

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

**California Independent System) Docket No. ER05-155-000
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER ONE DAY OUT OF TIME AND
ANSWER TO MOTIONS TO INTERVENE, PROTESTS, ANSWERS, AND
COMMENTS OF THE CALIFORNIA INDEPENDENT
SYSTEM OPERATOR CORPORATION**

On November 1, 2004, the California Independent System Operator Corporation (“ISO”)¹ filed the “PACI-W Operating Agreement” (“PACI-W Agreement”) between the ISO and the Western Area Power Administration – Sierra Nevada Region (“Western”) and the “Interim COTP Operations Agreement” (“ICOA”) between the ISO and the Transmission Agency of Northern California (“TANC”). These agreements implement the comprehensive settlement of issues resulting from the termination of a number of Existing Contracts Western and TANC had with Pacific Gas and Electric Company (“PG&E”). In particular, these agreements effectuate the settlement filed in FERC Docket Nos. ER04-688 and ER04-693 which would result in the termination of PG&E Rate Schedule No. 146, the Coordinated Operation Agreement (“COA”) and its replacement by the Owners Coordinated Operation Agreement (“OCO”), and PG&E Rate Schedule No. 35, Contract 2947A with

¹ Capitalized terms not otherwise defined herein have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

Western and its replacement by the Transmission Exchange Agreement (“TEA”) among PG&E, Western, and the ISO.

A number of parties submitted motions to intervene, comments, answers, and protests concerning the ISO’s filing.² Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the ISO hereby respectfully requests leave to file an answer one day out of time, and files its answer, to the comments, answers, and protests submitted in the above-captioned proceeding.³

The ISO does not oppose any of the motions to intervene. As explained below, however, the protests are without merit and the Commission should accept the filing without modification.

² The following parties submitted motions to intervene, comments, answers, and/or protests: Western, PG&E, Northern California Power Agency (“NCPA”), San Diego Gas & Electric Company (“SDG&E”), Bonneville Power Administration (“Bonneville”), Southern California Edison Company (“SCE”), Sacramento Municipal Utility District, Modesto Irrigation District; TANC, Lassen Municipal Utility District, and the Cities of Redding and Santa Clara, California and the M-S-R Public Power Agency (“Cities/M-S-R”). The Public Utilities Commission of the State of California submitted a notice of intervention.

³ Due to administrative difficulties, the ISO failed to file this answer within 15 days of the above-described filings being submitted. Given the fact that the answer is being submitted only one day out of time and the good cause for accepting the answer described below, however, the ISO respectfully suggests that the answer should be accepted.

To the extent this answer responds to the protests and answers, the ISO requests waiver of Rule 213(a)(2) (18 C.F.R. § 385.213(a)(2)) to permit it to make this answer. Good cause for this waiver exists here because the answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

I. BACKGROUND

As noted in the ISO's filing letter, the COA provides for the coordinated operation of the California-Oregon Transmission Project ("COTP") with the portion of the two 500-kV AC lines of the Pacific Northwest-Pacific Southwest Intertie located in northern and central California (the "Pacific AC Intertie" ("PACI")), which contains the "PACI-W" owned by Western and the "PACI-P" owned by PG&E). The combined three 500 kV lines are often referred to as the California-Oregon Intertie ("COI"). Among the most important elements of coordination under the COA are equal sharing among the three 500 kV lines of the COI rating and pro rata sharing of available COI transfer capability during curtailments. Until 1998 PG&E, as operator of the Control Area in which the COI facilities were located, performed essential administrative and operational functions under the COA, notably determining available scheduling capacity and coordinating curtailments and reallocation of scheduling capability among the three 500 kV lines with their owners and users. When the ISO assumed the role of Control Area Operator from PG&E in 1998, the ISO assumed these administrative duties under the COA as part of its Control Area Operator responsibilities and pursuant to the COA as an Existing Contract.

The COA terminates according to its terms on January 1, 2005. In addition, Contract 2947A terminates at that time.⁴ The PACI-W is an approximately 1,600 MW transmission line owned by Western from Malin to Round Mountain, and then Western has transmission rights from Round

⁴ The Commission's order of December 3, 2004 terminates Contract 2947A and the COA.

Mountain to Cottonwood, Cottonwood being a Western substation. Under Contract 2947A, PG&E, SCE, and SDG&E (collectively, the “Companies”) have had the use of 1,200 MW on Western’s Malin-Round Mountain 500 kV line, subject to reserving 400 MW for service to Western from Round Mountain to Tracy; Tracy is a western substation on the southern end of its system and the southern interconnection point for COTP. Thus Western has 400 MW of ownership rights from Malin to Round Mountain and 400 MW of contract rights under the Transmission Exchange Agreement (“TEA”) from Round Mountain to Tracy, all in the ISO Control Area.

