transmission providers to allocate system network upgrade⁶² costs based on a proportional impact method.⁶³ Specifically, the Commission added *pro forma* LGIP section 4.2.1 (Cost Allocation for Interconnection Facilities and Network Upgrades) to require a transmission provider to: (1) allocate the costs of network upgrades located at substations equally among each generating facility interconnecting to the same substation (i.e., on a per capita basis); and (2) direct the transmission provider on compliance to provide tariff provisions that describe, for each type of system network upgrade that a transmission provider would identify in the cluster study process, how the costs of each system network upgrade type will be allocated among the interconnection customers within the cluster.⁶⁴ The Commission added to the *pro forma* LGIP and *pro forma* LGIA definitions for “proportional impact method,” “substation network upgrades,” and “system network upgrades” and modified the existing definition of “stand alone network upgrades.”⁶⁵ The Commission required the transmission provider’s revisions on compliance to provide that costs for a discrete network upgrade identified in the cluster study process are allocated to only the interconnection customers in the cluster that are shown through technical analyses to contribute to the need for that discrete network upgrade.⁶⁶ The Commission also required transmission providers to directly allocate the costs of interconnection facilities (i.e., both the interconnection customer’s interconnection

⁶² The *pro forma* LGIP defines system network upgrades as “Network Upgrades that are required beyond the substation located at the Point of Interconnection.” *Pro forma* LGIP § 1.

⁶³ The *pro forma* LGIP defines proportional impact method as “a technical analysis conducted by Transmission Provider to determine the degree to which each Generating Facility in the Cluster Study contributes to the need for a specific System Network Upgrade.” *Id.*

⁶⁴ Order No. 2023, 184 FERC ¶ 61,054 at PP 453, 461; *see pro forma* LGIP § 4.2.1.

⁶⁵ Order No. 2023, 184 FERC ¶ 61,054 at PP 458, 460; *see pro forma* LGIP § 1; *see also pro forma* LGIA art. 1.

⁶⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 461.

facilities and transmission provider's interconnection facilities). The Commission further provided that, if interconnection customers agree to share interconnection facilities, a per capita cost allocation applies, and that interconnection customers may choose a different cost sharing arrangement upon mutual agreement.⁶⁷ Finally, the Commission revised Appendix A (Interconnection Facilities, Network Upgrades and Distribution Upgrades) of the *pro forma* LGIA to include substation network upgrades and system network upgrades.⁶⁸

40. In Order No. 2023-A, the Commission clarified that cost allocation for substation network upgrades is based on the number of interconnection facilities connecting to the substation at the point of interconnection. The transmission provider must first allocate the costs of substation network upgrades on a per capita basis for each interconnection facility connecting to the substation, and then allocate those costs on a per capita basis between each generating facility using the interconnection facility. In conjunction, the Commission revised *pro forma* LGIP section 4.2.1.1.a to clarify that substation network upgrade costs shall be allocated first to interconnection facilities interconnecting to the substation at the same voltage level, and then per capita to each generating facility sharing the interconnection facility.⁶⁹

a. El Paso's Compliance Filing

41. El Paso proposes revisions to its LGIP sections 1 and 4.2.1, as well as to article 1 and Appendix A of its LGIA, to incorporate the *pro forma* LGIP and *pro forma* LGIA revisions adopted in Order Nos. 2023 and 2023-A.⁷⁰ In addition, El Paso proposes revisions to section 4.2.1 of its LGIP, which provides the framework for the cost allocation for interconnection facilities and network upgrades.⁷¹ El Paso proposes that the costs of system network upgrades shall be allocated based on the proportional impact of

⁶⁷ *Id.* P 454.

⁶⁸ *Pro forma* LGIA app. A.

⁶⁹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 177-178; *see also pro forma* LGIP § 4.2.1.1.a.

⁷⁰ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions), Proportional Impact Method, Substation Network Upgrades, System Network Upgrades, 4.2.1 (Cost Allocation for Interconnection Facilities and Network Upgrades); *id.* app. 5, LGIA art. 1 (Definitions), Proportional Impact Method, Stand Alone Network Upgrades, Substation Network Upgrades, System Network Upgrades, app. A (Interconnection Facilities, Network Upgrades & Distribution Upgrades).

⁷¹ *Id.* § 4.2.1 (Cost Allocation for Interconnection Facilities and Network Upgrades).

each individual generating facility in the cluster study on the need for a specific system network upgrade. Specifically, proposed section 4.2.1(1)(b) of El Paso's LGIP provides that:

All transmission lines and transformers identified as Network Upgrades shall be allocated using distribution factor analysis based on the N-1 contingency criteria used in identifying Category II Network Upgrades. Voltage support related Network Upgrades shall be allocated using a voltage impact analysis (based on N-1 contingency criteria) which will identify each Generating Facility's contribution to the voltage violation. Network Upgrades associated with upgrading existing breakers due to short circuit current exceeding breaker capability shall be allocated proportionally based on short circuit current contribution of each request.⁷²

42. El Paso also proposes to deviate from *pro forma* LGIP section 4.2.1(1)(a):

Category I, which include all substation Network Upgrades, including all switching stations, shall be allocated first per capita to Interconnection FacilitiesCustomers interconnecting to the substation at the same voltage levelstation, and then per capita to each Generating Facility, if any, sharing theTransmission Provider Interconnection FacilityFacilities terminating at such station.⁷³

El Paso asserts that its LGIP section 4.2.1(1)(a) is consistent with the requirements of Order No. 2023 because it allocates the costs of substations or switching stations at which interconnection customers in a cluster are seeking to interconnect based on the degree to which each generating facility in the cluster contributes to the need for the substation or switching station.⁷⁴

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Transmittal at 8.

43. Further, El Paso proposes to adopt revisions to the LGIP definition of “Stand Alone Network Upgrades” that the Commission established in Order No. 2023 but later removed in Order No. 2023-A.⁷⁵

b. Commission Determination

44. We find that El Paso’s proposed revisions to its LGIP sections 1 and 4.2.1, as well as to its LGIA article 1 and Appendix A, partially comply with the requirements of Order Nos. 2023 and 2023-A because El Paso largely adopts the Commission’s *pro forma* LGIP and *pro forma* LGIA provisions. We further find that El Paso’s proposed allocation method for the costs of transmission lines and transformers, voltage support related network upgrades, and short circuit network upgrades in its LGIP section 4.2.1(1)(b) complies with the requirements of Order Nos. 2023 and 2023-A because costs of each discrete type of network upgrade identified in the cluster study process will be allocated among the interconnection customers within the cluster that are shown through technical analyses to contribute to the need for the discrete network upgrade.⁷⁶

45. However, we find that El Paso’s proposed definition of “Stand Alone Network Upgrades” in LGIP section 1 does not comply with the requirements of Order Nos. 2023 and 2023-A because El Paso does not adopt the Commission’s updated *pro forma* LGIP language or demonstrate that its proposed deviation satisfies the consistent with or superior to standard. We also find that El Paso’s proposal in LGIP section 4.2.1(1)(a) does not comply with the requirements of Order No. 2023 because El Paso does not adopt the Commission’s *pro forma* LGIP language or justify why all its proposed deviations satisfy the consistent with or superior to standard. For example, El Paso does not explain why it proposes to use the word “station” in place of the *pro forma* LGIP phrase “substation at the same voltage level.” Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that either further justifies the proposed deviations as consistent with or superior to the Commission’s *pro forma* LGIP or adopts without modification the Commission’s *pro forma* LGIP in Order Nos. 2023 and 2023-A.

⁷⁵ El Paso, Proposed OATT, attach. M (1.3.0), § 1 (Definitions), Stand Alone Network Upgrades.

⁷⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 461; *see also pro forma* LGIP § 4.2.1.

5. Study Deposits

46. In Order Nos. 2023 and 2023-A, the Commission adopted the following study deposit framework in section 3.1.1.1 (Study Deposit) of the *pro forma* LGIP:⁷⁷

Size of Proposed Generating Facility Associated with Interconnection Request under the <i>pro forma</i> LGIP	Amount of Deposit
< 80 MW	\$35,000 + \$1,000/MW
≥ 80 MW < 200 MW	\$150,000
≥ 200 MW	\$250,000

47. The Commission required the interconnection customer to submit a non-refundable application fee of \$5,000 and a refundable study deposit upon the interconnection customer's entry into the cluster.⁷⁸

48. In Order No. 2023, the Commission deleted section 8.1.1 of the *pro forma* LGIP to remove the requirement for the transmission provider to invoice interconnection customers on a monthly basis for the work conducted on the interconnection facilities study. Accordingly, the Commission also deleted from article 5.0 of Appendix 3 (Interconnection Facilities Study Agreement) to the *pro forma* LGIP language including the monthly invoicing requirement.⁷⁹

49. In Order No. 2023-A, the Commission modified section 13.3 of the *pro forma* LGIP to remove language pertaining to using previous study deposits to offset the cost of a subsequent study because Order No. 2023 established only an initial study deposit at the beginning of the study process to be used for all studies under the cluster study process.⁸⁰

⁷⁷ Order No. 2023, 184 FERC ¶ 61,054 at PP 502-503; Order No. 2023-A, 186 FERC ¶ 61,199 at P 188; *see also pro forma* LGIP § 3.1.1.1.

⁷⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 505; Order No. 2023-A, 186 FERC ¶ 61,199 at P 189; *see also pro forma* LGIP § 3.1.1.1.

⁷⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 506; *see also pro forma* LGIP, app. 3, art. 5.0.

⁸⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at P 189; *see also pro forma* LGIP § 13.3.

a. El Paso's Compliance Filing

50. El Paso proposes revisions to sections 8.1 and 13.3 and Appendix 3 of its LGIP to incorporate without modification the study deposit framework adopted in Order Nos. 2023 and 2023-A.⁸¹ However, El Paso also proposes deviations in LGIP section 3.1.1.1 regarding the refundable study deposit requirement for generators under 80 MW. Specifically, El Paso proposes a study deposit of “\$35,000 plus \$1,000 per MW for interconnection requests ≥ 20 MW < 80 MW.”⁸²

b. Commission Determination

51. We find that El Paso partially complies with the study deposit requirements of Order Nos. 2023 and 2023-A. We find that El Paso's proposed revisions in sections 8.1 and 13.3 and Appendix 3 of its LGIP concerning study deposits comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the Commission's *pro forma* LGIP provisions without modification. However, we find that El Paso's LGIP section 3.1.1.1 does not comply with the requirements of Orders No. 2023 and 2023-A. In Order No. 2023-A, the Commission modified section 3.1.1.1 of the *pro forma* LGIP by deleting “ ≥ 20 MW” as the lower end of the range for generating facilities that have a capacity of less than 80 MW, given that interconnection customers developing small generating facilities requesting Network Resource Interconnection Service (NRIS) submit their interconnection requests under the relevant transmission providers' LGIP.⁸³ Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that either deletes “ ≥ 20 MW” from the phrase “\$35,000 plus \$1,000 per MW for interconnection requests ≥ 20 MW < 80 MW” or justifies the proposed deviations as consistent with or superior to the Commission's *pro forma* LGIP.

