

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

California Independent System)
Operator Corporation)

Docket No. ER03-310-000

**ANSWER OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION TO
PROTESTS AND TO REQUEST FOR HEARING**

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2002), the California Independent System Operator Corporation (“ISO”)¹ submits its Answer to the Protests and Request for Hearing submitted in the above-captioned docket.²

I. BACKGROUND

On December 20, 2002, the ISO submitted a “Transmission Access Charge Informational Filing.” The purpose of the filing was to provide notice regarding the updated transmission Access Charges that reflect a revision in its transmission Access Charge rates to account for the addition of four New Participating Transmission Owners,

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed August 15, 1997, and subsequently revised.

² Notwithstanding Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), the Commission has accepted answers to protests 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 ISO’s Answer will clarify matters under consideration, aid the Commission’s understanding and resolution of the issues and help the Commission to achieve a more accurate and complete record, on which all parties are afforded the opportunity to respond to one another’s concerns. *Northern Border Pipeline Co.*, 81 FERC ¶ 61,402 (1997); *Hopkinton LNG Corp.*, 81 FERC ¶ 61,291 (1997). The Commission accordingly should accept this Answer.

the Southern California Edison Company settled rate (TO2), and to revise the Transmission Revenue Balancing Accounts (“TRBAs”) of the current Participating TOs.

The ISO’s transmission Access Charge is the charge through which the embedded costs of the transmission facilities making up the ISO Controlled Grid are recovered. The Access Charge methodology currently in place was first filed with the Commission as Amendment 27 on March 31, 2000,³ and amended slightly through Amendment 34 (filed with the Commission on December 28, 2000), Amendment 45 (filed with the Commission on June 28, 2002), and Amendment 47 (filed with the Commission on November 25, 2002).⁴ Under this methodology, the Access Charge for High Voltage Transmission Facilities is assessed based on the combined High Voltage Transmission Revenue Requirements (“TRRs”) of all the Participating TOs in each TAC Area.⁵

The Access Charge methodology of Amendment 27 was designed to become effective when a New Participating TO joined the ISO. The City of Vernon, California (“Vernon”) sought to become a Participating TO effective January 1, 2001, triggering the Amendment 27 methodology.⁶ The Amendment 34 filing consisted of changes

³ Amendment 27 was assigned Docket No. ER00-2019.

⁴ Amendment 34 was assigned Docket No. ER01-819. The Commission accepted this amendment for filing, suspended it, made it effective January 1, 2001, subject to refund, and consolidated it with ER00-2019-000. Amendment 45 was assigned Docket No. ER02-2192-000. The Commission accepted the filing, subject to modification, and made it effective July 1, 2002. *California Independent System Operator Corp.*, 100 FERC ¶ 61,209 (2002) at P 8. Amendment 47 was assigned Docket No. ER03-218-000. The Commission accepted Amendment 47 in an order issued on January 24, 2003. *California Independent System Operator Corp.*, 102 FERC ¶ 61,061 (2003) at P 41.

⁵ The Access Charge methodology is the subject of continuing proceedings in Docket No. ER00-2019-006 before Administrative Law Judge Bobbie J. McCartney.

⁶ To achieve its goal of joining the ISO, Vernon filed a Transmission Owner (“TO”) Tariff and a TRR with the Commission on August 30, 2000, and made an amended filing on August 31, 2000. Vernon’s TO Tariff/TRR filing was assigned Docket No. EL00-105-000.

necessary to facilitate Vernon's joining the ISO, together with the Access Charge rates that would go into effect as a result. A slight further modification was made in Amendment No. 45. Amendment 45 revised the process of updating the Access Charge to reflect revised TRRs of Participating TOs that have been approved by the Commission, and clarified which Scheduling Coordinator paid the Access Charge based on usage of the ISO Controlled Grid or based on the Scheduling Coordinators' Gross Load. Amendment 47 further modified the ISO Tariff by requiring a refund of Firm Transmission Right ("FTR") auction revenue if a Participating TO withdraws from the ISO during the term of an FTR, and clarified a number of definitions such that if the ISO does not have Operational Control of the transmission facility, its costs are not included in the ISO's Access Charge.