On March 31, 2004, PG&E filed a Notice of Cancellation of the PG&E rate schedule containing the COA and the unexecuted OCOA. Beginning in early June 2004, Commission staff convened a series of technical conferences concerning the COA, Contract 2947A, and several other agreements being terminated at the end of this year. These conferences and additional discussions among the participants resulted in the Offer of Settlement filed in Docket No. ER04-693 and ER04-690 on October 15, 2004. On October 21, 2004, PG&E filed the agreements to complete the Offer of Settlement (“Offer”). The agreements filed were the OCOA, the California-Oregon Intertie Path Operator Agreement (“CPOA”), and the TEA. On December 3, 2004, the Commission accepted the Offer, terminated the appropriate agreements and made the OCOA and CPOA effective as of January 1, 2005.

Under Section 8.2.1 of the OCOA each party was required to “make arrangements, either collectively or individually, for its facilities that are a part of

the System to be operated within a NERC certified Control Area.”⁵ The PACI-W Agreement provides that the ISO will be the Control Area Operator for the Pacific AC Intertie (“PACI”) facilities owned by Western. The ICOA provides that the ISO will be the Control Area Operator for the COTP until the COTP is moved into the SMUD Control Area in late 2005.

PG&E supports the ISO’s filing as necessary to provide proper and reliable electric system use and coordination following the termination of Western Contract 2947A. PG&E at 3. As noted by TANC in its comments,⁶ the ICOA is an “integral part of the Offers of Settlement and related Agreements tendered for filing by PG&E, Western and the ISO” TANC at 6. Similarly, NCPA reminds “the Commission that the acquiescence of many parties to the settlement agreements recently filed in Dockets ER04-688, -689, -690 and -693 is conditional on Commission acceptance of those and related agreements as part of a package.” NCPA at 3.

II. ANSWER

A. The ISO Will Be Offering Open Access Transmission on the Western Capacity Obtained under the Transmission Exchange Agreement as Part of the Package of Agreements With the PACI-W Operating Agreement

SDG&E contends that the PACI-W Operating Agreement should be rejected because “together with the T E A, [it] removes 1200 MW of the PACI-W from the ISO Controlled Grid, which effectively removes this transmission from

⁵ System is defined in the OCOA as the combined PACI-P, PACI-W, and COTP.

⁶ Cities/M-S-R concur with the comments of TANC. Cities/M-S-R at 7.

the open access provisions of the ISO Tariff.” SDG&E at 5. This contention is wholly without foundation. To the contrary, it is without the TEA and the PACI-W Operating Agreement that the 1,200 MW of Western transmission capacity would be removed from the ISO’s control and subject to rate pancaking. Only by the approval of the TEA and the settlement package will Market Participants, including SDG&E, have continued access through the ISO to this vital link with the Pacific Northwest at non-pancaked rates. The Commission recently agreed, stating that “[t]he Transmission Exchange Agreement is a unique agreement which is beneficial to all parties” and noting that the ISO would receive access to 1,200 MW of import-export service to the Pacific Northwest which would be available under the ISO Tariff. *Pacific Gas and Electric Company*, 109 FERC ¶ 61,255, at P 49 (2004). The Commission also recognized that in its “Motion for Leave to Answer and Answer” filed in Docket No. ER04-688 on November 22, 2004, the ISO was willing to clarify that the 1,200 MW of capacity that the ISO is entitled to under the TEA is to be deemed as part of the ISO Controlled Grid for the purposes of those portions of the ISO Tariff relevant to the terms and conditions for the provision of transmission service on that capacity and ordered the ISO to do so in a compliance filing. *Id.* at P 52.

SCE contends that the PACI-W Operating Agreement is limited only to Western’s retained capacity (that is, capacity that the ISO is not authorized to use under the TEA). SCE at 3. That is correct, in that the whole intention of the PACI-W Operating Agreement is to establish the terms and conditions whereby Western will operate with the ISO as the NERC-certified Control Area Operator in