6. Site Control

52. In Order No. 2023, the Commission revised the definition of “site control” in section 1 (Definitions) of the *pro forma* LGIP and article 1 (Definitions) of the *pro forma* LGIA.⁸⁴ The definition, as modified, states that site control may be demonstrated by

⁸¹ El Paso, Proposed OATT, attach. M (1.3.0), §§ 8.1 (Interconnection Facilities Study Agreement), 13.3 (Obligation for Study Costs); *id.* app. 3 (Interconnection Facilities Study Agreement).

⁸² *Id.* § 3.1.1.1 (Study Deposit).

⁸³ Order No. 2023-A, 186 FERC ¶ 61,199 at P 188; *pro forma* LGIP § 3.1.1.1.

⁸⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 584; *see also pro forma* LGIP § 1; *pro forma* LGIA art. 1.

documentation establishing: (1) ownership of, a leasehold interest in, or a right to develop a site of sufficient size to construct and operate the generating facility; (2) an option to purchase or acquire a leasehold site of sufficient size to construct and operate the generating facility; or (3) any other documentation that clearly demonstrates the right of an interconnection customer to exclusively occupy a site of sufficient size to construct and operate the generating facility.

53. The Commission revised section 3.4.2 of the *pro forma* LGIP to require interconnection customers to demonstrate 90% site control at the time of submission of the interconnection request.⁸⁵ The Commission further revised sections 8.1 and 11.3 of the *pro forma* LGIP to require interconnection customers to provide evidence of 100% site control for the generating facility at the time of execution of the facilities study agreement and when executing, or requesting the unexecuted filing of, the LGIA.⁸⁶ The Commission also revised sections 3.4.2 and 11.3 of the *pro forma* LGIP to state that, if an interconnection customer cannot demonstrate the requisite level of site control at the relevant milestone of the interconnection process, its interconnection request will be deemed withdrawn and it could be subject to withdrawal penalties under certain circumstances.⁸⁷

54. The Commission modified section 3.4.2 of the *pro forma* LGIP to provide that site control for a generating facility that is co-located with one or more generating facilities on the same site and behind the same point of interconnection must be demonstrated by a contract or other agreement that allows for shared land use for all generating facilities that are co-located that meets the provisions of the site control definition.⁸⁸

55. The Commission required a transmission provider to establish per-MW acreage requirements for each generating facility technology type and to publicly post these acreage requirements.⁸⁹ The Commission modified the *pro forma* LGIP and *pro forma* LGIA definitions of “generating facility” and “generating facility capacity” to clarify that these definitions include hybrid generating facilities, and stated that a transmission provider’s per-MW acreage requirements for each generating facility technology-type

⁸⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 594; *see also pro forma* LGIP § 3.4.2.

⁸⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 594; *see also pro forma* LGIP §§ 8.1, 11.3.

⁸⁷ *See infra* P 67.

⁸⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 586; *see also pro forma* LGIP § 3.4.2.

⁸⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 595; *see also pro forma* LGIP §§ 3.4.2, 11.3.

must include specific requirements for hybrid generating facilities.⁹⁰ The Commission further clarified that generating facilities that are co-located on the same site and behind the same point of interconnection are subject to the technology-specific acreage requirements based on the generating facilities' technology-type.

56. The Commission eliminated the interconnection customer's options to: (1) provide a deposit in lieu of site control demonstration, except in limited circumstances where an interconnection customer demonstrates a regulatory limitation to obtaining site control; and (2) post \$250,000 of non-refundable security in lieu of site control at LGIA execution. The Commission revised section 3.4.2 of the *pro forma* LGIP to provide that interconnection customers with regulatory limitations may submit an initial deposit in lieu of site control of \$10,000 per MW, subject to a floor of \$500,000 and a ceiling of \$2 million, which shall be refundable but may not be applied toward interconnection studies or withdrawal penalties, if applicable. The Commission stated that, when an interconnection customer facing regulatory limitations provides a deposit in lieu of site control, the deposit will be accepted and held by the transmission provider until the interconnection customer can demonstrate 90% site control prior to execution of the facilities study agreement or 100% site control at execution of the facilities study agreement or thereafter. The Commission also modified Appendix B (Milestones) of the *pro forma* LGIA to clarify that an interconnection customer facing qualifying regulatory limitations must demonstrate 100% site control within 180 calendar days of the effective date of the LGIA; if it cannot, the LGIA may be terminated per article 17 (Default) of the *pro forma* LGIA and the interconnection customer may be subject to withdrawal penalties.⁹¹

57. The Commission required each transmission provider to define regulatory limitations relevant to its service territory, to publicly post the definition, and to provide a narrative description of how it defines regulatory limitations as part of its compliance filing.⁹² The Commission did not require a uniform definition of regulatory limitations for all transmission providers, but clarified that a regulatory limitation is generally a federal, state, Tribal, or local law that makes it practically infeasible to obtain site control within the time frame detailed in the *pro forma* LGIP.

⁹⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 603; *see also pro forma* LGIP § 1; *pro forma* LGIA art. 1.

⁹¹ Order No. 2023, 184 FERC ¶ 61,054 at P 605; *see also pro forma* LGIA, app. B.

⁹² Order No. 2023, 184 FERC ¶ 61,054 at P 607.

a. **El Paso's Compliance Filing**

58. El Paso proposes revisions to sections 1 and 11.3 of its LGIP, and article 1 and Appendix B of its *pro forma* LGIA, to incorporate without modification the site control reforms adopted in Order Nos. 2023 and 2023-A.⁹³ In addition, El Paso states that it will establish and publicly post acreage requirements on its OASIS site prior to El Paso's requested effective date of June 3, 2024 for the compliance filing.⁹⁴

59. El Paso proposes to define regulatory limitations as follows:

Regulatory Limitations shall mean . . . a federal, state, or tribal process that prohibits Interconnection Customer from obtaining exclusive Site Control within the time frame detailed in Transmission [Provider's] LGIP for an interconnection request proposing to interconnect to Transmission Provider's Transmission System. This definition is applicable to lands managed by entities or entity types that fall within Transmission Provider's service area.⁹⁵

60. El Paso proposes corresponding revisions in LGIP section 3.4.2(iii), which it states "clarif[y] that if the Site Control is unobtainable due to Regulatory Limitations, an Interconnection Customer should deposit money in lieu of Site Control along with documentation to support its claim."⁹⁶

61. El Paso proposes additional variations from the *pro forma* site control requirements. El Paso proposes language in LGIP Appendix 1 to require interconnection requests to include "the expected time during which the generating facility will remain in operation and will maintain site control of the land upon which it is constructed."⁹⁷

⁹³ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions) Generating Facility, Generating Facility Capacity, Site Control, 11.3 (Execution & Filing); *id.* app. 5, LGIA art. 1 (Definitions) Generating Facility, Generating Facility Capacity, Site Control, app. B (Milestones).

⁹⁴ Transmittal at 13.

⁹⁵ *Id.* at 5; El Paso, Proposed OATT, attach. M (1.3.0), § 1 (Definitions) Regulatory Limitations).

⁹⁶ Transmittal at 5; El Paso, Proposed OATT, attach. M (1.3.0), § 3.4.2 (Initiating an Interconnection Request).

⁹⁷ Transmittal at 11; El Paso, Proposed OATT, attach. M (1.3.0), app. 1, § 5(k).

El Paso also proposes to add a provision in LGIP section 8.1 to require an interconnection customer with an executed LGIA or that requested an LGIA be filed unexecuted to demonstrate 100% site control for the operating life of the generating facility within 90 days of the effective date of El Paso's compliance filing or be deemed withdrawn.⁹⁸ El Paso asserts that these proposed variations from the *pro forma* LGIP are consistent with or superior to Order No. 2023 because they ensure the Commission's policy with respect to site control is uniformly applied to all projects, regardless of their position in the interconnection queue.⁹⁹

b. Protest and Answer

62. Enchantment asserts that prior to executing its LGIA in early 2024, El Paso had informed Enchantment in 2023 that the acreage requirement for solar projects was 5 acres/MW. Enchantment states that El Paso's acreage requirement as currently listed on OASIS is now 6 acres/MW. Enchantment argues that the Commission should reject El Paso's proposal to apply new site control requirements to interconnection customers with existing LGIAs because the Commission recognized in Order No. 2023 that the reasonable expectations of interconnection customers must be afforded due weight.¹⁰⁰

63. Enchantment further argues that El Paso's claim that its site control proposal will promote "uniformity" among all projects in its queue ignores the fact that interconnection customers who have already made a site control demonstration when entering into their existing LGIAs are not similarly situated with early-stage interconnection customers. Enchantment asserts that a desire for uniformity does not justify shifting the goal posts on interconnection customers with existing LGIAs regarding site control demonstrations.¹⁰¹

64. In its Answer, El Paso states that it is not El Paso's intention to disturb any existing design and/or ongoing construction work based upon minimum acreage calculations previously accepted by El Paso and that such work may continue without interruption.

⁹⁸ Transmittal at 11; El Paso, Proposed OATT, attach. M (1.3.0), § 8.1 (Interconnection Facilities Study Agreement).

⁹⁹ Transmittal at 11-12.

¹⁰⁰ Enchantment Protest at 6 (citing Order No. 2023, 184 FERC ¶ 61,054 at P 856 ("We further find that the transition process, as adopted herein, appropriately balances the need to move expeditiously to the new cluster study process with the need to respect the investments and expectations of interconnection customers at an advanced stage in the existing interconnection process.")).

¹⁰¹ *Id.* at 5.

c. Commission Determination

65. We find that El Paso's proposed revisions partially comply with the requirements of Order Nos. 2023 and 2023-A. Specifically, we find El Paso's proposed revisions to sections 1 and 11.3 of its LGIP, and article 1 and Appendix B of its *pro forma* LGIA, comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the Commission's *pro forma* LGIP and *pro forma* LGIA provisions without modification. We also find that El Paso has met the Commission's requirement to define regulatory limitations relevant to its service territory, to publicly post the definition, and to provide a narrative description of how it defines regulatory limitations as part of its compliance filing.¹⁰² Further, we find that El Paso's proposed revisions to section 3.4.2(iii) of its LGIP implement this change in a manner that complies with the requirements of Order Nos. 2023 and 2023-A. Additionally, we find that El Paso's proposed revisions to LGIP Appendix 1 requiring interconnection customers to include an operating and site control time estimate is consistent with or superior to the Commission's *pro forma* LGIP Appendix 1 because they provide additional transparency about an interconnection request.