The four entities that became Participating TOs on January 1, 2003 are the Cities of Anaheim, Azusa, Banning, and Riverside, California (together, "Southern Cities"). Each of the Southern Cities took the necessary steps to become Participating TOs, including the filing by each utility of a Transmission Owner Tariff at FERC that includes a TRR and a TRBA, just as Vernon did in 2000.⁷

On December 23, 2002, the Commission issued an order consolidating Docket Nos. EL03-14, EL03-15, EL03-21, EL03-21 (the Southern Cities' TO Tariff/TRR dockets), and Docket Nos. EL00-105-006 (the Vernon TO Tariff/TRR docket) and ER00-2019-005 (together, "Consolidated Dockets").⁸ The Consolidated Dockets were

⁷ These TO Tariff/TRBA filings were assigned Docket Nos. EL03-15 (Anaheim), EL03-14 (Azusa), EL03-21 (Banning), and EL03-20 (Riverside).

⁸ *City of Azusa, California, et al.*, 101 FERC ¶ 61,352 (2002) ("Consolidation Order"). As evidenced by the Consolidation Order and an order issued the same day, *City of Vernon, et al.*, 101 FERC ¶ 61,353 (2002), the Vernon TO Tariff/TRR proceeding is ongoing, with the matter remanded from the Court of Appeals and set for additional settlement proceedings. As the Southern Cities' proceedings

set for settlement judge proceedings, and a settlement conference was held on January 10.

As part of the Southern Cities' joining the ISO, the ISO filed on December 2, 2002, in Docket No. EC03-27-000, an application to assume Operational Control of the facilities and Entitlements being turned over by the Southern Cities. The Commission issued an order on January 24, 2003 authorizing the transfer.⁹

II. ANSWER TO PROTESTS AND TO REQUEST FOR HEARING

A. The Access Charge is a Formula Rate, and Thus the Appropriate Forum In Which To Address It is the Consolidated Dockets

As described in the ISO filings giving rise to the transmission Access Charge, and acknowledged by the Commission,¹⁰ the Access Charge is a formula rate. The formula is described fully in the ISO Tariff Section 7.1 and Appendix F, Schedule 3. The Access Charge includes the High Voltage Transmission Access Charge, the Transition Charge, and the Low Voltage Access Charge, and is designed to recover the Participating TOs' TRRs. As such, the TRRs are a necessary input to the formula.

The rates filed by the ISO in the instant proceeding take the Access Charge methodology of the various Amendments and apply the TRRs of all the Participating TOs, including those recently filed by the Southern Cities, to the formula.

deal with many of the same issues, the Commission decided to consolidate them. 101 FERC ¶¶ 61,352 at P 1.

⁹ *California Independent System Operator Corp.*, 102 FERC ¶¶ 61,058 (2003) ("January 24 Order"). A previous order authorizing the transfer was issued on December 23, 2002. *California Independent System Operator Corp.*, 101 FERC ¶¶ 62,191 ("Rescinded Order"). This order was rescinded as part of the January 24 Order. 102 FERC ¶¶ 61,058 at P 2.

¹⁰ See *California Independent System Operator Corp.*, 100 FERC ¶¶ 61,209 (2002) at P 23.

Therefore, arguments from the California Department of Water Resources (“CDWR”) that the basis of the rates filed in this docket is insufficient due to the character of the Entitlements turned over to ISO Operational Control (CDWR at 3-5) would be more appropriately raised in either the proceeding dealing with the elements of the Transmission Revenue Requirements for the Southern Cities, *i.e.*, the Consolidated Dockets, or the proceeding dealing with the formula rate calculation itself, *i.e.*, the Access Charge methodology, Docket No. ER00-2019-006. In these proceedings, both the structure of the Access Charge and the elements of the Southern Cities’ TRRs can be evaluated fully. Taking up these issues in this proceeding would be needlessly duplicative and a waste of the Commission’s and the parties’ resources.¹¹

B. The Fact that the Commission has not “Accepted” the Southern Cities’ TO Tariff/TRR Filings is Likely an Oversight that Will Be Remedied

The Original Participating TOs (Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company; together, “OPTOs”), the Metropolitan Water District of Southern California (“MWD”), and CDWR all argue that the Access Charge rates cannot go into effect because the Commission has not accepted the Southern Cities’ TO Tariff/TRR filings or made them subject to refund. OPTO at 2-3; MWD at 6; CDWR at 1, 6.¹²

¹¹ For the same reasons, as discussed below, setting this proceeding for hearing is inappropriate.

