

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

California Independent System)
Operator Corporation) Docket No. ER00-2019-011
)
)

**MOTION FOR LEAVE TO FILE ANSWER AND
ANSWER OF
CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO PROTESTS
REGARDING COMPLIANCE FILING**

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. 385.212, the California Independent System Operator Corporation (“ISO”)¹ respectfully moves the Commission for leave to file an Answer to the Motions to Intervene, Comments, Protests and Requests for Hearing in the above identified docket and submits an Answer for filing.

I. BACKGROUND

On March 31, 2000, the ISO filed Amendment No. 27 to the ISO Tariff, proposing a new methodology for determining the transmission Access Charge. By Order dated May 31, 2000, the Commission made specific findings regarding certain aspects of Amendment No. 27 and accepted for filing, suspended, and set for hearing the remainder of the proposed Access Charge methodology and related tariff provisions. Relevant to this filing, the Commission ruled that the Amendment No. 27’s use of Gross Load as the billing determinant for the Access Charge was just and reasonable. *California Independent System Operator*

Corporation, 91 F.E.R.C. ¶61,205 (2000). Amendment No. 27 now is pending before Judge Bobbie McCartney, with a hearing scheduled to commence in October, 2003.

On July 10th, the Commission addressed requests for rehearing of the May 31, 2000, order. 104 F.E.R.C. ¶ 61,062 (2003). Among other matters, affirmed its ruling regarding the use of Gross Load as the billing determinant for the Access Charge for New Participating TOs, but held that those customers served behind-the-meter by generators with a 50 percent or greater capacity factor (the ratio of a generator's average load or output to its capacity rating over a period of time should pay the Access Charge on a "net load basis."² The Commission directed the ISO to submit revised tariff sheets implementing this requirement on a prospective basis. *Id.*

On July 25, 2003, the ISO made its compliance filing. The compliance filing revised billing determinates for Participating Transmission Owners according to the ISO's understanding of the Commission's orders. The ISO did not revise billing determinates for Wheeling Access Charges, but noted transmission customers that are not Participating TOs already pay the transmission Access Charge based on net use of the ISO Controlled Grid.

Protests to the ISO's compliance filing were filed by Southern California Edison Company, the Northern California Power Authority, and The Metropolitan Water District of Southern California ("MWD"). Relevant for the purposes of the Answer, MWD stated:

¹ Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

Despite Metropolitan's explicit request to the ISO for identification of Tariff language in support its assertion [regarding Access Charges to transmission customers that are not Participating TOs], the ISO has not responded to Metropolitan's request, and Metropolitan is unaware of any such Tariff provision. The ISO has failed to supply any other explanation for its willful failure to comply with the express direction provided by the Commission, which was to provide for payment of TAC on the same net basis ordered by FERC for the ISO's collection of its Grid Management Charge. Despite Metropolitan's explicit request to the ISO for identification of Tariff language in support its assertion, the ISO has not responded to Metropolitan's request, and Metropolitan is unaware of any such Tariff provision. The ISO has failed to supply any other explanation for its willful failure to comply with the express direction provided by the Commission, which was to provide for payment of TAC on the same net basis ordered by FERC for the ISO's collection of its Grid Management Charge.

MWD Protest at 3.

II. MOTION FOR LEAVE TO ANSWER

Rule 213(a)(2) of the Commission Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2), prohibits Answers to Protests. The Commission, however, has accepted answers to protests, notwithstanding Rule 213(a)(2), that assist the Commission's understanding and resolution of the issues raised in a protest, *Long Island Lighting Co.*, 82 FERC ¶ 61,129 (1998), clarify matters under consideration, *Arizona Public Service Co.*, 82 FERC ¶ 61,132 (1998); *Tennessee Gas Pipeline Co.*, 82 FERC ¶ 61,045 (1998), or materially aid the Commission's disposition of a matter, *El Paso Natural Gas Co.*, 82 FERC ¶ 61,052 (1998).

The Commission should allow this Answer because the Answer will clarify matters raised in MWD's protest and help the Commission to achieve a more accurate and complete record. *Northern Border Pipeline Co.*, 81 FERC ¶ 61,402 (1997); *Hopkinton LNG Corp.*, 81 FERC ¶ 61,291 (1997). The Answer will

² This ISO has sought rehearing or clarification of the order.

materially assist the Commission by explaining why additional revisions to the ISO Tariff are unnecessary in order to comply with the Commission's order.³

III. ANSWER

Pursuant to Section 7.1.4 of the ISO Tariff, transmission customers that are not Participating TOs pay the Wheeling Access Charge for transmission on the ISO Controlled Grid. Section 7.1.4 provides that Wheeling charges are determined by the kilowatt-hours at the Scheduling Point. Since the Scheduling Point is the interconnection with the ISO Controlled Grid, it by definition excludes transactions that do not use the ISO Controlled Grid. In other words, Wheeling Charges are net of any transactions that occur solely "behind-the-meter" at the interconnection with the ISO Controlled Grid. These net charges apply regardless of whether the Generating Unit behind the meter is operating at 50% capacity. Accordingly, the Wheeling Access charge is not affected by the Commission's July 10th order.

IV. CONCLUSION

For the foregoing reasons, the Commission should accept the ISO's Answer and consider the information contained in the Answer in its deliberations concerning the ISO's compliance filing.

³ The ISO recognizes that, if an Answer had been permissible under the Commission's rules, it would have been due on September 2, 2003. The ISO respectfully requests that the Commission nonetheless accept the Answer at this time for the same reasons expressed in the text, *i.e.*, that it will assist the Commission's deliberations.

Respectfully submitted,

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Dated: September 5, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all parties on the official service list compiled by the Secretary in the above-captioned proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 5th day of September, 2003.

/s/ Jeffrey W. Mayes _____
Jeffrey W. Mayes