accordance with the requirements of Section 8.2 of the OCOA. SCE goes on, however, to state that the agreement goes beyond Western's retained capacity and also addresses Western's use of PG&E's capacity on the PACI-P. *Id.* at 4. This is without foundation. Section 2 of the agreement provides that "[T]his agreement governs the operational requirement of the ISO with respect to Western's ownership right in the System as detailed in Schedule 1." Schedule 1 specifies "400 MW PACI-W as may be modified in accordance with the Transmission Exchange Agreement." Western has no rights to PACI-P under the PACI-W Operating Agreement or the TEA, absent the sharing of capacity in a derate situation in accordance with the OCOA. Further, SCE's confusion is propagated through the remainder of its pleading by SCE's use of the term "Western Capacity" and "Western-Retained Capacity." The agreement is that the ISO's Market Participants get the use of 1,200 MW on the PACI-W in accordance with the ISO Tariff, and in return Western uses 400 MW of its ownership rights on PACI-W and the ISO will make available to Western 400 MW from Round Mountain to Tracy. The TEA provides for the exchange of the transmission capacity and the PACI-W Operating Agreement provides the terms and conditions for the operation of the PACI-W. Absent these two agreements, Western is treated the same as any other Scheduling Coordinator. As the Commission has already concluded:

We do not find that the Transmission Exchange Agreement is unduly discriminatory, but rather we find it to be just and reasonable. Here we have two 500 kV lines that operate in parallel and transmit power into two different control areas in California. In addition, in this proceeding, we have the exchange of capacity for the benefit of Western's and CAISO's customers and enhanced

reliability resulting from seamless operation of parallel operating systems. Although Western would receive exchange service outside the terms and conditions of the CAISO Tariff, there are substantial benefits accruing to the CAISO customers, *i.e.*, in exchange for 400 MW of capacity between the Round Mountain and Tracy substations, the CAISO would receive 1,200 MW of capacity between Malin and Round Mountain substations, the portion of the Pacific Intertie belonging to Western. Under the terms of the settlement, capacity under the control of the CAISO is subject to the terms and conditions of the CAISO Tariff. Accordingly, both parties would continue to be able to access power available from the Pacific Northwest and ensure reliability. Significantly, both the CAISO and Western would have operational control over capacity exchanged and made available to them under the Transmission Exchange Agreement. Such capacity would then be available to transmission customers under either the CAISO Tariff or Western's OATT.

Pacific Gas and Electric Company, 109 FERC at P 53. Accordingly, SCE's protest should be rejected.

B. The Cost Treatment Under the PACI-W Operating Agreement and the Interim COPT Is Reasonable, Reflecting Use of the Non-ISO Controlled Grid and the Comprehensive Bargain Reached in Restructuring the PG&E and Western Contracts

SCE alleges that Section 6.3 of the PACI-W Operating Agreement and Section 7.3 of the TEA do not make it clear what charges Western will be paying as they only address the Western Capacity and the ISO Capacity but not the Western-Retained Capacity. SCE at 5-6. As discussed above, this issue is moot, as SCE is confused about the rights under the agreements. The PACI-W Operating Agreement references the TEA with respect to the cost allocation of the 400 MW on the PACI-W, which Western owns and is scheduling with the ISO to facilitate reliable operation of the ISO Control Area, and the 400 MW from Round Mountain to Tracy. In using its own capacity, Western is responsible for Ancillary Services and losses. All other charges including, but not limited to, the

Access Charge, Congestion, Grid Management Charge (“GMC”), Must Offer, Neutrality, and Unaccounted-for Energy (“UFE”) will not apply.⁷ This is Western’s owned capacity that has not been turned over to ISO Operational Control. Moreover, if Western uses the ISO Controlled Grid, other than the 400 MW provided for in the TEA, all ISO Tariff charges apply. If the Commission determines that an additional clarification is needed, the ISO would suggest amending Section 6.3 of the PACI-W Operating Agreement as follows: “Charges for Western’s PACI, including its ownership right of 400 MW, shall be in accordance with the Transmission Exchange Agreement.” (Emphasis added.)

SCE and SDG&E protest the treatment of costs under the PACI-W and the Interim COTP. SDG&E notes that under the PACI-W Operating Agreement Western is exempt from certain ISO charges and similarly, under the Interim COTP, TANC also received exemptions. SDG&E at 7. With respect to COTP, again this is capacity that is not under the ISO Operational Control and is not part of the ISO Controlled Grid. Charges associated with Ancillary Services, Imbalance Energy, and losses apply. The Access Charge, Congestion, Neutrality, and UFE will not apply by virtue of the lack of use of the ISO Controlled Grid. In addition, as part of the negotiated settlement, GMC and Must Offer charges will not apply. However, if the COTP transaction uses the ISO Controlled Grid, then all applicable ISO Tariff charges apply. Thus, this

⁷ To avoid charges by Western to the ISO for the use of 1,200 MW on the PACI-W, a waiver of most charges was prudent (*i.e.*, a quid pro quo charging only the bare minimum costs required for operation of the line). Otherwise, the ISO could have been in a position that the cost for the use of the 1,200 MW varied based on the cost Western incurred to use the transmission exchange facilities. The value of the transfer capability to the Pacific Northwest at no additional cost above the ISO Tariff charges for the ISO’s Market Participants is enormous.

exemption does not apply to all non-Participating TO (“non-PTO”) COTP participants, but only to Load served in the SMUD Control Area and to the Modesto and Turlock Irrigation Districts.⁸ Moreover, regardless of the agreement, the ISO Tariff does not allow the ISO to charge the Access Charge, Congestion, or the Congestion component of the GMC for these transactions as the COTP is not an ISO Controlled Grid facility.