¹² The OPTOs also pointed out that the filing made by the ISO to amend its Transmission Control Agreement (“TCA”) to facilitate the Southern Cities becoming Participating TOs also had not been accepted by the Commission, and that this, too, prevented the Access Charge from being assessed based on the rates included in the informational filing. OPTO at 2-3. Since the time that the OPTOs filed their Protest, however, the Commission has, in fact, acted on the TCA filing, and made the changes to the TCA (with some modifications) effective January 1, 2003. See *California Independent System Operator Corp.*, 102 FERC ¶ 61,061 (2003) at P 1.

It is true that in consolidating the Southern Cities' TO Tariff/TRR filings with the Vernon proceeding the Commission did not expressly accept the Southern Cities' TRRs (subject to refund or otherwise). As the OPTOs point out, however, this may well have been inadvertent. OPTO Protest at 3. With this likelihood in mind, the Southern Cities filed a Motion for Clarification in the Consolidated Dockets, requesting that the Commission clarify the Consolidation Order to grant express permission for the Southern Cities' TRR filings to take effect as of January 1, 2003, subject to refund and to the outcome of the proceedings in the Consolidated Dockets. Motion for Clarification of Southern Cities at 1-2. The ISO supported the clarification request

When the ISO filed (as part of the Amendment 34 filing) the Access Charge rates triggered by the addition of Vernon, the Commission accepted them for filing, suspended them for a nominal period, and made them effective January 1, 2001 subject to refund. See 94 FERC ¶ 61,147 at 61,556. The same treatment is appropriate now.¹³

C. Since the Section 203 Order Approved the Transfer of Operational Control to the ISO, the Entitlements of the Southern Cities Are Available for Use by ISO Customers

Because the Commission accepted the transfer of Operational Control from the Southern Cities to the ISO for the Southern Cities' Entitlements in Docket No. EC03-27, users of the ISO Controlled Grid already have access to the Southern Cities Entitlements. The rates included in the December 20 Informational Filing provide for the assessment of charges for access to these facilities, which is already being provided.

¹³ The OPTOs note that they have no objection to the December 20 rates being made effective January 1, 2003 subject to refund with interest based on the outcome of the Southern Cities' TRR dockets, once the Southern Cities TRRs are accepted effective January 1, 2003 subject to refund with interest and the amended TCA also is accepted effective January 1, 2003. OPTO at 4. The OPTOs add that the rates must be subject to refund "until there is final Commission action of the Southern Cities' TRRs as well as the Vernon TRR." OPTO at 4.

The Southern Cities' Transmission Revenue Requirements reflected, subject to refund, in the ISO's updated formula are the initial rates for access to these Entitlements. None of the protests filed in this proceeding indicate how, if at all, the ISO is to charge Scheduling Coordinators for access to the Southern Cities Entitlements if not through the rates filed December 20.

In their Motion for Clarification of the Consolidation Order, the Southern Cities explained

It is necessary and appropriate to permit the Cities' TRRs to become effective simultaneously with the transfer of operational control over the Cities' transmission facilities and entitlements to the ISO so that the Cities will be compensated for the use of their transmission facilities and entitlements by the ISO customers.

Southern Cities' Motion at 3. By the same token, it is necessary and appropriate that the Access Charge rates become effective at the time when the facilities for whose use the Access Charge is assessed become eligible to be used by the ISO's Scheduling Coordinators.

The ISO has assumed Operational Control of the Entitlements effective January 1, 2003. This means that, effective January 1, 2003, Scheduling Coordinators have available for use the Entitlements of the Southern Cities just as they do with regard to other facilities that have been turned over to ISO Operational Control. It is axiomatic that these Scheduling Coordinators should pay for the service they receive.

D. It Would Be Inappropriate and Unnecessary to Reject the Informational Filing, To Suspend its Effect for More than A Nominal Period, or To Set It For Hearing

MWD argues that the December 20 filing should be rejected by the Commission, and that the ISO be required to file Access Charge rates that exclude the Southern Cities' TRRs. MWD at 8. Alternatively, MWD argues that the rates should be suspended "for the maximum amount of time possible." *Id.* CDWR also calls for the full 5-month period" of suspension, and for the proceeding to be set for hearing. CDWR at 9.

There is no need to reject the informational filing or set it for hearing, as any determination as to the appropriate treatment of all or part of the Southern Cities' assets is subject to the outcome of the other dockets.¹⁴ All such issues can be resolved fully in those proceedings. Moreover, the ISO does not believe a suspension is appropriate for what is an initial rate for these assets. As described above, absent these rates, there would be no lawful rates to assess Scheduling Coordinators that use the Southern Cities' Entitlements.

