

DRAFT

E-43

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

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| City of Azusa, California | Docket No. EL03-14-000 |
| City of Anaheim, California | Docket No. EL03-15-000 |
| City of Riverside, California | Docket No. EL03-20-000 |
| City of Banning, California | Docket No. EL03-21-000 |
| City of Vernon, California | Docket No. EL00-105-006 |
| California Independent System Operator Corporation | Docket No. ER00-2019-005 |

ORDER CONSOLIDATING DOCKETS AND INITIATING
SETTLEMENT PROCEEDINGS

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1. On October 18, 2002, the City of Azusa, California (Azusa) and the City of Anaheim, California (Anaheim) filed petitions for a declaratory order requesting a determination by the Commission that their respective Transmission Revenue Requirement (TRR), as approved by their respective rate setting body, is acceptable for the purpose of becoming Participating Transmission Owners (PTOs) in the California Independent System Operator Corporation (CAISO). On October 29, 2002, the City of Riverside, California (Riverside) and the City of Banning, California (Banning) filed similar petitions requesting the same relief. The Commission finds that these dockets raise similar issues and also raise issues similar to those being addressed in the City of Vernon order (Docket Nos. EL00-105-006 and ER00-2019-005), which is being issued concurrently with this order.¹ In City of Vernon, the Commission initiates settlement

¹See City of Vernon, California and California Independent System Operator

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proceedings to provide the parties the opportunity to resolve the matters at issue. Accordingly, the Commission will initiate settlement proceedings with respect to the four petitions filed by Azusa, Anaheim, Riverside and Banning, and will consolidate these proceedings with the proceeding in City of Vernon for purposes of settlement.

Summary of Filings

2. On October 18, 2002, Azusa and Anaheim filed petitions for a declaratory order by the Commission: (1) a determining that their TRRs, as approved by their respective rate setting body, is proper for the purpose of their becoming PTOs in the CAISO, (2) approving their Transmission Owner Tariffs (TO Tariffs), (3) waiving filing fees for the petition, and (4) granting any other relief or waiver necessary and appropriate for approval or implementation of their respective TRR and TO Tariff effective as of the later of January 1, 2003 or the effective date of a Transmission Control Agreement acceptable to them.² The petitioners assert that, upon becoming PTOs, they will turn operational control of their transmission entitlements over to the CAISO and will be reimbursed by the CAISO based on their TRRs through the CAISO's collection of its Transmission Access Charge (TAC) and Wheeling Access Charge rates for transmission service provided to the CAISO's customers. On October 29, 2002, Riverside and Banning filed similar petitions requesting the same relief.

Notice of Filing and Pleadings

3. Notice of Azusa's and Anaheim's filings were published in the Federal Register, 67 Fed. Reg. 67,170 (2002), with comments, interventions and protests due on November 18, 2002. Notice of Riverside's and Banning's filings were published in the Federal Register, 67 Fed. Reg. 68,120 (2002), with comments, interventions and protests due on November 21, 2002.

4. The California Department of Water Resources of the State Water Project (CDWR); the Cities of Redding, Santa Clara and Palo Alto, California and the M-S-R Public Power Agency; the City of Vernon, California (Vernon); the California Electricity Oversight Board; the Northern California Power Agency; the Metropolitan Water District

¹(...continued)

Corporation, _____ FERC ¶ _____ (2002).

²On November 25, 2002, the CAISO filed a superseding Transmission Control Agreement (TCA) in Docket No. ER03-219-000 and requests the superceding TCA be effective January 1, 2003.

of Southern California; the Modesto Irrigation District; the Pacific Gas and Electric Company; CAISO; and the Transmission Agency of Northern California filed timely motions to intervene. The Southern California Edison Company, San Diego Gas & Electric Company and the Pacific Gas & Electric Company (Joint Movants) jointly filed a similar protest in all the proceedings. CDWR filed protests in the Anaheim and Riverside proceedings. The CAISO filed comments in all the proceedings.

5. On December 3, 2002, Azusa, Anaheim, Banning and Riverside filed answers in their respective proceedings. On the same day, Vernon filed answers in the Azusa and Anaheim proceedings, and on December 6, 2002 it filed answers in the Riverside and Banning proceedings.

Protests and Comments

6. Joint Movants argue that the Commission must use the level of review applied to jurisdictional utilities under section 205 of the Federal Power Act to determine whether the CAISO's access charges are just and reasonable when the CAISO passes through the proposed TRRs. They raise concerns regarding the proposed inclusion of a general transfer fund in Anaheim's and Riverside's TRRs. Joint Movants protest Azusa's and Banning's use of SoCal Edison's last-authorized rate of return to establish its rate of return. They challenge Azusa's and Banning's assertion that their transmission investments are at a higher risk than SoCal Edison's.