66. However, we find that El Paso's proposed language in LGIP section 8.1 does not comply with the requirements of Order Nos. 2023 and 2023-A. In Order No. 2023-A, the Commission clarified that the new site control requirements do not apply to interconnection customers with an executed LGIA or those that request their LGIA be filed unexecuted.¹⁰³ We find that any change to site control requirements would present a significant hardship for existing interconnection customers with an executed LGIA or who have requested their LGIA be filed unexecuted, as obtaining additional land needed to satisfy El Paso's site control requirement in the time allotted under El Paso's proposal would be an undue burden on these interconnection customers. Enchantment's protest underscores our determination that El Paso's deviations are not consistent with or superior to the *pro forma* LGIP. We therefore require El Paso to submit, within 60 days of the date of this order, a further compliance filing that removes this language from section 8.1 of its LGIP.

7. Withdrawal Penalties

67. In Order No. 2023, the Commission added the term "withdrawal penalty" to section 1 of the *pro forma* LGIP and article 1 of the *pro forma* LGIA.¹⁰⁴ The Commission revised

¹⁰² See Order No. 2023, 184 FERC ¶ 61,054 at P 607.

¹⁰³ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 75-76.

¹⁰⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 780; see also *pro forma* LGIP § 1; *pro forma* LGIA art. 1.

section 3.7 (Withdrawal) of the *pro forma* LGIP and added sections 3.7.1 (Withdrawal Penalty), 3.7.1.1 (Calculation of the Withdrawal Penalty), and 3.7.1.2 (Distribution of the Withdrawal Penalty) related to withdrawal penalties to the *pro forma* LGIP.¹⁰⁵ The Commission required transmission providers to apply withdrawal penalties to an interconnection customer if: (1) the interconnection customer withdraws its interconnection request at any point in the interconnection process; (2) the interconnection customer's interconnection request has been deemed withdrawn by the transmission provider at any point in the interconnection process; or (3) the interconnection customer's generating facility does not reach commercial operation (such as when an interconnection customer's LGIA is terminated prior to reaching commercial operation).¹⁰⁶

68. However, a withdrawal penalty must only be assessed if the withdrawal has a material impact on the cost or timing of any interconnection request with an equal or lower queue position. The Commission stated that the interconnection customer will also be exempt from paying a withdrawal penalty if: (1) the interconnection customer withdraws its interconnection request after receiving the most recent cluster study report and the network upgrade costs assigned to the interconnection customer's request have increased 25% compared to the previous cluster study report; or (2) the interconnection customer withdraws its interconnection request after receiving the individual facilities study report and the network upgrade costs assigned to the interconnection customer's request have increased by more than 100% compared to costs identified in the cluster study report.¹⁰⁷

69. The Commission added *pro forma* LGIP section 3.7.1.1 to require a transmission provider to assess a withdrawal penalty on an interconnection customer with a proposed generating facility that does not reach commercial operation based either on the actual study costs or on a percentage of the interconnection customer's assigned network upgrade costs, depending on in which phase the interconnection customer withdraws its interconnection request.¹⁰⁸ Thus, the withdrawal penalty for an interconnection customer will be calculated as the greater of the study deposit or: (1) two times the study cost if the interconnection customer withdraws during the cluster study or after receipt of a cluster study report; (2) 5% of the interconnection customer's identified network upgrade costs if the interconnection customer withdraws during the cluster restudy or after receipt of any applicable restudy reports; (3) 10% of the interconnection customer's identified

¹⁰⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 780; *see also pro forma* LGIP §§ 3.7, 3.7.1, 3.7.1.1, 3.7.1.2.

¹⁰⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 783.

¹⁰⁷ *Id.* P 784.

¹⁰⁸ *Id.* P 791; *see also pro forma* LGIP § 3.7.1.

network upgrade costs if the interconnection customer withdraws during the facilities study, after receipt of the individual facilities study report, or after receipt of the draft LGIA; or (4) 20% of the interconnection customer's identified network upgrade costs if, after executing, or requesting to file unexecuted, the LGIA, the interconnection customer's LGIA is terminated before its generating facility achieves commercial operation.

70. The Commission also added *pro forma* LGIP section 3.7.1.2 to require a transmission provider to use the withdrawal penalty funds as follows: (1) to fund studies and restudies in the same cluster; (2) if withdrawal penalty funds remain, to offset net increases in costs borne by other remaining interconnection customers from the same cluster for network upgrades shared by both the withdrawing and non-withdrawing interconnection customers prior to the withdrawal; and (3) if any withdrawal penalty funds remain, they will be returned to the withdrawing interconnection customer.¹⁰⁹

71. In Order No. 2023-A, the Commission modified *pro forma* LGIP section 3.7.1.2.1 (Initial Distribution of Withdrawal Penalties Prior to Assessment of Network Upgrade Costs Previously Shared with Withdrawn Interconnection Customers in the Same Cluster) to clarify that withdrawal penalties dispersed to remaining interconnection customers cannot exceed the total amount of withdrawal penalties collected from the cluster.¹¹⁰ The Commission also revised *pro forma* LGIP section 3.7.1 to state that there will be no withdrawal penalty assessed if the withdrawal does not have a material impact on any interconnection request in the same cluster, as well as to add clarifying edits to reference cluster restudies.¹¹¹ The Commission modified *pro forma* LGIP section 3.7.1.2.1 to clarify that the interconnection studies referenced in that section include cluster restudies and interconnection facilities studies.¹¹²

¹⁰⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 798; *see also pro forma* LGIP § 3.7.1.2.

¹¹⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at P 231; *see also pro forma* LGIP § 3.7.1.2.1.

¹¹¹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 233, 243; *see also pro forma* LGIP §§ 3.7.1, 3.7.1.1(a).

¹¹² Order No. 2023-A, 186 FERC ¶ 61,199 at P 237; *see also pro forma* LGIP § 3.7.1.2.1.

72. Finally, the Commission defined “transitional withdrawal penalty” in *pro forma* LGIP section 1 and modified *pro forma* LGIP sections 5.1.1, 5.1.1.1, and 5.1.1.2 to reference the transitional withdrawal penalty.¹¹³

a. El Paso’s Compliance Filing

73. El Paso proposes revisions to sections 1, 3.7, 3.7.1.1, 3.7.1.2, 5.1.1.1, and 5.1.1.2 of its LGIP, and article 1 of its *pro forma* LGIA, to incorporate largely without modification the withdrawal penalties revisions adopted in Order Nos. 2023 and 2023-A.¹¹⁴ El Paso proposes variations to sections 3.7.1 and 5.1.1 of its LGIP.¹¹⁵

74. In section 3.7.1, El Paso proposes to include language providing that “interconnection customers with an executed LGIA or that [have] requested that their LGIA be filed unexecuted prior to the effective date of this LGIP shall also be subject to withdrawal penalties pursuant to this Section, except as provided in section 5.1.1.”¹¹⁶ El Paso asserts that this language is consistent with or superior to the requirements of Order No. 2023 because it provides added clarity on how the withdrawal penalties may affect LGIAs processed under prior versions of the El Paso Tariff. El Paso argues that withdrawal penalties imposed on generating facilities that fail to achieve commercial operation are not limited to those processed under the new LGIP. El Paso contends that instead, this withdrawal penalty is to be applied to interconnection customers with generating facilities studied and processed under the El Paso Tariff in effect prior to the effective date of its Order No. 2023 compliance filing.¹¹⁷

75. In sections 3.7.1 and 5.1.1, El Paso proposes that an interconnection customer with an LGIA in effect prior to the effective date of El Paso’s revised LGIP “shall have a

¹¹³ Order No. 2023-A, 186 FERC ¶ 61,199 at P 240; *see also pro forma* LGIP §§ 1, 5.1.1, 5.1.1.1, 5.1.1.2.

¹¹⁴ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions) Transitional Withdrawal Penalty, Withdrawal Penalty, 3.7.1.2 (Distribution of the Withdrawal Penalty), 3.7.1.1 (Calculation of the Withdrawal Penalty); *id.* app. 5, LGIA art. 1 (Definitions) Withdrawal Penalty).

¹¹⁵ *Id.* §§ 3.7 (Withdrawal), 3.7.1 (Withdrawal Penalty), 3.7.1.2 (Distribution of the Withdrawal Penalty), 3.7.1.2.2 (Assessment of Network Upgrade Costs Previously Shared with Withdrawn Interconnection Customers in the Same Cluster), 5.1.1, 5.1.1.1 (Transitional Serial Study), 5.1.1.2 (Transitional Cluster Study).

¹¹⁶ *Id.* § 3.7.1 (Withdrawal Penalty).

¹¹⁷ Transmittal at 7.

one-time right within thirty (30) Calendar Days after the Commission-approved effective date of this LGIP to withdraw its Interconnection Request and/or terminate its LGIA without being subject to the Withdrawal Penalty provisions of Section 3.7.”¹¹⁸ El Paso claims that this revision is consistent with or superior to the *pro forma* LGIP because it “clarifies the position of each [i]nterconnection [r]equest.”¹¹⁹ El Paso states that this one-time right will provide an incentive to interconnection customers who have not built their generating facilities to remove themselves from the interconnection queue so that the base case upon which El Paso conducts each study evaluating the need for future network upgrades is more aligned with the commercial readiness objective of Order Nos. 2023 and 2023-A.¹²⁰

b. Protest and Answer

76. Joint Protesters,¹²¹ Enchantment, and Interwest oppose El Paso’s proposed application of withdrawal penalties to existing interconnection customers with executed LGIAs or unexecuted LGIAs filed with the Commission before the effective date of El Paso’s compliance filing. Protesters argue that the interconnection customers who executed these LGIAs were not subject to withdrawal penalties under a different set of rules, and that the imposition of new penalties conflicts with accepted principles preserving negotiated and executed contract rights and disrupts the reasonable expectations of interconnection customers.

77. Enchantment argues that adopting the proposed revisions would in effect retroactively modify existing LGIAs, and that had the Commission desired to adopt such a proposal, it would have provided a defined “off-ramp” for existing interconnection customers to withdraw penalty-free, similar to the off-ramp for customers at earlier stages of the interconnection process.¹²² Joint Protesters similarly assert that Order Nos. 2023 and 2023-A do not apply withdrawal penalties to interconnection customers with an

¹¹⁸ El Paso, Proposed OATT, attach. M (1.3.0), § 5.1.1.