On a purely pragmatic level, the Access Charge bills for the January period will not actually be sent out to Scheduling Coordinators until March. By that time, the Commission is likely to have taken action on the Southern Cities' Motion for Clarification that will have mooted the arguments of the protests in this docket.

Further, the rates are subject to refund. When the proceeding in the Consolidated Dockets and in the Access Charge methodology proceeding in ER00-2019-006 have been finally resolved, should the December 20 rates be deemed to have

¹⁴ The Commission agrees with the ISO in this regard. See *California Independent System Operator Corp.*, 102 FERC ¶ 61,061 at P 27.

been inappropriate in any way, refunds plus interest will be made to Scheduling Coordinators. Therefore, there is no benefit in rejecting or suspending the only rates applicable for service that is, in fact, available to take place.

E. The 60-Day Prior Notice Period is Not Necessary With a Formula Rate

CDWR argues that the ISO has not justified waiver of the 60 day prior notice period for the institution of new rates. CDWR at 8-9. CDWR contends that such notice is particularly necessary in this case “because the ISO uses only its market participants’ money, having no funds of its own with which refunds could be provided.” CDWR at 9.

A formula rate, however, does not require the 60-days prior notice provided for under Section 205. Indeed, this is not a 205 filing at all, but an informational filing. The ISO’s procedure for filing revised Access Charges on an informational basis was approved recently. See *California Independent System Operator Corp.*, 100 FERC ¶ 61,209 (August 27, 2002). CDWR’s suggestion that an informational filing is not adequate in this regard constitutes an inappropriate collateral attack on the Commission’s order of August 27.

Additionally, it does not matter that the ISO “has no funds of its own with which refunds could be provided.” It is the applicable Participating TOs that would provide the funds for any refunds the Commission may order. Appendix F, Schedule 3, Section 8 of the ISO Tariff provides that rates are effective when the Commission accepts a Participating TO’s TRR and are subject to refund. Refunds are made in accordance with Commission’s orders. Thus CDWR’s concerns in this regard are unwarranted.

F. CDWR's "Substantive Questions" Have Been Addressed by the ISO in Other Dockets, Where they Should Remain

CDWR prefaces its protest with yet another discussion of so-called "substantive questions" regarding the ISO assuming Operational Control over the Southern Cities' facilities. CDWR then contends that the ISO has not "squarely addressed" these questions. On the contrary, the ISO responded fully to these questions in response to CDWR's Protest of the ISO's Section 203 filing of December 2, 2003 in Docket No. EC03-27. Due to the confusion regarding the status of the Rescinded Order, the ISO filed its Answer to CDWR's Protest in that proceeding on January 14, 15 days after CDWR's Request for Rehearing of that order. The ISO includes that Answer (minus attachments) as Attachment A to this filing, and will not otherwise burden the record in this proceeding by responding again to these "questions".

III. CONCLUSION

For the reasons described above, the ISO requests that the Commission allow the Access Charge rates set forth in the ISO's December 20, 2002 informational filing to go into effect on January 1, 2003, subject to the outcome of the related proceedings: the Consolidated Dockets of EL02-114, *et al.*, and the Access Charge methodology proceeding in Docket No. ER00-2019-006.

Respectfully submitted,

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Dated: January 27, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 27th day of January, 2003.

/s/ **Julia Moore**
Julia Moore

ATTACHMENT A

ORIGINAL

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

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California Independent System) Docket No. EC03-27-000
Operator Corporation)

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

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2002), the California Independent System Operator Corporation ("ISO") submits its Motion for Leave to File Answer and Answer to the Comments and Protests submitted in the above-captioned docket.¹

I. BACKGROUND

On November 25, 2002, the ISO filed, in Docket No. ER03-219-000, an amended Transmission Control Agreement ("TCA"),² executed by Pacific Gas and Electric Company ("PG&E"), San Diego Gas & Electric Company ("SDG&E"), Southern

¹ Notwithstanding Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), the Commission has accepted answers to protests 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 ISO's Answer will clarify matters under consideration, aid the Commission's understanding and resolution of the issues and help the Commission to achieve a more accurate and complete record, on which all parties are afforded the opportunity to respond to one another's concerns. *Northern Border Pipeline Co.*, 81 FERC ¶ 61,402 (1997); *Hopkinton LNG Corp.*, 81 FERC ¶ 61,291 (1997). The Commission accordingly should accept this Answer.

