

particular form. As the Commission has noted in recent orders, allowing the Interconnection Customer to provide an "irrevocable letter of credit \* \* \* or an alternative form of security proposed by the Transmission Customer and acceptable to the Transmission Provider and consistent with commercial practices" is not unreasonable, and no commenter has convinced us otherwise.<sup>91</sup> Granting the Transmission Provider absolute discretion on what forms of security to allow would provide too great an opportunity to erect hurdles to new generation, by allowing it to act in an unduly discriminatory or preferential manner.<sup>92</sup> Moreover, Final Rule Article 11.5 grants the Transmission Provider the discretion to reject security from a financial institution that is not reasonably acceptable. As a result, the Commission rejects comments that would grant the Transmission Provider greater discretion with respect to the Interconnection Customer's chosen security or eliminate forms of credit specified in the article.

598. In response to Sempra, Final Rule Article 11.5 clearly states that the Interconnection Customer "shall provide" security to the Transmission Provider. It is only the *form* of that security that is the Interconnection Customer's option, within the restrictions specified. We are not adding language to the provision to establish requirements if an Interconnection Customer receives a financial downgrade that makes it difficult to secure a guaranty. The Interconnection Customer remains responsible for providing an acceptable form of guaranty under the existing terms of the article.

599. Regarding Dominion Resources' comment, this issue is addressed in our discussion of Article 5.13 (Suspension).

600. Regarding the Arkansas Coops' concern that a Transmission Provider would not accept security from the CFC, we would not consider such a rejection to be a reasonable decision on the part of the Transmission Provider under the existing terms of Article 11.5. Accordingly, we are not revising the provision.

601. *Article 12—Invoice*—Proposed LGIA Article 12 set out a monthly

invoice and billing dispute procedure. The Transmission Provider would have been required to provide an invoice for the final cost of construction of the Transmission Provider's Interconnection Facilities and Network Upgrades within six months, in sufficient detail to enable the Interconnection Customer to compare actual costs with estimates. No significant comments were submitted on this article. Accordingly, the Commission adopts in the Final Rule LGIA Article 12 as proposed.

602. *Article 13—Emergencies*—Proposed LGIA Article 13 explained the Transmission Provider's and the Interconnection Customer's responsibilities when Emergency Conditions arise.

603. *Article 13.1—Definition*—Proposed LGIA Article 13.1 would define Emergency Condition as a condition or situation: (1) That in the judgment of the Party making the claim is imminently likely to endanger life or property, or (2) that, in the case of the Transmission Provider making the claim, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to the Transmission System, the Transmission Provider Interconnection Facilities, or the Transmission Systems of others to which the Transmission System is directly connected, or (3) that, in the case of the Interconnection Customer making the claim, is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Generating Facility or its Interconnection Facilities. Any condition or situation that results from a lack of sufficient generating capacity to meet load requirements and that results solely from economic conditions would not, on its own, be an Emergency Condition.

#### Comments

604. PG&E and Cal ISO believe that lack of sufficient generation to meet load requirements that results solely from economic conditions can be a genuine Emergency Condition. PG&E states that when insufficient generation occurs, regardless of the reason, the Transmission Provider is still responsible for maintaining system stability to the extent possible. It believes that taking away the tools necessary in such an emergency could harm the Transmission System. Cal ISO and Salt River Project make a similar point; they consider lack of generation, for any reason, to be an Emergency Condition that can endanger reliability

and, at a minimum, warrants an emergency notification such as those provided for under the Cal ISO's procedures. According to Cal ISO, without a declaration of an Emergency Condition, the Transmission Provider will not be able to invoke its obligation under Article 13.5 of the NOPR LGIA to take actions necessary to preserve reliability.

605. El Paso seeks to revise both the proposed definition of the term Emergency Conditions and NOPR LGIA Article 13 to include a definition of an abnormal condition and to provide the Transmission Provider and Interconnection Customer the discretion to prevent an Emergency Condition (by taking action or inaction) during an abnormal condition.<sup>93</sup> El Paso notes that such action or inaction would require prompt oral notification to the other Party as well as compensation for changes in real power output and reactive power production.

#### Commission Conclusion

606. The Commission agrees with the comments concerning the potential harm to the Transmission Provider's Transmission System by reducing its flexibility to respond during Emergency Conditions. The Commission is removing from the Final Rule LGIA Article 13.1 definition of Emergency Condition the sentence that reads, "Any condition or situation that results from a lack of sufficient generating capacity to meet load requirements that results solely from economic conditions shall not, on its own, constitute an Emergency Condition." The Commission denies El Paso's request to add a definition of an abnormal condition and to provide the Transmission Provider and Interconnection Customer the discretion to take certain actions or inactions in the event of an Emergency Condition. The Commission would expect the Parties to treat any abnormal conditions appropriately, regardless of whether it is a defined term in the Final Rule.

607. *Article 13.5.1—Transmission Provider Authority—General*—Proposed LGIA Article 13.5.1 provided that the

<sup>93</sup> El Paso would define Abnormal Condition as "any condition at the [Generating] Facility, on the Interconnection Facilities, on the Transmission System, or on the transmission system of other utilities which is outside normal operating parameters such that facilities are operating outside their normal ratings or reasonable operating limits have been exceeded and would result in an Emergency Condition if these conditions continue. Any condition or situation that results from lack of sufficient planned generating capacity to meet load requirements or that results solely from economic conditions will not, standing alone, constitute an Abnormal Condition."

<sup>91</sup> See Florida Power & Light Company, 98 FERC ¶ 61,226 at 61,893–94, *reh'g granted in part on other grounds*, 99 FERC ¶ 61,318 (2002); Florida Power & Light Company, 98 FERC ¶ 61,324 at 62,358–59 (noting that Florida Power & Light Company's practice of limiting interconnection customers to a letter of credit is unreasonable), *reh'g rejected as moot*, 100 FERC ¶ 61,094 (2002).

<sup>92</sup> Southwest Power Pool, Inc., 100 FERC ¶ 61,096 at P 12 (2002).