¹¹⁹ Transmittal at 10.

¹²⁰ *Id.*

¹²¹ As discussed further below, in Docket No. ER24-2748, El Paso submitted an unexecuted LGIA with Mesquite, which is one of the Joint Protestors, primarily because Mesquite objected to having to submit the *pro forma* LGIA deposit (20% of estimated network upgrade costs) in order to execute its LGIA. The Commission accepted the proposed LGIA, subject to the outcome of El Paso’s Order No. 2023 compliance proceeding. *El Paso Elec. Co.*, 189 FERC ¶ 61,019 (2024).

¹²² Enchantment Protest at 4-5.

executed LGIA and that doing so would violate the rule against retroactive ratemaking. Joint Protesters request that if the Commission accepts El Paso's revisions allowing it to impose withdrawal penalties on interconnection customers with executed LGIAs, it should also state that no withdrawal penalties would be applied if the withdrawal impacts no other customers in a cluster. Joint Protesters note that, given El Paso's requested effective date (June 3, 2024), El Paso has already issued notices of withdrawal to interconnection customers unwilling to accept the terms of El Paso's new LGIP, as revised by Order No. 2023.¹²³

78. Interwest argues that there is a disconnect between the *pro forma* LGIP and the applicability of a withdrawal penalty for previously executed LGIAs. Specifically, Interwest states that section 3.7.1 of the *pro forma* LGIP and El Paso's LGIP states that the withdrawal penalty applies if the interconnection customers "satisfied the other requirements described in section 11.3 of this LGIP," including "LGIA Deposit," but the term "LGIA Deposit" was added to the *pro forma* LGIP in Order No. 2023. Interwest asserts that no interconnection customer with an executed LGIA prior to Order No. 2023 would have satisfied the LGIA Deposit requirement, thereby making the new withdrawal penalty inapplicable to those customers.¹²⁴

79. El Paso maintains in its answer that its new LGIP will apply to interconnection customers prospectively. El Paso argues that all projects, regardless of their queue status, should either achieve commercial operation or pay withdrawal penalties for failure to do so. El Paso asserts that the combination of LGIP section 3.7.1 with section 5.1.1 allows interconnection customers with LGIAs executed prior to June 3, 2024, to decide whether they are capable of reaching commercial operation, and if not, to withdraw by terminating those LGIAs within the window designed to allow such customers to avoid the new LGIP withdrawal penalty.

80. El Paso further asserts that changes in the LGIP apply to pre-existing LGIAs because changes to tariff procedures apply generally unless the tariff specifically says otherwise. El Paso states that the prior version of its LGIP is being superseded and that it will not remain in effect for anyone. Instead, El Paso states that the LGIAs are by their own terms subject to the effective LGIP.¹²⁵

¹²³ Joint Protesters Protest at 9-11.

¹²⁴ Interwest Protest at 3-4.

¹²⁵ El Paso Answer at 8-9 (quoting El Paso, Proposed OATT, attach. M (1.3.0), § 14.2.2 ("This LGIA is subject to all Applicable Laws and Regulations"); *id.* LGIA art. 1 (Definitions) ("Applicable Laws and Regulations" is defined broadly in the LGIA meaning 'all duly promulgated applicable federal, state and local laws, regulations, rules,

c. Commission Determination

81. We find that El Paso complies with the withdrawal penalty requirements of Order Nos. 2023 and 2023-A. We find that El Paso’s proposed revisions to its LGIP sections 1, 3.7, 3.7.1.1, 3.7.1.2, 5.1.1.1, and 5.1.1.2 concerning withdrawal penalties comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the Commission’s *pro forma* LGIP and *pro forma* LGIA provisions in those sections without modification.

82. We also find that El Paso’s proposed revisions to its LGIP sections 3.7.1 and 5.1.1 are consistent with or superior to the *pro forma* LGIP because they will help to ensure that interconnection customers reach commercial operation or withdraw their speculative interconnection request without penalty. However, we direct El Paso to submit, within 60 days of the date of this order, a compliance filing to replace “has” with “have” in the additional last sentence of LGIP section 3.7.1.

83. Enchantment and Joint Protesters argue that El Paso’s deviations in LGIP sections 3.7.1 and 5.1.1 conflict with principles preserving executed contract rights by applying the new withdrawal penalties to an executed LGIA. We do not find those arguments to be persuasive because tariff rates are not contract rates.¹²⁶ The Commission has explained an LGIA “do[es] not establish ‘contract rates,’ but rather establish[es] service under [the] open access transmission tariff.”¹²⁷ As such, we agree with El Paso that executed LGIAs and LGIAs requested to be filed unexecuted at the Commission are subject to change if the underlying tariff changes.¹²⁸

ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.”)).

¹²⁶ *NRG Power Mktg., LLC v. Me. Pub. Utils. Comm’n*, 558 U.S. 165 (2010) (providing that the FPA differentiates between rates set “unilaterally by tariff” and rates set “by contract” between seller and buyer).

¹²⁷ *MidAmerican Energy Co.*, 138 FERC ¶ 61,028, at P 6 (2012); *cf. El Paso Elec. Co.*, 136 FERC ¶ 61,150, at P 5 (2011) (“[A] bilateral transmission service agreement that is not under an open access transmission tariff and [is] not generally applicable . . . are contract rates.”).

¹²⁸ *See* El Paso, Proposed OATT, attach. M. (1.3.0), app. 5, LGIA arts. 30.3 (Rules of Interpretation) (“This LGIA . . . shall be construed and interpreted as follows . . . (3) reference to any . . . tariff means such . . . tariff as amended or modified and in effect from time to time . . .”), 1 (Definitions) (defining Standard LGIP as “the interconnection procedures . . . that are included in the Transmission Provider’s Tariff”).

84. In addition, we disagree with protesters' arguments that applying El Paso's proposed Order No. 2023 withdrawal penalty framework to interconnection customers whose LGIAs predate the Commission's acceptance of those provisions violates the filed rate doctrine. The Commission addressed this argument in its order accepting an unexecuted LGIA between El Paso and Mesquite that included El Paso's new Order No. 2023 requirements, including the new *pro forma* LGIA deposit (20% estimated network upgrade costs).¹²⁹ In that case, El Paso had issued its final Interconnection Facilities Study Report on May 30, 2024, and tendered a draft LGIA to Mesquite on June 13, 2024, prior to filing the unexecuted LGIA with the Commission. El Paso subsequently issued a Notice of Withdrawal, deeming Mesquite's interconnection request withdrawn, because Mesquite failed to submit the new LGIA deposit as required by proposed section 11.3 of El Paso's LGIP. The Commission accepted the proposed LGIA subject to the outcome of El Paso's Order No. 2023 compliance filing. Noting that El Paso's requested effective date for its pending compliance filing precedes the date on which El Paso tendered the draft LGIA to Mesquite, the Commission stated that El Paso's draft LGIA with Mesquite "would be consistent with its effective tariff and with the filed rate doctrine" if El Paso's compliance filing requests are accepted (i.e., the Tariff would apply prospectively from El Paso's requested effective date).¹³⁰ The same reasoning applies here. Because the Commission below accepts El Paso's proposed effective date of June 3, 2024, and because El Paso's Tariff revisions regarding withdrawal penalties apply prospectively from that effective date, we find that there are no filed rate doctrine concerns with El Paso's proposed withdrawal penalty framework.

85. Further, we disagree with Interwest that there is a disconnect between the *pro forma* LGIP and the applicability of a withdrawal penalty for previously executed LGIAs. We find that the opportunity to avoid the 20% withdrawal penalty by withdrawing an interconnection request within 30 days of El Paso's proposed June 3, 2024 effective date is consistent with or superior to the *pro forma* LGIP because it provides interconnection customers an opportunity to exit the queue without incurring unanticipated costs and gives El Paso certainty with which to develop the base cases upon which it conducts studies evaluating the need for future network upgrades. However, we confirm Joint Protestors' presumption that withdrawal penalties shall not be applied to an interconnection customer with an executed LGIA if the withdrawal has no material impact on other customers within the same cluster.¹³¹

¹²⁹ *El Paso*, 189 FERC ¶ 61,019 at P 20.

¹³⁰ *Id.*

¹³¹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 233, 243; *see also pro forma* LGIP §§ 3.7.1, 3.7.1.1(a).

8. Transition Process

86. In Order No. 2023, the Commission established a transition process from a first-come, first-served serial study process to the first-ready, first-served cluster study process in *pro forma* LGIP section 5 (Procedures for Interconnection Requests Submitted Prior to Effective Date of the Cluster Study Revisions).¹³² The Commission required transmission providers to offer existing interconnection customers up to three transition options, depending on which phase of the serial study process their interconnection requests are in: (1) a transitional serial study, (2) a transitional cluster study, and (3) withdrawal from the interconnection queue without penalty.¹³³ The Commission added several new terms related to the transition process to the *pro forma* LGIP, as well as a *pro forma* transitional cluster study agreement in new Appendix 7 (Transitional Cluster Study Agreement) of the *pro forma* LGIP and a *pro forma* Transitional Serial Interconnection Facilities Study Agreement in new Appendix 8 (Transitional Serial Interconnection Facilities Study Agreement) of the *pro forma* LGIP.¹³⁴

87. The Commission required transmission providers to offer the transitional serial study option to interconnection customers that have been tendered a facilities study agreement, even if they have not yet executed the agreement, as of 30 calendar days after the filing date of the transmission provider's initial filing to comply with Order No. 2023.¹³⁵ Similarly, the Commission required transmission providers to offer the transitional cluster study option to interconnection customers with an assigned queue position as of 30 calendar days after the filing date of the transmission provider's initial filing to comply with Order No. 2023. The Commission required the transmission provider to include the filing date for its compliance in *pro forma* LGIP sections 5.1.1, 5.1.1.1, and 5.1.1.2.¹³⁶

88. The Commission also required the transmission provider to tender the appropriate transitional study agreements to eligible interconnection customers no later than the Commission-approved effective date of the transmission provider's compliance filing

¹³² Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see also pro forma* LGIP §§ 1, 5.

¹³³ Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see also pro forma* LGIP § 5.1.1.

¹³⁴ *See pro forma* LGIP § 1, apps. 7, 8.

¹³⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 855; *see also pro forma* LGIP §§ 5.1.1.1, 5.1.1.2.