² The TCA is the agreement among the ISO and Participating Transmission Owners ("Participating TOs") that establishes the terms and conditions under which Transmission Owners place certain transmission facilities and Entitlements under the ISO's Operational Control, thereby becoming Participating TOs. The TCA describes how the ISO and each Participating TO will discharge its respective duties and responsibilities with respect to the operation of those facilities and Entitlements. Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

California Edison Company ("SCE"), and the City of Vernon, California ("Vernon") (the existing ISO Participating TOs), and the Cities of Anaheim, Azusa, Banning, and Riverside, California (together, "Southern Cities"). The purpose of the amended TCA was: (1) to clarify, amend, and supplement various provisions of the current TCA in response to issues raised by the Southern Cities, (2) to identify the transmission interests that Southern Cities would be turning over to the ISO's Operational Control, and (3) to make certain other changes to the TCA proposed by the ISO and the current Participating TOs.

In connection with the amended TCA, the ISO also filed on November 25, 2002, in Docket No. ER03-218-000, Amendment No. 47 to the ISO Tariff, which proposes to modify the Tariff to be consistent with the provisions of the TCA that are being amended to accommodate the Southern Cities becoming Participating TOs. The process of becoming a Participating TO involves signing the TCA and turning over Operational Control of transmission facilities and Entitlements to the ISO. The Southern Cities requested several changes to the TCA prior to signing it, which necessitated minor changes to the ISO Tariff. Amendment 47 reflects the necessary Tariff revisions.

In addition to the amended TCA and Amendment 47, the ISO filed, on December 2, 2002, in Docket No. EC03-27-000, an application to assume Operational Control of the facilities and Entitlements being turned over by the Southern Cities. The Commission issued an order on December 23, 2002 authorizing the transfer. *California Independent System Operator Corp.*, 101 FERC ¶ 62,191 ("December 23 Order").

Several parties filed Comments or Protests in these dockets. The ISO filed an Answer to the Comments and Protests filed in the ER03-218 and ER03-219 dockets on

December 31, 2002, but did not file an answer to the pleadings in this docket because the Commission already had issued the December 23 Order approving the transfer.

On December 30, 2002, CDWR filed a Request for Rehearing of the December 23 Order, based on the allegation that the Commission did not take CDWR's December 20 Protest into account in approving the ISO's 203 filing.

In light of the confusion that has arisen about the status of the December 23 Order,³ the ISO files this Motion for Leave to File Answer and Answer to the Protests filed by the California Department of Water Resources ("CDWR") and SCE in this docket, as well as to the Request for Hearing of CDWR.⁴

II. MOTION FOR LEAVE TO FILE ANSWER

As noted above, the ISO did not previously file an Answer to the Protests and Request for Hearing filed in this docket because the Commission had issued the December 23 Order accepting the transfer of the Southern Cities' Entitlements to ISO Operational Control. Some time after the December 23 Order was issued, and after the time to prepare a timely Answer to Protests in the absence of the Order had passed, there was some indication that the Commission intended to rescind the Order due to some procedural irregularities. To the ISO's knowledge, the December 23 Order has not been rescinded as of the date of this pleading.

Nonetheless, out of a desire to clarify matters under consideration, aid the Commission's understanding and resolution of the issues and help the Commission to

³ See the January 10, 2003 "Protest and Request for Hearing [] of the California Department of Water Resources State Water Project" in Docket No. ER03-310-000 at 7-8 and Exhibit 2.

⁴ CDWR appended its December 20 Protest to its December 30 Request for Rehearing.

achieve a more accurate and complete record, the ISO requests leave to file this Answer to the Protests and Request for Hearing filed in this docket.

Moreover, due to the confusion surrounding the December 23 Order, the ISO requests that the time period for submitting this Answer be tolled from the date of CDWR's Request for Rehearing (*i.e.*, December 30), rather than that of the original Protests.

III. ANSWER TO PROTESTS AND TO REQUEST FOR HEARING

A. The Entitlements Being Turned Over to ISO Operational Control Are Available for Use by Other Market Participants

SCE and CDWR express concern that the new transmission Entitlements that the Southern Cities are proposing to turn over to ISO Operational Control will not be made available by the ISO for use by Market Participants. SCE at 2-4; CDWR at 11-14. The ISO acknowledges that delays occurred in its implementation of systems changes necessary to make all of the transmission Entitlements of Vernon, the first new utility to become a New Participating TO, available for use by Market Participants. The ISO has engaged in an intensive effort, however, to reconfigure its systems and add new branch groups to make all new Entitlements of the Southern Cities and Vernon available for Market Participant use as of January 1, 2003, the date that the ISO has requested the revised TCA be made effective.

