

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

California Independent System)	Docket Nos. ER00-2019-017
Operator Corporation)	ER01-819-009
)	ER03-608-006

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER TO PROTESTS OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

On July 5, 2005, the California Independent System Operator Corporation (“CAISO” or “ISO”)¹ submitted a filing in the captioned proceeding to comply with the Commission’s December 21, 2004 order, 109 FERC ¶ 61,301, and June 2, 2005 order, 111 FERC ¶ 61,337. Two parties, Southern California Edison Company (“SCE”) and the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (collectively, “Southern Cities”) submitted protests of the CAISO’s compliance filing. Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385. 212, 385.213 (2005), the CAISO respectfully requests leave to file an answer, and files its answer to the protests. The CAISO requests waiver of Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2)) to permit it to make an answer to the protests. As explained below, the CAISO agrees with the changes that SCE and the Southern Cities propose (with one addition). Therefore, Commission acceptance of this answer will eliminate any dispute concerning the matters raised in the protests and will

¹ Capitalized terms not otherwise defined herein have the meanings set for in the Master Definitions Supplement, Appendix A to the CAISO Tariff.

permit the Commission to resolve the issues raised in this proceeding more quickly.

I. ANSWER

SCE states that the CAISO's compliance filing does not contain certain proposed changes to the definition of the term "Transmission Revenue Credit" in the CAISO Tariff that the CAISO agreed to and the Commission approved. SCE at 2-7. The changes that SCE asserts the CAISO's compliance filing was lacking are shown in boldface underlined and struck-through text below:

~~For a New Participating TOs, during the 10-year transition period described in Section 4 of Schedule 3 of Appendix F, the proceeds (1) the sum of: (a) all revenues received by the Participating TO from the ISO for Wheeling service and, (b) the shortfall or surplus resulting from any cost differences between Transmission Losses and Ancillary Service requirements associated with Existing Rights and the ISO's rules and protocols, (c) Usage Charge revenues received by the Participating TO pursuant to Section 7.3.1.6(ii) of the ISO Tariff, plus (d) Net FTR Revenue received by the New Participating TO; plus the shortfall or surplus resulting from any cost differences between Transmission Losses and Ancillary Service requirements associated with Existing Rights and the ISO's rules and protocols minus (2) any charges attributable to the Participating TO (but not those attributable to the FTR Holder) pursuant to Section 7.3.1.7.~~

SCE at 3-4. The CAISO agrees that the changes shown above should have been in its compliance filing. They were inadvertently not included in the compliance filing. The CAISO suggests that, for further clarity, the word "New" should be added immediately before "Participating TO" in each of the three places in the quoted language above where "New" does not precede "Participating TO."

The Southern Cities assert that Section 9.4.3 of the CAISO Tariff as contained in the compliance filing “should be revised to clarify that the effective date of FTRs [Firm Transmission Rights] allocated under that section is simultaneous with the effective date of the related TCA [Transmission Control Agreement].” Southern Cities at 2. The Southern Cities argue that Section 9.4.3 could be interpreted to state that the section “will not become effective . . . until after final Commission resolution of any challenges,” and argue that “[t]o delay the effectiveness of FTRs allocated under Tariff § 9.4.3 until resolution of any challenges to the amounts allocated would undermine completely the purposes for which the Commission has approved the allocation of such FTRs.” Southern Cities at 2-3. The changes to Section 9.4.3 that the Southern Cities propose are shown below in boldface underlined and struck-through text:

The amount of FTRs ~~that has been determined~~allocated to the New Participating TO will ~~not~~ be effective ~~until after FERC issues an order concerning~~simultaneously with the effective date of the amendment to the Transmission Control Agreement required by this section regarding such New Participating TO, subject to possible revision as a result of any further Commission proceedings to review the amendment to the Transmission Control Agreement or the related allocation of FTRs under this Section 9.4.3.

Southern Cities at 3-4. The CAISO agrees with these proposed changes, with one addition explained below.

The CAISO stated in this proceeding that:

Because it affects rates, the [FTR] allocation is filed with the Commission when the New Participating TO turns over Operational Control of the transmission facilities to the ISO. . . . [T]he allocation will be included with the Transmission Control Agreement. At that point, all interested parties will be able to protest the allocation, and

the Commission will decide whether the FTR allocation is just and reasonable.

Exh. ISO-33 at 24:13-19 (filed Oct. 21, 2003). In the Initial Decision in this proceeding, the Presiding Judge cited the language quoted above as support for stating that the CAISO did not oppose a change to the CAISO Tariff “to require the ISO to file the proposed award [of FTRs] with the Commission simultaneously with an amendment to the [TCA] regarding each new [Participating TO],” in order to “provide notice of the proposed award and the opportunity to challenge it with full Commission review.” *California Independent System Operator Corporation*, 106 FERC ¶ 63,026, at P 234 (2004). On review of the Initial Decision, the Commission affirmed the Presiding Judge’s finding that the CAISO should submit such a tariff change. *California Independent System Operator Corporation*, 109 FERC ¶ 61,301, at PP 26, 34-35 (2004).

As the language quoted above indicates, the CAISO believes that parties should be given an opportunity to protest an FTR allocation and that the Commission should decide the justness and reasonableness of any contested allocation. However, the CAISO also agrees with the Southern Cities that the allocated FTRs should be made effective simultaneously with the effective date of the amendment to the TCA, subject to possible revision due to any further Commission proceedings. Permitting the effective date suggested by the Southern Cities will further “the purposes for which the Commission has approved the allocation of such FTRs” (Southern Cities at 3), while still permitting later revisions to a challenged allocation. The CAISO believes, however, that the Southern Cities’ suggested tariff change should be modified to specify that any

revision to an allocation of FTRs will only be required on a prospective basis, not a retroactive basis. Retroactive revision to an allocation of FTRs is not practicable because the FTRs will have already been used by the time any revision is required.

II. CONCLUSION

For the reasons explained above, the CAISO agrees with the changes proposed by SCE and the Southern Cities, as described herein.

Respectfully submitted,

Anthony J. Ivancovich
Assistant General Counsel
The California Independent
System Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7296

/s/ J. Phillip Jordan
J. Phillip Jordan
Bradley R. Miliauskas
Swidler Berlin LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20426
Tel: (202) 424-7500
Fax: (202) 424-7643

Counsel for the California Independent
System Operator Corporation

Dated: August 10, 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list for the captioned proceeding, in accordance with Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Folsom, California, on this 10th day of August, 2005.

Anthony J. Ivancovich
Anthony J. Ivancovich