¹³⁶ *See pro forma* LGIP §§ 5.1.1, 5.1.1.1, 5.1.1.2.

with Order No. 2023.¹³⁷ The Commission adopted a deadline—60 calendar days after the Commission-approved effective date—for an interconnection customer to either exit the queue without penalty or choose a transition option and meet the relevant site control and deposit requirements.¹³⁸ Furthermore, the Commission clarified that transmission providers that have already adopted a cluster study process or are currently undergoing a transition to a cluster study process will not be required to implement a new transition process.¹³⁹

89. The Commission also adopted transition process deposits, withdrawal penalties, and deadlines.¹⁴⁰ The Commission required that: (1) interconnection customers electing the transitional serial study must provide a deposit equal to 100% of the interconnection facility and network upgrade costs allocated to the interconnection customer in the system impact study; and (2) interconnection customers electing the transitional cluster study must provide a deposit equal to \$5 million.¹⁴¹

90. In Order No. 2023-A, the Commission added definitions to the *pro forma* LGIP for the terms “transitional cluster study agreement” and “transitional serial interconnection facilities study agreement.”¹⁴² The Commission clarified that withdrawals occurring after the 60-day deadline will be subject to the new withdrawal penalties, with certain exceptions. To reflect these clarifications, the Commission also added new *pro forma* LGIP section 5.1.2 (Transmission Providers with Existing Cluster Study Processes or Currently in Transition) establishing that interconnection customers in the queue of a transmission provider not conducting a transition process under *pro forma* LGIP section 5.1.1 must comply with the new readiness requirements proposed by the transmission provider within 60 days of the Commission-approved effective date of the transmission provider’s compliance filing.¹⁴³

¹³⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 867.

¹³⁸ *Id.* P 864; *see also pro forma* LGIP §§ 5.1.1, 5.1.1.1, 5.1.1.2.

¹³⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 861.

¹⁴⁰ *Id.* P 855.

¹⁴¹ *Id.* P 859.

¹⁴² Order No. 2023-A, 186 FERC ¶ 61,199 at P 263; *see also pro forma* LGIP § 1.

¹⁴³ Order No. 2023-A, 186 FERC ¶ 61,199 at P 75; *see also pro forma* LGIP § 5.1.2.

a. **El Paso's Compliance Filing**

91. El Paso proposes revisions to sections 1, 3.9, 5, 5.1.1, 5.1.1.1, 5.1.1.2, and 5.1.2 and Appendices 7 and 8 of its LGIP to incorporate the framework for the transition process adopted in Order Nos. 2023 and 2023-A, with modifications to fill in the bracketed language regarding the filing date and certain other aspects of the transition process.¹⁴⁴

92. El Paso states that it had previously adopted a cluster study process but elected to offer a transition process under which interconnection customers who do not yet have an LGIA (or requested the filing of an LGIA unexecuted) will be eligible to participate in a transitional cluster study.¹⁴⁵ El Paso states that because it has opted to conduct its transitional facilities study process on a clustered basis, it proposes to remove references to “serial” in section 5.1.1 of its LGIP and the Transitional Cluster Study Agreement. El Paso additionally states that it offers clarifying language within section 5.1.1 to address instances where changes to the interconnection request are made by an interconnection customer after the transition process begins.

93. Specifically, El Paso proposes that any other change to an interconnection request will remove the interconnection request from the transition process and shift it to the first cluster request window following the transition process.¹⁴⁶ El Paso asserts that this is to avoid the situation in which the transition process is repeatedly subject to restudy due to interconnection request changes. El Paso asserts that this approach is consistent with or superior to the requirements of Order No. 2023 because it ensures a timely and orderly transition process and avoids delays that would otherwise be caused by the submission of changes to interconnection requests that are participating in the transition process. El Paso further provides that if an interconnection customer participating in the

¹⁴⁴ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions), Transitional Cluster Study, Transitional Cluster Study Agreement, Transitional Cluster Study Report, Transitional Interconnection Facilities Study, Transitional Interconnection Facilities Study Agreement, Transitional Interconnection Facilities Study Report, 3.9 (Penalties for Failure to Meet Study Deadlines), 5 (Procs. for Interconnection Requests Submitted Prior to Effective Date of the Cluster Study Revisions), 5.1.1, 5.1.1.1 (Transitional Facilities Study), 5.1.1.2 (Transitional Cluster Study), 5.1.2 (Transmission Providers with Existing Cluster Study Processes or Currently in Transition); *id.* app. 7 (Transitional Cluster Study Agreement); *id.* app. 8 (Transitional Interconnection Facilities Study Agreement).

¹⁴⁵ Transmittal at 2.

¹⁴⁶ *Id.* at 9. El Paso's proposed Tariff revisions state this prohibition does not include the allowance provided in LGIP section 5.1.1.2 for a one-time extension in commercial operation date upon entry into the transitional cluster study.

transitional study process desires to change its interconnection request after the transitional process has begun, El Paso would evaluate any such changes once the transition ends, as part of the first cluster request window in 2025.¹⁴⁷

94. El Paso proposes to adopt the one-time ability to extend the commercial operation date in section 5.1.1.2 of the *pro forma* LGIP but also proposes to add:

An Interconnection Customer that submitted a valid Interconnection Request in the queue cluster window that just closed on March 31, 2024, that does not execute a Transitional Cluster Study Agreement is eligible for return of its full study deposit, including the portion that otherwise would be considered non-refundable under the LGIP previously in effect. In such case, Transmission Provider shall not assess Interconnection Customer any Withdrawal Penalty.¹⁴⁸

El Paso explains that because it closed a cluster request window at the end of March 2024, it proposes to provide entities an opportunity to secure a refund of their study deposit if they (i) timely submitted an interconnection request during that window, but (ii) did not execute a transitional cluster study agreement. El Paso states that in such a case, it will not assess the interconnection customer a withdrawal penalty, as discussed above. El Paso argues that this provision is consistent with or superior to the Order No. 2023 *pro forma* LGIP because it addresses the interaction between (a) the cluster formed immediately prior to its filing under the then-effective Tariff process and (b) the proposed Tariff process under which El Paso would transition.¹⁴⁹

b. Commission Determination

95. We find that El Paso's proposed transition process revisions comply with the requirements of Order Nos. 2023 and 2023-A.

96. We find that El Paso's proposal to conduct its transitional facilities study process on a clustered basis is consistent with or superior to the *pro forma* LGIP process. Specifically, we find that El Paso's proposal to remove an interconnection request that is changed from the transition process and shift it to the first cluster request window after

¹⁴⁷ *Id.* at 9-10.

¹⁴⁸ El Paso, Proposed OATT, attach. M (1.3.0), § 5.1.1.2 (Transitional Cluster Study).

¹⁴⁹ Transmittal at 10.

the transition process will improve the efficiency of the transition process by reducing the need for restudies caused by interconnection request changes. We also find that El Paso's proposal to require interconnection requests submitted in the cluster study window that closed on March 31, 2024, to execute a transitional cluster study agreement or be deemed withdrawn is consistent with or superior to the *pro forma* LGIP process, because it will harmonize the recently closed cluster study window with El Paso's overlapping transition cluster study and preserve mechanisms meant to protect interconnection customers by availing them of the option to withdraw their interconnection requests without being assessed a withdrawal penalty, as discussed above.

9. Affected System Study Process and Modeling Requirements

97. In Order No. 2023, the Commission adopted an affected system study process and added several related definitions to the *pro forma* LGIP.¹⁵⁰

98. The Commission revised section 3.6 (Coordination with Affected Systems) and adopted section 3.6.1 (Initial Notification) of the *pro forma* LGIP, which requires the transmission provider to notify the affected system operator within 10 business days of the first instance of an identified potential affected system impact, which may occur at the completion of either the cluster study or the cluster restudy.¹⁵¹

99. The Commission also adopted several requirements to establish an affected system process under *pro forma* LGIP section 9 (Affected System Study), which pursuant to *pro forma* LGIP section 9.1 (Applicability) applies to the transmission provider when it is acting as the affected system transmission provider (i.e., when the transmission provider is studying the impacts on its own transmission system of proposed interconnections to other transmission providers' transmission systems).¹⁵² First, the Commission adopted section 9.2 (Response to Initial Notification) of the *pro forma* LGIP, which requires the affected system transmission provider to respond to notification of a potential affected system impact in writing within 20 business days, indicating whether it intends to conduct an affected system study.¹⁵³ Section 9.2 also requires that, within 15 business days of the affected system transmission provider's affirmative response of its intent to

¹⁵⁰ Order No. 2023, 184 FERC ¶ 61,054 at PP 1110, 1112; *see also pro forma* LGIP § 1.

¹⁵¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1119; *see also pro forma* LGIP §§ 3.6, 3.6.1.

¹⁵² Order No. 2023, 184 FERC ¶ 61,054 at P 1113; *see also pro forma* LGIP § 9.1.

¹⁵³ Order No. 2023, 184 FERC ¶ 61,054 at P 1120; *see also pro forma* LGIP § 9.2.

conduct an affected system study, the affected system transmission provider must share a non-binding good faith estimate of the cost and schedule to complete the affected system study.

100. The Commission next adopted section 9.3 (Affected System Queue Position) of the *pro forma* LGIP.¹⁵⁴ Under section 9.3, the interconnection requests of affected system interconnection customers that have executed an affected system study agreement will be higher-queued than the interconnection requests of those host system interconnection customers that have not yet received their cluster study results, and lower-queued than those interconnection customers that have already received their cluster study results. All affected system interconnection requests studied within the same affected system cluster will be equally queued.

101. The Commission next adopted section 9.4 (Affected System Study Agreement/Multiparty Affected System Study Agreement) of the *pro forma* LGIP to require that the transmission provider tender the affected system study agreement within 10 business days of sharing the schedule for the study with the affected system interconnection customers.¹⁵⁵ Section 9.4 also requires the affected system interconnection customer to compensate the affected system transmission provider for the actual costs of the affected system study, and the difference between the affected system study deposit and actual cost of the affected system study will be detailed in an invoice and paid by or refunded to the affected system interconnection customer within 30 calendar days of the receipt of such invoice.¹⁵⁶ An affected system interconnection customer's failure to pay the difference between these amounts will result in loss of that affected system interconnection customer's affected system queue position. Section 9.4 also requires that the affected system transmission provider notify the host transmission provider of the affected system interconnection customer's breach of its obligations under this section, should such breach occur.¹⁵⁷

102. The Commission next adopted section 9.5 (Execution of Affected System Study Agreement/Multiparty Affected System Study Agreement) of the *pro forma* LGIP, which provides the affected system interconnection customer with 10 business days from the date of receipt of the affected system study agreement to execute and deliver it to the

¹⁵⁴ Order No. 2023, 184 FERC ¶ 61,054 at P 1138; *see also pro forma* LGIP § 9.3.

¹⁵⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 1154; *see also pro forma* LGIP § 9.4.

¹⁵⁶ Order No. 2023, 184 FERC ¶ 61,054 at P 1157.

