

# Memorandum

To: ISO Operations Committee  
From: Mike Dozier, Counsel  
Charles A. King, P.E., Vice President of Market Development and Program Management  
cc: ISO Officers  
Date: June 7, 2006  
Re: ***Approval of Trans Bay Cable LLC Participating Transmission Owner Application***

---

***This memorandum requires Committee action.***

## EXECUTIVE SUMMARY

On September 8, 2005, the ISO Governing Board ("Board") unanimously approved the Trans Bay Cable Project ("Project") as the preferred long-term transmission alternative to address reliability concerns regarding the San Francisco peninsula area. In January 2006, Trans Bay Cable LLC ("TBC") filed an application to become a Participating Transmission Owner ("Participating TO") effective on the commercial operation date of the Project, currently projected to be in early 2009. Management believes that adding TBC as a Participating TO will benefit the market by expanding the ISO Controlled Grid and increasing the participation by transmission owners. Management requests that the Operations Committee recommend that the Board accept TBC's application at this time and that, once TBC executes the Transmission Control Agreement ("TCA"), TBC be allowed to become a Participating TO, subject to the acceptance of TBC's Transmission Owner Tariff ("TO Tariff") and Transmission Revenue Requirement ("TRR") by the Federal Energy Regulatory Commission ("FERC"). Management believes that this is consistent with the September 8, 2005 Board decision and with prior ISO treatment of other Participating TO applications. TBC will defer filing its TO Tariff and TRR with FERC until closer to the time the Project is expected to reach commercial operation.

While the TCA will need to be amended to add (1) a listing of TBC's transmission Entitlement and contacts for notices and (2) a new provision establishing conditions on TBC's ability to transfer its Entitlement to a non-FERC jurisdictional entity (which has been the subject of recently-concluded extensive negotiations between TBC and concerned Participating TOs), the Board directed at its meeting of September 15, 2004, that Management need not seek Board approval of amendments to the TCA. Consequently, Management is not seeking Operations Committee or Board approval of those TCA amendments.

As described further below, Management proposes that the Operations Committee recommend that the Board adopt the following Motion to address these aspects of the addition of TBC as a new Participating TO:

***Moved, that the Operations Committee recommends that the Board of Governors accept the application of Trans Bay Cable LLC(TBC) for Participating Transmission Owner (TO) status, conditioned on TBC obtaining approval of its TO Tariff and Transmission Revenue Requirement by FERC; and***

***Authorize Management to file the appropriate documents with FERC to make Trans Bay Cable LLC a Participating TO, subject to FERC acceptance.***

## **ISSUE STATEMENT**

In accordance with the procedures outlined in Section 3.1 of the ISO Tariff and Section 2.2 of the TCA, TBC submitted a notice of intent on December 30, 2005 and an application on January 13, 2006 that proposed turning over Operational Control of its Entitlement to the Project to the ISO. The facility proposed to be under the ISO Operational Control consists of TBC's Entitlement in the Project, to be specified in Appendix A to the TCA (***Attachment A***). The Project consists of a new, single, 59-mile high voltage direct current ("HVDC") transmission line running under San Francisco Bay, and associated substation facilities, extending between Pacific Gas and Electric Company's ("PG&E") Pittsburg Substation in the eastern portion of the San Francisco Bay Area and PG&E's Potrero Substation in San Francisco, including modifications at the substations to connect the line. TBC will own an Entitlement to the entire capacity of the Project facilities, an estimated 400 MW. It is anticipated that Pittsburg Power Company, a joint powers authority acting on behalf of the City of Pittsburg, will hold the underlying ownership interest in the Project facilities. The line is expected to be energized in early 2009.

The TCA states that the ISO shall permit a party to become a Participating TO if it determines that:

- the transmission lines and associated facilities to be placed under the ISO's Operational Control can be incorporated into the ISO Controlled Grid without any material adverse impact on its reliability;
- incorporating such transmission lines and associated facilities will not put the ISO in breach of Applicable Reliability Criteria and its obligations as a member of the Western Electricity Coordinating Council ("WECC");<sup>1</sup>
- all applicable regulatory approval of the applicant's TO Tariff have been obtained; and
- the applicant is capable of performing its obligations under the TCA.

While no time frame is specified in the TCA or the ISO Tariff for action by the Board on an application for Participating TO status, TBC has indicated that acceptance of its application by the Board will be a condition of finalizing its financing arrangements and that its execution of the TCA is also a key aspect of its Project development activities. While TBC's financing arrangements are currently not expected to be finalized until later this year, TBC desires to obtain conditional acceptance by the Board of its application at this time in order to obtain assurance of Board acceptance as soon as possible and in order to become a party to the TCA in conjunction with other TCA amendments that are currently under negotiation and are proposed to be finalized as soon as June of this year. Management has evaluated TBC's application in relation to the foregoing TCA standards and has determined that the Board's conditional acceptance of TBC's application at this time is the best option for addressing this matter.