On December 16, 2002, the ISO issued a Market Notice⁵ to all ISO Market Participants announcing the availability of scheduling rights on the new Entitlements of the Southern Cities as of January 1, 2003 and the modifications that have been made to

⁵ See <http://www.caiso.com/docs/09003a6080/1c/fa/09003a60801cfa7b.pdf> .

the ISO system network model to create five new branch groups, tie points, and Congestion Zones for Market Participant use in that scheduling.⁶ The ISO subsequently held a "market simulation" for scheduling at the new Scheduling Points on December 26 and 27, 2002. All systems issues have been resolved sufficiently to permit Market Participant use of the Southern Cities' Entitlements as of January 1, 2003, and all Scheduling Coordinators have had those new paths available to them since that time. On that basis, the ISO urges the Commission to reject the objections of SCE and CDWR in this regard.

B. The New Entitlements Are Not "Gen Ties"

CDWR provides an extensive discussion of the characteristics of "generation tie lines" ("gen ties") and suggests that some of the new Entitlements proposed to be turned over to ISO Operational Control by the Southern Cities are gen ties that should be rejected by the ISO. CDWR argues certain Southern Cities facilities have "hallmarks" of gen tie facilities and that any such facilities that are (1) identified as gen tie facilities and thus not appropriate for inclusion in the ISO's transmission Access Charge rates and (2) are not comparably usable by ISO transmission customers, should not be transferred to the ISO's Operational Control. CDWR at 2-8. CDWR maintains that Commission policy defines network facilities as those that are "at or beyond the point where the customer or generator connects to the grid," and thus properly are

⁶ SCE notes in its Protest that if the ISO were to "implement this new model and makes the other necessary arrangements, it should eliminate [SCE's] concern about [the new] entitlements being usable by other market participants." SCE at 3-4. The ISO submits that it has taken the actions necessary to eliminate SCE's concerns, and the ISO understands from recent contacts with SCE that SCE's concerns have been eliminated.

excluded from ISO Operational Control. CDWR at 3.⁷ According to CDWR, subsidization of gen ties "raises serious policy issues concerning," among other things, "undue cost shifts" and "unfair competitive advantage to certain favored generators." CDWR at 3.

The function of the Southern Cities' Entitlements is providing network transmission rights, as is evidenced in the Attachments, rather than serving as gen ties. As established in the ISO's systems, the five new branch groups over which scheduling with the ISO is now permitted through use of the Southern Cities' Entitlements are linked to other elements of the western interconnected transmission system and not just to a particular generator. Attachment A to this Answer provides a general map of the Southern Cities' Entitlements. Attachment B is a map of the Western Electricity Coordinating Council transmission facilities. As can be seen from the maps, the Southern Cities' Entitlements provide transmission paths to the east of the existing ISO Control Area. These new paths will provide Scheduling Coordinators with opportunities for purchases and sales in the Rocky Mountain region. The Northern Transmission System ("NTS") links Nevada and Utah together and the Southern Transmission System ("STS") links the NTS to California through a DC line. The Southern Cities' transmission rights to the STS total 534 MW, whereas their entitlement to power from the Intermountain Power Project is 350 MW. Thus the transmission capacity is greater than the generation entitlement provided the unit is at 100% capacity factor. As can be seen from the attached maps, those additional transmission rights are network rights, as the branch group that includes the transmission rights between the Intermountain Power

⁷ *Citing Standardization of Generator Interconnection Agreements and Procedures*, Notice of Proposed Rulemaking, FERC Stats & Regs ¶ 32,560, at 34,175 (Apr. 24, 2002).

Project and the ISO Control Area includes additional transmission scheduling rights to both the Mona and Gonder Substations, which are integrated with the western interconnected transmission system. The segment of the 230 kV transmission line to Gonder interconnects with the Sierra Pacific Power Company and serves central Nevada. The segment of the 345 kV transmission line to Mona interconnects with PacifiCorp serving both north to the Salt Lake City area of Utah and south to central Utah. Each of these interconnecting facilities interconnects further to provide the foundation for the WECC principal transmission systems. In addition, the Southern Cities have Entitlements that result in additional transmission capacity through the Mead-Phoenix and Mead-Adelanto projects from central Arizona and Southern Nevada.