¹⁵⁷ *Id.* P 1159.

affected system transmission provider.¹⁵⁸ Section 9.5 also provides that, if the affected system interconnection customer does not provide all required technical data when it delivers the affected system study agreement, the affected system transmission provider shall notify the affected system interconnection customer of the deficiency within five business days of the receipt of the affected system study agreement, and the affected system interconnection customer has 10 business days to cure the deficiency after receipt of such notice (provided that the deficiency does not include failure to deliver the executed affected system study agreement or deposit).

103. The Commission next adopted section 9.6 (Scope of Affected System Study) of the *pro forma* LGIP, which requires the affected system study to consider the base case, as well as all higher-queued generating facilities on the affected system transmission provider's transmission system, and to consist of a power flow, stability, and short circuit analysis.¹⁵⁹ Section 9.6 also requires the affected system study to provide a list of affected system network upgrades that are required because of the affected system interconnection customer's proposed interconnection, a non-binding good faith estimate of cost responsibility, and a non-binding good faith estimated time to construct. The affected system study may consist of a system impact study, a facilities study, or some combination thereof.

104. The Commission next adopted section 9.7 (Affected System Study Procedures) of the *pro forma* LGIP, which requires clustering of affected system interconnection requests for study purposes where multiple interconnection requests that are part of a single cluster in the host system's cluster study process cause the need for an affected system study.¹⁶⁰ Section 9.7 also requires the affected system transmission provider to complete the affected system study and provide the affected system interconnection customer with affected system study results within 150 calendar days after receipt of the affected system study agreement. Section 9.7 also requires the affected system transmission provider to provide the affected system study report to the host transmission provider at the same time it provides the report to the affected system interconnection customer. The affected system transmission provider must notify the affected system interconnection customer that an affected system study will be late.¹⁶¹ Lastly, *pro forma*

¹⁵⁸ *Id.* P 1158; *see also pro forma* LGIP § 9.5.

¹⁵⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1160; *see also pro forma* LGIP § 9.6.

¹⁶⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1133; *see also pro forma* LGIP § 9.7.

¹⁶¹ Order No. 2023, 184 FERC ¶ 61,054 at P 1135.

LGIP section 9.7 requires affected system transmission providers to study all affected system interconnection requests using Energy Resource Interconnection Service (ERIS)¹⁶² modeling standards.¹⁶³

105. The Commission added a new section 11.2.1 (Delay in LGIA Execution, or Filing Unexecuted, to Await Affected System Study Report) to the *pro forma* LGIP.¹⁶⁴ Under this section, if the interconnection customer does not receive its affected system study results before the deadline in its host system for LGIA execution, or the deadline to request that the LGIA be filed unexecuted, the host transmission provider must, at the interconnection customer's request, delay the deadline for the interconnection customer to finalize its LGIA. The interconnection customer will have 30 calendar days after receipt of the affected system study report to execute the LGIA, or request that the LGIA be filed unexecuted. Additionally, if the interconnection customer prefers to proceed to the execution of its LGIA, or request that the LGIA be filed unexecuted, before it has received its affected system study results, it may notify the host transmission provider of its intent to proceed with the execution of the LGIA, or request that the LGIA be filed unexecuted.¹⁶⁵ If the host transmission provider determines that further delay to the LGIA execution date would cause a material impact on the cost or timing of an equal- or lower-queued interconnection customer, the transmission provider must notify the relevant interconnection customer of such impact and establish that the new deadline is 30 calendar days after such notice is provided.

106. The Commission adopted section 9.8 (Meeting with Transmission Provider) of the *pro forma* LGIP, which requires the affected system transmission provider and the affected system interconnection customer to meet within 10 business days of the affected system transmission provider tendering the affected system study report to the affected system interconnection customer.¹⁶⁶

¹⁶² ERIS is an interconnection service that allows the interconnection customer to connect its generating facility to the transmission provider's transmission system to be eligible to deliver the generating facility's electric output using the existing firm or non-firm capacity of the transmission provider's transmission system on an as available basis. ERIS in and of itself does not convey transmission service. *Pro forma* LGIP § 1.

¹⁶³ Order No. 2023, 184 FERC ¶ 61,054 at P 1276.

¹⁶⁴ *Id.* P 1123; *see also pro forma* LGIP § 11.2.1.

¹⁶⁵ Order No. 2023, 184 FERC ¶ 61,054 at P 1124.

¹⁶⁶ *Id.* P 1169; *see also pro forma* LGIP § 9.8.

107. The Commission adopted section 9.9 (Affected System Cost Allocation) of the *pro forma* LGIP, which requires the allocation of affected system network upgrade costs using a proportional impact method in accordance with *pro forma* LGIP section 4.2.1(1)(b).¹⁶⁷

108. The Commission adopted section 9.10 (Tender of Affected System Facilities Construction Agreement/Multiparty Affected System Facilities Construction Agreement) of the *pro forma* LGIP.¹⁶⁸ Under section 9.10, an affected system transmission provider must tender an affected system facilities construction agreement to the affected system interconnection customer within 30 calendar days of providing the affected system study report. The affected system transmission provider must provide 10 business days after receipt of the affected system facilities construction agreement for the affected system interconnection customer to execute the agreement or have the affected system transmission provider file it unexecuted with the Commission.

109. The Commission adopted section 9.11 (Restudy) of the *pro forma* LGIP to include a maximum 60-calendar day restudy period for any affected system restudies.¹⁶⁹ Section 9.11 also adopts a 30-calendar day notification requirement for the affected system transmission provider to notify the affected system interconnection customer of the need for affected system restudy upon discovery of such need.¹⁷⁰

110. In Order No. 2023-A, the Commission clarified that an affected system transmission provider may pause an affected system study that is planned or in progress if the relevant host transmission provider decides to conduct a cluster restudy. The Commission added *pro forma* LGIP: (1) section 3.6.2 (Notification of Cluster Restudy) to require the host transmission provider to notify any relevant affected system operators of a cluster restudy at the same time it notifies the interconnection customers in the cluster restudy; and (2) section 3.6.3 (Notification of Cluster Restudy Completion) to require the host transmission provider to notify the affected system operator of the completion of the cluster restudy and of a potential affected system impact caused by an interconnection request within 10 business days of the completion of the cluster restudy.¹⁷¹

¹⁶⁷ Order No. 2023, 184 FERC ¶ 61,054 at P 1149; *see also pro forma* LGIP § 9.9.

¹⁶⁸ Order No. 2023, 184 FERC ¶ 61,054 at P 1165; *see also pro forma* LGIP § 9.10.

¹⁶⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1170; *see also pro forma* LGIP § 9.11.

¹⁷⁰ Order No. 2023, 184 FERC ¶ 61,054 at P 1171.

¹⁷¹ Order No. 2023-A, 186 FERC ¶ 61,199 at PP 498, 500; *see also pro forma* LGIP §§ 3.6.2, 3.6.3.

111. The Commission also added *pro forma* LGIP section 9.2.2 (Response to Notification of Cluster Restudy) to allow the affected system transmission provider five business days from receiving notification of the cluster restudy to send a written notification to the relevant affected system interconnection customers and the host transmission provider if it intends to delay commencement or completion of a planned or in-progress affected system study until after the completion of the cluster restudy.¹⁷² The Commission revised *pro forma* LGIP section 9.5 to remove the requirement for an affected system interconnection customer to execute and return its previously received affected system study agreement and submit its affected system study deposit if the affected system transmission provider decides to delay the affected system study, pursuant to *pro forma* LGIP section 9.2.2.¹⁷³

a. El Paso's Compliance Filing

112. El Paso proposes revisions to its LGIP sections 1, 3.6, 3.6.1, 3.6.2, 3.6.3, 9, 9.1, 9.2, 9.2.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 9.11, and 11.2.1 that incorporate without modification the *pro forma* LGIP revisions related to the affected system study process that the Commission adopted in Order Nos. 2023 and 2023-A.¹⁷⁴ Additionally, El Paso

¹⁷² Order No. 2023-A, 186 FERC ¶ 61,199 at P 498; *see also pro forma* LGIP § 9.2.2.

¹⁷³ Order No. 2023-A, 186 FERC ¶ 61,199 at P 499; *see also pro forma* LGIP § 9.5.

¹⁷⁴ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions), Affected System Facilities Constr. Agreement, Affected System Interconnection Customer, Affected System Network Upgrades, Affected System Queue Position, Affected System Study, Affected System Study Agreement, Affected System Study Report, Multiparty Affected System Facilities Constr. Agreement, Multiparty Affected System Study Agreement, 3.6 (Coordination with Affected Systems), 3.6.1 (Initial Notification), 3.6.2 (Notification of Cluster Restudy), 3.6.3 (Notification of Cluster Restudy Completion), 9 (Affected System Study), 9.1 (Applicability), 9.2 (Response to Initial Notification), 9.2.2 (Response to Notification of Cluster Restudy), 9.3 (Affected System Queue Position), 9.4 (Affected System Study Agreement/Multiparty Affected System Study Agreement), 9.5 (Execution of Affected System Study Agreement/Multiparty Affected System Study Agreement), 9.6 (Scope of Affected System Study), 9.7 (Affected System Study Procedures), 9.8 (Meeting with Transmission Provider), 9.9 (Affected System Cost Allocation), 9.10 (Tender of Affected System Facilities Constr. Agreement/Multiparty Affected System Facilities Constr. Agreement), 9.11 (Restudy), 11.2.1 (Delay in LGIA Execution, or Filing Unexecuted, to Await Affected System Study Report).

proposes revisions to LGIP section 9.4 to add that “The Affected System Study Agreement will define the required Affected System Study deposit based on a good faith estimate but the Affected System Interconnection Customer is required to compensate the Transmission Provider for the actual cost of the study.”¹⁷⁵ El Paso states that the Commission has approved this provision in a previous Order No. 2023 compliance order.¹⁷⁶

b. Commission Determination

113. We find that El Paso’s proposed affected system study process and modeling revisions to sections 1, 3.6, 3.6.1, 3.6.2, 3.6.3, 9, 9.1, 9.2, 9.2.2, 9.3, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 9.11, and 11.2.1 of its LGIP comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the Commission’s *pro forma* LGIP provisions with only minor modifications. Further, we find that El Paso’s proposed deviation in its LGIP section 9.4, which adds clarifying language providing that the affected system study agreement will define the required study deposit based on a good faith estimate and requiring the affected system interconnection customer to compensate the transmission provider for the actual cost of the study, is consistent with or superior to the Commission’s *pro forma* LGIP, because the proposed additional language aligns with section 6.0 of the *pro forma* two-party affected system study agreement and *pro forma* multiparty affected system agreement. Specifically, section 6 of those agreements permits the affected system transmission provider to set the study deposit amount and requires the affected system interconnection customer to pay for the full costs of the affected system study.¹⁷⁷

10. Affected System Pro Forma Agreements

114. In Order No. 2023, the Commission adopted several *pro forma* agreements to improve the efficiency and transparency of the interactions among the parties during the affected system study process. The Commission first adopted a *pro forma* affected system study agreement in new Appendix 9 (Two-Party Affected System Study Agreement) of the *pro forma* LGIP and a *pro forma* multiparty affected system study agreement in new Appendix 10 (Multiparty Affected System Study Agreement) of the

¹⁷⁵ *Id.* § 9.4 (Affected System Study Agreement/Multiparty Affected System Study Agreement).