## **OPTIONS TO SOLVE PROBLEM OR DEAL WITH THE ISSUE**

The only options for dealing with this matter are for the Board to conditionally accept, defer action on, or reject TBC's application.

---

<sup>1</sup> The TCA currently references WSCC, the precursor organization to the WECC. However the definition of WSCC in the TCA includes any successor organization.

## **ATTRIBUTES FOR COMPARING OPTIONS**

The relevant attributes for comparing the Board's options are (1) benefits to the ISO Controlled Grid and ISO Control Area from the acceptance of TBC's application, (2) the impact of the timing of the Board's action on TBC's application, and (3) the consistency of the Board's action with its treatment of prior applications for Participating TO status.

## **PROS AND CONS OF EACH OPTION**

If the Board conditionally accepts TBC's application at this time, the Board will be facilitating the development of a Project already approved by the Board as benefiting the ISO Controlled Grid and ISO Control Area by ensuring that TBC can execute the TCA and proceed with its financing arrangements and development of the Project on TBC's preferred schedule. Moreover, this approach would be consistent with the approach taken by the Board in its prior advance conditional approval of the application of Trans-Elect NTD Path 15, LLC for Participating TO status. Management does not believe there would be any adverse consequences of the Board's acceptance of TBC's application at this time.

If the Board defers action on TBC's application, TBC's ability to execute the TCA in conjunction with the TCA amendments currently under negotiation will be placed in jeopardy and additional uncertainty may be added to TBC's development plans. Management does not believe there would be any offsetting benefits of deferring action on this matter. If the Board rejects TBC's application, the construction and operation of the Project, which has been identified by Management and the Board as a needed transmission facility, will be jeopardized. Management does not believe there would be any benefits of rejecting TBC's application.

## **POSITIONS OF THE PARTIES**

TBC's application, including its draft TO Tariff, was posted on the ISO website on January 13, 2006 for public review and comment. Comments were received only from PG&E, Southern California Edison Company ("Edison"), and San Diego Gas & Electric Company ("SDG&E"). The comments were focused (1) on the possibility of TBC withdrawing as a Participating TO in the future after recovering all or part of its investment and then obtaining further revenue recovery pursuant to another mechanism, particularly by transferring its Entitlement to a non-FERC jurisdictional entity that would obtain further revenue recovery inconsistent with FERC ratemaking principles, and (2) on the draft TO Tariff and proposed TRR that TBC will be filing with FERC in the future. Management has worked on these concerns regarding the potential for excess revenue recovery and regarding TBC's TO Tariff and TRR with TBC and the existing Participating TOs, including PG&E, Edison, and SDG&E, each of which is also required to execute the TCA along with the ISO and TBC. With regard to the second set of concerns, Management anticipates that it will have ample time to work with TBC to ensure TBC incorporates appropriate provisions into its TO Tariff and TRR to address those matters prior to TBC's filing with FERC, as the filing is not projected to occur until late 2008 based on the current schedule. With regard to the first set of concerns, TBC has advised that it has no intention of seeking to double-recover its FERC-approved TRR. Moreover, TBC has engaged in extensive negotiations with the ISO and other Participating TOs to develop an additional provision to be added to the TCA to provide the necessary assurances that this will not be the case, which negotiations were recently concluded successfully and will particularly result in the imposition of conditions on TBC's ability to transfer its Entitlement to a non-FERC jurisdictional entity. Based on the foregoing, Management does not consider the comments of PG&E, Edison, or SDG&E to serve as a barrier to acceptance of TBC's application.

Management has not received notice of any opposition to TBC serving as the developer of the Project or to the Board taking action on TBC's application at this time. Also, Management has not received notice of any opposition to the Project itself subsequent to the Board's approval of the Project in September of 2005.

## **MANAGEMENT RECOMMENDATION**

Management recommends that the Operations Committee recommend that the Board (i) accept TBC's application for Participating TO status and that, once TBC executes the TCA, TBC be allowed to become a Participating TO, subject to the acceptance of TBC's TO Tariff and TRR by FERC; and (ii) authorize Management to file the appropriate documents to make TBC a Participating TO, subject to FERC acceptance. Management has assessed this matter based on projected benefits to the ISO Controlled Grid and ISO Control Area, the impact of the timing of this decision on TBC's ability to execute the TCA and have assurance that it will be able to adhere to its preferred schedule for development of the Project, consistency with the approach utilized by the Board in accepting prior applications, and the limited issues raised in comments received on TBC's application. Management believes that acceptance of TBC's application is consistent with the September 2005 Board decision that the Project is the preferred long-term transmission alternative to address reliability concerns regarding the San Francisco peninsula area and that adding TBC as a Participating TO will benefit the market by expanding the ISO Controlled Grid and increasing the participation by transmission owners. Moreover, Management believes that Board acceptance of TBC's application at this time will facilitate TBC's ability to execute the TCA and have assurance that it will be able to finalize its financing arrangements and develop the Project on its preferred schedule and is consistent with the Board's approach in accepting prior applications. Management believes that the issues raised in comments on TBC's application can be addressed subsequently in other contexts.