C. CDWR's Analysis of the Costs and Benefits of the ISO Assuming Operational Control of the Southern Cities' Entitlements is Incorrect and Inapposite

1. Benefits

CDWR argues that “[n]o tangible benefit has been identified to support the transfer of facilities proposed in the ISO’s Application,” and that the costs of rolling in Entitlements and facilities that are not usable to ISO customers outweigh the hypothetical benefits. CDWR at 8-13. As already shown, CDWR builds its argument on a faulty premise. The Entitlements and facilities have been available to all Scheduling Coordinators since Operational Control was turned over to the ISO on January 1, 2003 and these new facilities allow access to a number of Control Areas in Nevada, Utah and Arizona. In addition, while the Southern Cities were given Firm Transmission Rights (“FTRs”) commensurate with their transmission Entitlements as allowed in Section 9.4.3 of the ISO Tariff, these facilities are available for use by any Scheduling Coordinator

when they are not scheduled by one of the Southern Cities in the Day-Ahead Market, and hence such other Market Participants will receive the benefit of the opportunity to use such facilities.

2. Costs

As a threshold matter, CDWR's objections regarding the costs of these Entitlements coming under ISO Operational Control impact the question of whether or not it is appropriate to include the Transmission Revenue Requirements associated with specific Southern Cities' facilities in the transmission Access Charge rate charged by the ISO, and not whether the ISO assuming Operational Control over the facilities is appropriate. The Southern Cities' TRRs are more appropriately addressed in the settlement proceedings the Commission recently has established in the consolidated dockets for that specific purpose. *City of Azusa, et al.*, 101 FERC ¶ 61,352 (December 23, 2002). It would be needlessly duplicative to evaluate the TRRs in both proceedings. Nonetheless, in response to CDWR's arguments, the ISO provides the following brief discussion.

According to CDWR, customers of existing Participating TOs would be "subjected to significant increased Transmission Access Charge rates associated with any use of the ISO Grid following the transfer of these facilities to ISO control since these facilities would apparently remain unusable by others than the Southern Cities." CDWR at 9. Again, CDWR is incorrect. The facilities have been available to all Scheduling Coordinators since January 1, 2003, as discussed above. Moreover, while the Transmission Revenue Requirement associated with the facilities may be more expensive on a \$/MWH basis, this increase was contemplated when the ISO filed the

Access Charge methodology as ISO Tariff Amendment No. 27 in March 2000, and provided a gradual transition over a ten-year period to dampen the impact of combining varying transmission rates into a single rate, as discussed in more detail below.

CDWR asserts that the incorporation of the Southern Cities' Entitlements into the ISO Controlled Grid will be costly to transmission customers. CDWR at 9-11. Setting aside the benefits gained for Market Participants by the ISO assuming Operational Control of the Entitlements, Section 4.1.3 of the TCA does not give the ISO the ability to refuse to incorporate transmission facilities and Entitlements into the ISO Controlled Grid based on cost considerations. Allowing such cost-based refusal, in fact, could preclude Transmission Owners with more costly facilities and Entitlements from ever integrating their facilities into the ISO Controlled Grid, regardless of the benefits to overall system coordination and reliability. Moreover, the ISO designed the ten-year transition process for the ISO's High Voltage Access Charge incorporated into ISO Tariff Appendix F, Schedule 3 in part to alleviate potential cost impacts of the incorporation of more costly transmission facilities and Entitlements into the ISO's transmission Access Charge.⁸

In addition, CDWR fails to acknowledge that the Southern Cities, while incorporating their Transmission Revenue Requirements into the ISO's transmission Access Charge, will also have to pay a larger share of the Access Charge than they paid prior to becoming Participating TOs, as their share will now be assessed based on their Gross Load. Prior to becoming Participating TOs, the Southern Cities only paid the Access Charge based on their "new firm use" of the ISO Controlled Grid.

⁸ The cost of transmission from utilities in the ISO Control Area on a \$/MWH basis varies from approximately \$0.5/MWH to \$12/MWH.

As required by the ISO Tariff, the ISO filed the revised Access Charge to be effective January 1, 2003 to incorporate the New Participating TOs and the revised Transmission Revenue Balancing Account for each of the existing Participating TOs. In addition, January 1, 2003 also triggered the next step in the transition of the ISO's Access Charge to a single rate. In accordance with the transition schedule set forth in Section 5.8 of Schedule 3 of Appendix F of the ISO Tariff, the Access Charge is now split 70% TAC Area and 30% ISO Grid-wide. The filed Access Charge rates incorporating all of these changes are: North \$1.5848/MWH, East/Central \$2.3887/MWH and South \$2.2693/MWH. If the ISO had not incorporated the Southern Cities' transmission Entitlements, but had continued the transition as allowed in the ISO Tariff and incorporated the revised TRBAs, the Access Charge rates would have been: North \$1.5275/MWH, East/Central \$2.0513/MWH and South \$2.2120/MWH. The "significant increase" cited by CDWR is a very small \$0.0573/MWH for the North and South, and just \$0.3374/MWH for the East/Central.