¹⁷⁶ Transmittal at 12 (citing *Idaho Power Co.*, 186 FERC ¶ 61,202, at P 113 (2024)).

¹⁷⁷ *Pro forma* LGIP app. 9 (Two-Party Affected System Study Agreement), § 6; *id.* app. 10 (Multi-Party Affected System Study Agreement), § 6.

pro forma LGIP.¹⁷⁸ These *pro forma* affected system study agreements stipulate how to study the impact of interconnecting generating facilities on an affected system to identify network upgrades needed to accommodate the interconnection request. The Commission next adopted a *pro forma* affected system facilities construction agreement in new Appendix 11 (Two-Party Affected System Facilities Construction Agreement) of the *pro forma* LGIP and a *pro forma* multiparty affected system facilities construction agreement in new Appendix 12 (Multiparty Affected System Facilities Construction Agreement) of the *pro forma* LGIP.¹⁷⁹ These *pro forma* affected system facilities construction agreements standardize the terms and conditions regarding construction of affected system network upgrades.

115. In Order No. 2023-A, the Commission removed articles 3.1.2.2 (Recommencing of Work) and 3.1.2.3 (Right to Suspend Due to Default) from the Two-Party and Multiparty Affected System Facilities Construction Agreement (*pro forma* LGIP appendices 11 and 12, respectively) to ensure consistency between the *pro forma* affected system facilities construction agreements and the *pro forma* LGIA.¹⁸⁰

a. El Paso's Compliance Filing

116. El Paso proposes to add Appendices 9, 10, 11, and 12 to its LGIP to incorporate with minor modification the *pro forma* two-party affected system study agreement, *pro forma* multiparty affected system study agreement, *pro forma* two-party affected system facilities construction agreement, and *pro forma* multiparty affected system facilities construction agreement adopted in Order Nos. 2023 and 2023-A.¹⁸¹ El Paso also proposes to deviate from the Commission's *pro forma* LGIP section 11.3 and

¹⁷⁸ Order No. 2023, 184 FERC ¶ 61,054 at PP 1171, 1232; *see also pro forma* LGIP apps. 9, 10.

¹⁷⁹ Order No. 2023, 184 FERC ¶ 61,054 at P 1233; *see also pro forma* LGIP apps. 10, 11.

¹⁸⁰ Order No. 2023-A, 186 FERC ¶ 61,199 at P 533; *see also pro forma* LGIP apps. 10, 11.

¹⁸¹ El Paso, Proposed OATT, attach. M (1.3.0), apps. 9 (Two-Party Affected System Study Agreement), 10 (Multiparty Affected System Study Agreement), 11 (Two-Party Affected System Facilities Construction Agreement), 12 (Multiparty Affected System Facilities Construction Agreement).

Appendix 11 section 10.4 by removing the requirement that the interconnection customer execute and provide to the transmission provider “two originals” of the tendered LGIA.¹⁸²

b. Commission Determination

117. We find that El Paso’s proposed revisions to add Appendices 9, 10, 11, and 12 to its LGIP comply with the requirements of Order Nos. 2023 and 2023-A because El Paso adopts the *pro forma* affected system agreements with only minor modifications.

118. We find that El Paso’s proposed removal of the requirement in section 10.4 of its LGIP Appendix 11 that the interconnection customer execute and provide to the transmission provider “two originals” of the tendered LGIA does not comply with the requirements of Order No. 2023 because El Paso proposes deviations from the Commission’s *pro forma* LGIP without justifying how such deviations are consistent with or superior to the *pro forma* LGIP. Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that either justifies the proposed deviations as consistent with or superior to the Commission’s *pro forma* LGIP or adopts without modification the Commission’s *pro forma* LGIP language adopted in Order Nos. 2023 and 2023-A.

11. Other Issues Raised by El Paso

a. Definition of Interconnection Customer

119. El Paso adopts the *pro forma* LGIP definition of “interconnection customer” revised in Order No. 2023-A; however, El Paso proposes additional language to clarify that where El Paso is both interconnection customer and transmission provider, provisions under its LGIP governing payments and postings of financial security, damages, billing and payment, and taxes are irrelevant.¹⁸³ El Paso asserts that this language is consistent with its existing LGIA definition and consistent with or superior to the *pro forma* LGIP and *pro forma* LGIA because it adds clarity for processing interconnection requests for itself and is aligned with Commission precedent.¹⁸⁴

¹⁸² Transmittal at 15 (citing *Idaho Power*, 186 FERC ¶ 61,202 at P 41).

¹⁸³ El Paso, Proposed OATT, attach. M (1.3.0), § 1 (Definitions), Interconnection Customer.

¹⁸⁴ Transmittal at 3-4.

i. Protest

120. Enchantment argues that El Paso’s proposed definition of “interconnection customer” could be read to exempt El Paso from withdrawal penalties, which would be unduly discriminatory.¹⁸⁵ Interwest argues that El Paso’s definition of interconnection customer exempts El Paso from financial deposits in a manner that is not just and reasonable. Interwest avers that El Paso provides no justification for this anti-competitive exemption, which is contrary to the Commission’s requirement that transmission providers submit information to justify any variance from the Order No. 2023 *pro forma* tariff. Interwest further asserts that eliminating the requirement to post financial deposits and other financial payments removes protections to enable “first ready, first served” projects to advance through the queue and exempts El Paso from all financial payments, including damages for default and withdrawal penalties. Interwest asserts that because Order No. 2023 did not modify the definition for “interconnection customer” or provide any basis for this financial preference, the Commission should reject El Paso’s proposed definition.¹⁸⁶

ii. Commission Determination

121. We find that El Paso’s proposal to add language to its LGIP definition of interconnection customer is outside the scope of this compliance proceeding because the Commission, in Order No. 2023, did not direct transmission providers to revise the definition of interconnection customer. Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that removes this language from its LGIP. Our determination here is without prejudice to El Paso proposing this additional revision in a future filing under section 205 of the Federal Power Act.

b. Small Generators Studied under the LGIP

122. El Paso proposes deviations to its LGIP and *pro forma* LGIA definitions of “Standard LGIA” and “Standard LGIP” and to Appendix 3 of its LGIP to clarify that small generating facilities requesting NRIS must interconnect under the LGIP.¹⁸⁷ El Paso states that the Commission previously approved these deviations with regard to another transmission provider, and asserts that its proposal is consistent with or superior to the

¹⁸⁵ Enchantment Protest at 7-8.

¹⁸⁶ Interwest Protest at 4-6.

¹⁸⁷ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions) Standard LGIA, Standard LGIP; *id.* app. 3 (Interconnection Facilities Study Agreement); *id.* app. 5, art. 1 (Definitions), defining Standard LGIA, Standard LGIP.

pro forma LGIP because it provides transparency that small generating facilities requesting NRIS must adhere to the LGIP, including its cluster study process.¹⁸⁸

i. Commission Determination

123. We find that El Paso’s proposal to clarify in its definitions of “Standard LGIA” and “Standard LGIP” and to Appendix 3 of its LGIP that small generating facilities requesting NRIS must interconnect under the LGIP is consistent with or superior to the *pro forma* LGIP and *pro forma* LGIA because the revisions align with the existing interconnection process outlined under El Paso’s SGIP.¹⁸⁹

c. Opportunity to Cure

124. El Paso proposes language in LGIP sections 3.4.4 and 3.7 and its *pro forma* LGIA article 17.1.1 to explain that the opportunity to cure deficiencies in an interconnection request or a breach under the applicable LGIA, as provided by the relevant section, does not extend the deadlines in the LGIP and LGIA, respectively.¹⁹⁰ Under proposed LGIP section 3.7, El Paso explains that:

[I]n the event that a deposit, financial security or other payment is delayed due to extenuating circumstances that could not have been avoided through the exercise of reasonable care and effort, a maximum two (2) Business Day delay will be accommodated if the Interconnection Customer remedies the delay on or before the expiration of the second Business Day, identifies the extenuating circumstances, and provides supporting documentation.

El Paso’s proposed LGIA article 17.1.1 proposes a comparable timeline to post financial security under the LGIA.

125. El Paso explains that proposed section 3.4.4 clarifies that all required items in LGIP section 3.4.2 must be received by the transmission provider during the cluster

¹⁸⁸ Transmittal at 5, 13.

¹⁸⁹ See El Paso, OATT, attach. N (0.5.0), § 1.1.1 (“If the Interconnection Customer wishes to interconnect its Small Generating Facility using Network Resource Interconnection Service, it must do so under the Standard [LGIP] and execute the Standard [LGIA].”).

¹⁹⁰ El Paso, Proposed OATT, attach. M (1.3.0), §§ 3.4.4 (Deficiencies in Interconnection Request), 3.7 (Withdrawal); *id.* LGIA art. 17.1.1 (General).

request window. El Paso asserts that this approach is consistent with the *pro forma* LGIP and Commission precedent.¹⁹¹ El Paso explains that the language it added to LGIP section 3.7 (and mirroring language in proposed *pro forma* LGIA article 17.1.1) provides additional clarity for interconnection customers regarding the interaction between section 3.7 and various LGIP sections that impose stringent deadlines for interconnection customers, avoiding a situation whereby interconnection customers may conclude that El Paso would provide them with additional time to cure tardiness rather than initiate withdrawal. El Paso notes that it proposes a modest two business day extension to address extenuating circumstances whereby an interconnection customer may miss a deadline.¹⁹²

i. Protests and Answer

126. Enchantment and Joint Protestors object to the proposed language in LGIP section 3.7 that replaces the standard 15-business day cure period with a two-business day cure period, arguing that the proposal is unsupported, unreasonable, and contrary to Commission policy.¹⁹³ Enchantment explains that without an adequate cure period, interconnection customers could have their projects removed from the interconnection queue for any minor or inconsequential LGIP non-compliance.