As TANC noted in its comments, any party can pick apart one element of the comprehensive negotiations in this docket. While the ISO might have preferred to keep the existing cost structure in place, it is equally true as reflected in TANC’s comments that the COTP participants would have preferred even greater exemptions. TANC at 8. Accordingly, the ISO submits that the agreements in this docket together with the other elements of the comprehensive settlement provide a significant benefit to the ISO market and do not lead to unjust and unreasonable or discriminatory rates. Additionally, absent the agreements submitted in this docket, there would be exacerbation of the ISO’s problem of non-ISO Controlled Grid transmission in the ISO Control Area that does not have some agreement with the ISO for operation, scheduling, and settlement that could impact the reliability of the Control Area.

SCE complains that these exemptions did not exist in Contract 2947A, which these agreements are replacing. SCE at 8. However, again SCE is confused. The PACI-W Operating Agreement and the ICOA are brand-new

⁸ The Non-PTO COTP Participants in the SMUD Control Area are Western, the City of Shasta Lake, Carmichael Water District, San Juan Suburban Water District, City of Roseville, and SMUD. In addition, the Modesto Irrigation District and Turlock Irrigation District do not use

agreements that for the first time establish the operation of non-ISO Controlled Grid facilities compatible with the ISO systems and market design, that have been executed with the ISO. Here there is no Existing Contract that has been grandfathered from a previous paradigm. The TEA replaces Contract 2947A.

C. Scheduling in Section 7.1 Applies to the Combined “System”

SCE complains that it is unclear whether Section 7.1 of the PACI-W Operating Agreement, which requires that the Scheduling of all transactions using Western’s rights to the “System” shall be in accordance with the ISO Tariff, applies to scheduling on the 1,200 MW the ISO obtained under the TEA, the 400 MW Western obtained under the TEA, or the 400 MW that Western retained. SCE at 11. The short answer is all three. Under the PACI-W Operating Agreement, Western will schedule its “retained” 400 MW in accordance with the ISO Tariff. Under the TEA, Western will schedule its 400 MW from Round Mountain to Tracy in accordance with the ISO Tariff. Under the ISO Tariff, any Scheduling Coordinator using the ISO’s 1,200 MW will schedule in accordance with the ISO Tariff.

D. The Creation of a 20-Minute Scheduling Right is Appropriate

SCE objects to the use of a new defined term in the Interim-COTP – a “Scheduling Entity” that can change schedules up to 20 minutes before the operating hour. SCE at 15. The ability to change schedules up to 20 minutes before the operating hour is a critical requirement for the non-PTO COTP Participants. That additional adjustment is a mechanism that was available in the

ISO Controlled Grid facilities to take receipt of their COTP transactions from the COTP Southern terminus to their respective city gates.

agreements that are terminating and is being grandfathered for the short period of time that the line will remain in the ISO Control Area.⁹

E. The Creation of a Scheduling Entity is Appropriate

SCE states it is discriminatory to allow the Scheduling Entity to schedule over its non-ISO Controlled Grid facilities when other entities such as SCE and SDG&E have been compelled by the ISO to schedule over non-ISO Controlled Grid facilities as Scheduling Coordinators. SDG&E complains that the treatment of the Agreements in these dockets is discriminatory when compared with the treatment of the Southwest Power Link (“SWPL”). SDG&E at 6. SDG&E attempts to compare the COTP to the SWPL are without merit as the SWPL is not analogous to the COTP and this is a further attempt by SDG&E to re-argue its point on an arbitration that is currently pending before the Commission. In its own comments, SDG&E notes that issues concerning the appropriate treatment of SWPL schedules and costs are currently pending in Docket Nos. EL04-24 and ER04-115. SDG&E at footnote 10. Accordingly, the Commission is already considering the reasonableness of the ISO’s charges for this facility.

⁹ It is anticipated that the COTP will move to the SMUD Control Area in the fall of 2005.

III. CONCLUSION

WHEREFORE, for the foregoing reasons, the ISO respectfully requests that the Commission accept the filing without modification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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

Dated at Folsom, CA, on this 8th day of December, 2004.

/s/ John Anders
John Anders