

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

**California Independent System)
Operator Corporation)**

Docket No. ER13-794-000

**MOTION FOR LEAVE TO ANSWER THE PROTEST AND
COMMENTS SUBMITTED IN RESPONSE TO
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION'S FILING
OF THE FIRST AMENDED OPERATING AGREEMENT**

The California Independent System Operator Corporation ("ISO")¹ hereby submits this motion for leave to answer the protest and comments submitted in response to the ISO's filing in this proceeding of the First Amended Operating Agreement between the ISO and PacifiCorp ("Amended Operating Agreement").²

The following parties filed comments in this proceeding: Powerex Corp. ("Powerex"); Iberdrola Renewables, LLC; and Pacific Gas and Electric Company ("PG&E"). Each of these parties supports the Amended Operating Agreement. Powerex requests clarification of a few details concerning the implementation of the amended agreement, which the ISO provides below.

¹ Capitalized terms not otherwise defined herein have the meanings set forth in Appendix A to the ISO tariff.

² The ISO submits this answer pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213. Under Rule 213(a)(1) of the Commission's Rules of Practice and Procedure, a party may answer any pleading unless otherwise prohibited. There is no prohibition of answers to comments. The Commission has accepted answers to protests if such answers clarify the issues in dispute or provide information that assists the Commission in making a decision. *See, e.g., Southwest Power Pool, Inc.*, 89 FERC ¶ 61,284 at 61,888 (1999); *El Paso Electric Co., et al. v. Southwestern Pub. Serv. Co.*, 72 FERC ¶ 61,292 at 62,256 (1995); *Equitrans, L.P.*, 134 FERC ¶ 61,250, at P 6 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,023, at P 16 (2010); *Xcel Energy Services, Inc.*, 124 FERC ¶ 61,011, at P 20 (2008).

The Transmission Agency of Northern California (“TANC”) submits a pleading captioned as a protest but which does not oppose any aspect of the Amended Operating Agreement. Instead, TANC requests that the Commission condition its approval of the Amended Operating Agreement on a requirement that the ISO undertake a stakeholder process that addresses the possibility of including “option” congestion revenue rights comparable to the PacifiCorp congestion revenue rights provided under the Amended Operating Agreement in the ISO tariff. As explained below, the ISO has already agreed to initiate a stakeholder process to consider making option revenue rights available to similarly situated entities, assuming it would be supported by stakeholders. Irrespective of this, the Amended Operating Agreement is just and reasonable based on the unique circumstances and background of PacifiCorp’s share of the Pacific AC Intertie (“PACI”) and because of the policy benefits of resolving a potential dispute concerning the interpretation of a settlement approved by the Commission in Docket Nos. ER07-1373, *et al.* (“Settlement”).³ The Commission should approve the Amended Operating Agreement without any condition related to the stakeholder process requested by TANC.

I. Answer

A. TANC’s Protest Should Be Rejected

TANC — the only party to protest the Amended Operating Agreement — does not oppose the concept of converting transmission ownership rights to congestion revenue rights and recognizes the merit in offering such a conversion right on a market-wide basis. Instead, TANC argues that if the ISO is unwilling to commit to develop a

³ The Commission approved the Settlement in *PacifiCorp, et al.*, 121 FERC ¶ 61,278 (2007).

tariff-based option congestion revenue rights, the Commission should condition its approval of the Amended Operating Agreement on the “ISO’s timely commencement of a stakeholder process to implement the option congestion revenue rights afforded to PacifiCorp and its customers.”⁴

As explained in the ISO’s January 24 filing in this proceeding, the proposed PacifiCorp option congestion revenue rights were developed as a direct result of the unique background of the ownership and treatment of the PacifiCorp share of the PACI, the 47 mile eastern segment of the PACI line from the Malin substation to Indian Spring, built and owned by PacifiCorp. PacifiCorp previously had leased the full capacity of the PacifiCorp segment to PG&E under a capacity agreement. PG&E owns the eastern segment of the line from Indian Spring to the Round Mountain substation. After PacifiCorp, in early 2007, indicated its intention to terminate the capacity agreement and to withdraw the capacity from ISO operational control, affected parties commenced various proceedings and negotiations regarding the related agreements and the future coordination of the California Oregon Intertie. The various complex issues concerning the PacifiCorp segment of the PACI were resolved in a complex Settlement approved by the Commission in Docket Nos. ER07-1373, *et al.* This Settlement was voluminous and included a series of interlocking agreements specific to the PACI, including the Operating Agreement.