CDWR warns that wholesale customers' costs will increase due to the ISO's administrative costs associated with the addition of the Entitlements. CDWR at 9. Among such increased administrative costs, according to CDWR, are costs for Reliability Support and the Grid Management Charge ("GMC"). *Id.* at 9-11.

As CDWR is aware, the GMC is a completely separate charge from the transmission Access Charge, and issues related to what ought to be included in the GMC are more appropriately considered in specific GMC proceedings before the Commission. Nonetheless, the GMC is likely to decrease as a result of the transfer of these Entitlements, because the Southern Cities' Existing Contracts have now been

converted and are operating in accordance with the ISO Tariff, decreasing the number of manual workarounds the ISO must perform.

CDWR's concern regarding costs for "Reliability Support" also is misplaced. "Reliability Support" as implemented by the ISO is a requirement of the ISO Control Area. All of the transmission facilities over which the Southern Cities have newly turned over Operational Control to the ISO are outside the ISO Control Area; thus the "Reliability Support" requirement of the ISO has not changed. The rights provided to the ISO allow the ISO scheduling rights on transmission facilities in other Control Areas.

D. Firm Transmission Rights

CDWR criticizes the ISO for failing to explain how FTRs will be allocated to the Southern Cities once their Entitlements have been transferred to the ISO's Operational Control. CDWR at 14-15. In accordance with the ISO Tariff, FTRs for New Participating TOs are allocated in accordance with Section 9.4.3, commensurate with the transmission rights the New Participating TO is turning over to ISO Operational Control. Attachment C provides a list of the FTRs given to the Southern Cities for each of their transmission Entitlements.

E. A Hearing is Not Necessary on This Matter

CDWR requests that the Commission set the proposal to transfer Operational Control of the Southern Cities' Entitlements to the ISO for hearing. As support for this request, CDWR provides a list of material issues it claims are in dispute in this matter. CDWR at 16.

A hearing is not required to resolve any issues identified by CDWR, as the ISO has provided sufficient information to demonstrate that its assumption of Operational Control over the Entitlements in question is appropriate. CDWR's claim of inability to use the Southern Cities' Entitlements is without merit. All Scheduling Coordinators, including CDWR, have had the ability to schedule on these paths since January 1, 2003. The assertions that the Southern Cities' Entitlements are gen ties are also without merit. As demonstrated in Attachments A and B, the facilities are integral parts of the western grid. Additionally, as demonstrated above, the Southern Cities' transmission rights to the STS are greater than their generation ownership in the Intermountain Power Project and provide access to the integrated transmission network.

The issue of costs, on which CDWR rests so much of its argument, is not relevant to the question of whether Operational Control of the Entitlements should be transferred to the ISO, as described above. The ISO must make decisions of this nature based on the reliability and coordination of the system. Whether such costs and other elements of the Southern Cities' TRRs are reasonable are issues to be dealt with in the consolidated proceeding in EL03-14, *et al.*, and an additional hearing in this docket is neither necessary nor appropriate.

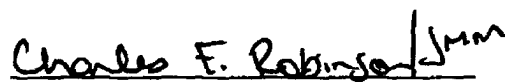
The criticisms that CDWR asserts regarding FTR allocation are also without merit. The allocation requirements are outlined in Section 9.4.3 of the ISO Tariff, and the ISO has included in Attachment C specifically what FTRs have been provided to each of the Southern Cities on each of the branch groups on which they have Entitlements. The 203 filing of December 2 is voluminous and comprehensive, and it

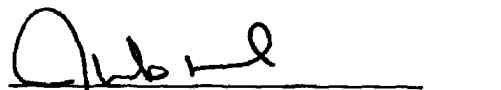
amply demonstrates the desirability of turning over the Entitlements to the ISO's Operational Control.

IV. CONCLUSION

For the reasons described above, the ISO requests that the Commission accept this Motion to File Answer, approve the ISO's December 2 203 filing and allow the Entitlements to come under ISO Operational Control effective January 1, 2003.

Respectfully submitted,


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Dated: January 14, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC, this 14th day of January, 2003.



Julia Moore