127. El Paso maintains that its proposal seeks to add clarity that deadlines are deadlines, and that missing them will trigger a withdrawal from the interconnection queue. El Paso argues that if all interconnection customers were permitted to miss deadlines, the interconnection process would not work effectively for timely applicants or transmission providers, who would all have to subsequently shift their deadlines. El Paso proffers that transmission providers are also subject to penalties if they are late in completing study work.¹⁹⁴

ii. Commission Determination

128. We find that El Paso's proposed deviations to limit the opportunity to cure deficiencies under its LGIP and a breach under its *pro forma* LGIA are not consistent with or superior to the Commission's *pro forma* LGIP and *pro forma* LGIA. El Paso

¹⁹¹ Transmittal at 6 (citing *Idaho Power*, 186 FERC ¶ 61,202 at P 35).

¹⁹² *Id.* at 6-7, 14-15.

¹⁹³ Enchantment Protest at 7 (citing Order No. 2003, 104 FERC ¶ 61,103 at app. C (Standard LGIP and LGIA); *pro forma* LGIP § 3.6 (Withdrawal)); Joint Protesters Protest at 11-12.

¹⁹⁴ El Paso Answer at 13-16.

argues that its approach is similar to that approved by the Commission for Idaho Power Company's Order No. 2023 compliance filing, but the Commission directed compliance for that provision, which was limited to the affected system study agreement, as an unexplained deviation from the *pro forma* LGIP.¹⁹⁵ Furthermore, we find that El Paso makes a broader proposal than Idaho Power, wherein El Paso precludes a 15-business day cure period for non-compliance with deadlines for *all* deadline provisions under El Paso's LGIP and *pro forma* LGIA, not just the submission requirements for initial interconnection requests. We find that El Paso's revisions to its LGIP section 3.7 are not consistent with or superior to the *pro forma* LGIP because they create only a minor improvement to interconnection queue processing times in exchange for significantly limiting an interconnection customer's opportunity to cure deficiencies. Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that removes this language from its LGIP and *pro forma* LGIA.

d. Commercial Operation Date Extensions

129. El Paso adopts section 4.4.5 of the *pro forma* LGIP without modification; however, El Paso proposes additional language to clarify permissible extensions of a generating facility's commercial operation date and an interconnection customer's right to direct the transmission provider to suspend work:

The opportunity of an Interconnection Customer to direct the Transmission Provider to suspend work under an LGIA does not entitle the Interconnection Customer to an extension of six years, double the length allowed under this LGIP, in the Commercial Operation Date. The period of suspension and the Commercial Operation Date extension, cumulatively, may not exceed three years. A request for extension of an Interconnection Customer's Commercial Operation Date is not eligible for evaluation by the Transmission Provider while an LGIA is in suspension or during any period in which an Interconnection Customer is in Breach of its LGIA.¹⁹⁶

130. El Paso argues that its proposal is consistent with or superior to Order No. 2023 because it provides clarity and transparency regarding the interaction between

¹⁹⁵ *Idaho Power Co.*, 186 FERC ¶ 61,202 at PP 13-14. *Idaho Power Co.* is distinguishable because there the Commission ultimately determined that Idaho Power's proposed variation was limited in nature and added clarity for interconnection customers by using consistent terminology in its LGIP. *Idaho Power Co.*, 188 FERC ¶ 61,176, at P 53 (2024).

¹⁹⁶ El Paso, Proposed OATT, attach. M (1.3.0), § 4.4.5.

permissible extensions of a generating facility's commercial operation date and the interconnection customer's exercise of its right to direct the transmission provider to suspend work, so that interconnection customers understand that the Tariff does not provide an entitlement to a cumulative six-year extension after execution of an LGIA or the filing of an unexecuted LGIA.¹⁹⁷

i. Commission Determination

131. As a preliminary matter, we agree that the opportunity to suspend work under an LGIA does not entitle the interconnection customer to an extension of six years. Under the Commission's *pro forma* LGIP and *pro forma* LGIA, interconnection customers may extend the commercial operation date for a total of three years and may suspend construction for a total of three years after execution of an LGIA or the filing of an unexecuted LGIA, but a request to suspend construction does not automatically extend the commercial operation date.¹⁹⁸ In Order No. 2003-A, the Commission stated that it would not attempt to codify what happens after the suspension period because each underlying request will be different.¹⁹⁹

132. However, we find that El Paso's provisions requiring that "the period of suspension and the commercial operation date extension, cumulatively, may not exceed three years," conflates the two separate time periods for extension and suspension, and is therefore inconsistent with the Commission's *pro forma* LGIP and *pro forma* LGIA. Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that removes this language from LGIP section 4.4.5 because it would prevent interconnection customers from taking full advantage of a maximum three-year commercial operation date extension and the distinct three-year suspension provision. We clarify, however, that extension of the commercial operation date must be requested separately from a suspension request, and that the maximum allowable construction suspension will be governed by the commercial operation date, which is limited to a three-year (cumulative) extension.²⁰⁰

¹⁹⁷ Transmittal at 9.

¹⁹⁸ See *Midcontinent Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,180, at P 19 (2015) (*MISO*) (finding that provisions for a three-year extension of a commercial operation date and three years of suspension rights provided "two distinct three-year periods").

¹⁹⁹ Order No. 2003-A, 106 FERC ¶ 61,220 at P 322.

²⁰⁰ See *MISO*, 150 FERC ¶ 61,180 at P 19.

e. **Sections Unaffected by Order No. 2023**

133. El Paso proposes additional deviations in several sections of its LGIP and an article of its *pro forma* LGIA that were unchanged by the requirements of Order Nos. 2023 and 2023-A.²⁰¹

i. **Commission Determination**

134. We find that El Paso's proposed revisions to LGIP sections 1, 3.5.2.3, 3.8, 4.4, and 4.4.6 and *pro forma* LGIA article 5.13 are outside the scope of this compliance proceeding because the Commission, in Order No. 2023, did not direct transmission providers to revise these aspects of their LGIPs or *pro forma* LGIAs.²⁰² Accordingly, we direct El Paso to submit, within 60 days of the date of this order, a further compliance filing that removes this language from its LGIP and *pro forma* LGIA. Our determination here is without prejudice to El Paso proposing these additional revisions in a future filing under section 205 of the Federal Power Act.

12. **Effective Date**

a. **El Paso's Compliance Filing**

135. El Paso proposes an effective date of June 3, 2024. El Paso states that this effective date will allow it to immediately commence the transition to the new interconnection process established by Order Nos. 2023 and 2023-A.

b. **Protest/Comment**

136. Protesters assert that the Commission should not grant El Paso's requested effective date. Joint Protesters state that El Paso has been imposing the requirements of its pending, unapproved Tariff on interconnection customers in a manner that has materially and negatively impacted Joint Protesters' queue position. Joint Protesters state

²⁰¹ El Paso, Proposed OATT, attach. M (1.3.0), §§ 1 (Definitions) Permissible Technological Advancement, Interconnection Customer, 3.5.2.3 (Interconnection Facilities Studies Processing Time), 3.8 (Identification of Contingent Facilities), 4.4 (Modifications), 4.4.6 (Technological Change Procedures); *id.* app. 5, LGIA art. 5.13 (Lands of Other Property Owners).

²⁰² With respect to LGIP section 4.4.6, we note that the Commission's *pro forma* LGIP includes a placeholder for the transmission provider to insert its technological change procedure. The Commission previously addressed El Paso's proposed revisions to its LGIP section 4.4.6 as part of its Order No. 845 compliance proceeding. *See El Paso Elec. Co.*, 170 FERC ¶ 61,115, at P 69 (2020).

that El Paso tendered a draft LGIA to Mesquite with unapproved LGIA provisions instead of El Paso's effective, Commission-approved LGIA. Joint Protesters recount that Mesquite requested the LGIA be filed unexecuted after El Paso refused to negotiate, and that El Paso filed the unexecuted LGIA in Docket No. ER24-2748. Joint Protesters state that Mesquite was subsequently sent a notice of withdrawal for failure to meet requirements in pending section 11.3 of attachment M, which are not part of the filed Tariff approved by the Commission. Joint Protesters state that although they are aware that the Commission intended parts of the Order No. 2023 transition process to take place shortly after a transmission provider's compliance filing, it is entirely contrary to Commission policy and precedent to apply the protested Tariff prior to a Commission order approving the compliance filing. Joint Protesters assert that El Paso's reliance on pending Tariff language to deem the Mesquite project withdrawn from the queue violates the filed rate doctrine because El Paso is enforcing rate schedules and Tariff provisions that have yet to be accepted by the Commission. Joint Protesters note that El Paso's OASIS is vague as to which version of the Tariff applies, because it states that the Tariff is "effective June 3, 2024 subject to FERC approval" and the OASIS link directs to the currently-effective and approved version of the Tariff.

c. Commission Determination

137. We accept El Paso's proposed effective date of June 3, 2024. In Order No. 2023-A, the Commission clarified that it would "consider, and may grant, requests from transmission providers for an effective date that predates the Commission's order on their compliance filing, on a case-by-case basis."²⁰³ We find that El Paso's proposed effective date complies with the Commission's guidance on effective dates in Order No. 2023-A because it will promote the overall efficiency of the transition process and aid El Paso in ensuring that only commercially viable projects remain in its interconnection queue. Further, we reject protesters' arguments that El Paso's proposed effective date would violate the filed rate doctrine with respect to the Mesquite project. As discussed in *El Paso*, and reiterated above,²⁰⁴ El Paso's requested effective date in the instant proceeding precedes June 13, 2024, the date on which El Paso tendered the draft LGIA to Mesquite.²⁰⁵ We find that the Tariff applies prospectively from the effective date of June 3, 2024, as approved in this order. We also note that El Paso has posted its proposed Tariff, which is accepted by this order, on its OASIS.²⁰⁶

²⁰³ Order No. 2023-A, 106 FERC ¶ 61,220 at P 669.

²⁰⁴ See *supra* P 84.

²⁰⁵ *El Paso*, 189 FERC ¶ 61,019 at P 20.

²⁰⁶ See El Paso Answer at 10 n.26.

13. Other Compliance Directive

138. On August 20, 2024, the Commission issued an Errata Notice, which contained additional revisions to the Commission's *pro forma* LGIP, *pro forma* LGIA, and *pro forma* SGIA.²⁰⁷ We direct El Paso to incorporate the revisions made in the Errata Notice when it submits its further compliance filing within 60 days of the date of this order.

The Commission orders:

(A) El Paso's compliance filing is hereby accepted in part, effective June 3, 2024, subject to a further compliance filing, as discussed in the body of this order.

(B) El Paso is hereby directed to submit a compliance filing that addresses the directives in this order within 60 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Secretary.

²⁰⁷ *Improvements to Generator Interconnection Procs. & Agreements*, 188 FERC ¶ 61,134 (2024).