7. Joint Movants further contend that the TRRs should exclude costs associated with transmission entitlements that cannot be usable by the CAISO's market participants. They assert that Anaheim's and Riverside's TRRs are overstated due to a failure to include Wheeling and Usage Charge Revenues in a Transmission Revenue Balancing Account (TRBA) that serves as a reduction to the TRRs, and that Azusa has not supplied enough data to evaluate its Wheeling and Congestion Revenue forecast used in its TRBA. Joint Movants also contend that the proposed TO Tariffs define Transmission Revenue Credit (TRC) in a manner that the Commission has found to be unjust and unreasonable as applied to new Participating TOs.³ They request that the Commission (1) reject the proposed TRRs or suspend them and set the issues of the justness and reasonableness of the proposed TRRs for hearing and (2) require the petitioners to modify their TO Tariffs or set them for hearing.

8. CDWR is concerned that certain costs Anaheim and Riverside propose to include in transmission rates actually function to support competitive generation. CDWR asserts

³See City of Vernon, California, 101 FERC ¶ 61,051 (2002).

that Anaheim and Riverside have not provided evidence that demonstrates (1) that market participants would use facilities interconnecting Riverside's and Anaheim's generation entitlements to the larger grid that would be paid for through rolled-in CAISO rates or (2) that these facilities would serve any function other than continuing to deliver remote Riverside and Anaheim generation to those two cities.

9. In its comments, CAISO asserts that it considers Anaheim's and Riverside's assessment of a percentage of the TRR in surcharges for transfers to its General Fund to be reasonable because it represents a rate of return. It argues that Azusa and Banning should calculate a rate of return based upon its own circumstances rather than using a rate which is based upon the figure used by SoCal Edison in its TRR. The CAISO asserts that Azusa's, Anaheim's, Riverside's and Banning's use of "Transmission Revenue Credit" (TRC) differs from the manner in which the term is used in the CAISO's tariff. It contends that the change would allow Azusa, Anaheim, Riverside and Banning to keep the Usage Charge Revenue and Wheeling Revenue without crediting the TRR. Instead, the CAISO states that the TRC should be the net of the Firm Transmission Rights Auction revenue, if any, the Wheeling Revenue and the Usage Charge Revenue less the Usage Charges paid by Azusa, Anaheim, Riverside and Banning to serve their End-Use Customers, to the extent Riverside and Banning incur such Usage Charges. The CAISO submits that Anaheim's and Riverside's zero estimate for its Usage Charge Revenue and Wheeling Revenue is unreasonable and requests that Riverside be required to provide a reasonable estimate for these credits and revise its TO Tariff and TRR accordingly. Finally, the CAISO believes that the special termination provision in the TCA negotiated by Azusa, Anaheim, Riverside and Banning, which will allow them to withdraw from the TCA immediately if needed to avoid an adverse tax action, should be addressed in their respective TO Tariff.

Discussion

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the timely unopposed motions to intervene serve to make the entities that filed them a party to this proceeding.

11. Pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (a)(2)(2002), the Commission will reject the answers filed in these proceedings as impermissible answers to a protest.

12. On October 15, 2002, the United States Court of Appeals for the District of Columbia Circuit remanded to the Commission the question of whether the review conducted by the Commission of the revenue requirements of a non-jurisdictional entity – the City of Vernon, California – that is part of a jurisdictional Independent

System Operator (ISO) – the CAISO – was sufficient to ensure that the CAISO's rates will be just and reasonable under section 205 of the Federal Power Act. In a order on remand in that matter⁴ being issued concurrently with this order, the Commission initiates settlement proceedings to allow the parties to resolve the issues at matter. The Commission will similarly initiate settlement proceedings for the petitions filed by Azusa, Anaheim, Riverside and Banning and because the matters at issue in the four petitions raise common issues of law and fact, the Commission will consolidate them for purposes of settlement.

The Commission orders:

(A) The Commission hereby consolidates Docket Nos. EL03-14-000, EL03-15-000, EL03-20-000 and EL03-21-000 with the City of Vernon (Docket Nos. EL00-105-006 and ER00-2019-005) proceeding for purposes of settlement, as discussed in the body of this order.

(B) The settlement judge designated in City of Vernon shall determine the procedures best suited to accommodate consolidation of the proceeding identified in Ordering Paragraph A.

By the Commission.

Secretary

⁴See City of Vernon, California and California Independent System Operator Corporation, _____ FERC ¶ _____ (2002).