In 2012, it became apparent that PacifiCorp and its customers disagreed with the ISO about an aspect of the Settlement and the Operating Agreement. Rather than continue to disagree or to initiate a dispute on this matter, the parties concluded after additional discussions that the proposed amendment to the Operating Agreement could

⁴ TANC at 8-9.

achieve the objectives of PacifiCorp and its customers without the need to formally resolve their differences. The Amended Operating Agreement, and in particular the availability to PacifiCorp and its transmission customers of option congestion revenue rights, maintains the important framework for the treatment of the PACI created by the Settlement without the need for any dispute resolution process.

The fact that these negotiations resolve a dispute supports acceptance of the Amended Operating Agreement. One important policy underlying the Commission's Rule 206 (b)(9) is to encourage settlement of issues without recourse to the Commission's resources.⁵ The Amended Operating Agreement fulfills this policy objective and in a manner that is not opposed by any party.

Notwithstanding the unique background of the PACI and the policy benefits of resolving a potential dispute concerning the interpretation of the Settlement, the ISO is committed to conduct a stakeholder process on the potential ISO tariff-based conversion of other transmission ownership rights to option congestion revenue rights. The issue is how to incorporate this stakeholder process into the ISO's market design initiatives. Each year the ISO undertakes an extensive stakeholder process to prioritize and plan market design initiatives. That process is complete for 2013, and the conversion of transmission ownership rights to option congestion revenue rights was not identified as market design enhancement. The ISO does commit to initiate a stakeholder process on the potential ISO tariff-based conversion of transmission ownership rights to option congestion revenue rights once the currently underway

⁵ *Complaint Procedures*, Order No. 602, *FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000* ¶ 31,071, at p. 30,756, *order on reh'g and clarification*, Order No. 602-A, *FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000* ¶ 31,076, *order on reh'g*, Order No. 602-B, *FERC Statutes and Regulations, Regulations Preambles July 1996-December 2000* ¶ 31,083 (1999).

stakeholder processes for priority initiatives are completed.⁶ At that time, both ISO and stakeholder resources become available to focus on this effort. This commitment should be sufficient without a Commission directive.

TANC also argues that the Commission should require updates in this docket every 90 days on the status of the stakeholder process to implement option congestion revenue rights until the ISO files a tariff amendment with the Commission to implement option congestion rights.⁷ Such a requirement is neither justified nor appropriate.

TANC has not demonstrated that either the Amended Operating Agreement or the ISO tariff is unjust or unreasonable. Moreover, even where the Commission has mandated a market enhancement, the Commission has recognized that requiring periodic status reports will be counter-productive because “the CAISO and market participants should focus their efforts on the stakeholder process and developing a workable scheme.”⁸

B. The ISO Provides the Clarifications Requested by Powerex

Powerex urges the Commission to accept the Amended Operating Agreement, but requests confirmation of a number of details concerning the implementation of the amended agreement.

Powerex states that one of the important aspects of the 2007 Settlement was an agreement by the parties that PacifiCorp's customers would not pay for transmission losses twice (*i.e.*, once to PacifiCorp and once to the ISO) for use of the Malin to Round Mountain capacity and requests confirmation that this will continue to be the case under

⁶ The comments filed in this proceeding demonstrate support from several stakeholders.

⁷ TANC at 9.

⁸ *California Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,043 at P 39 (2008).

the Amended Operating Agreement.⁹ The ISO confirms that PacifiCorp transmission customers that purchase service on PacifiCorp transmission facilities between Malin and Round Mountain and properly schedule their transmission ownership rights in the ISO market shall continue to be treated in accordance with section 17.2 and receive credits for marginal losses, thus eliminating the risk of being charged twice for transmission losses. This treatment is not changed by the Amended Operating Agreement. On the other hand, a PacifiCorp transmission customer that chooses to convert their rights into option congestion revenue rights under the Amended Operating Agreement exchanges the benefits of holding a transmission ownership right for the different benefits of holding a congestion revenue right. Any schedules by the transmission customer between Malin and Round Mountain after such a conversion using any additional available transfer capacity from the option congestion revenue rights will be subject to all ISO market charges, including charges for transmission losses.

Powerex asks for confirmation that the option congestion revenue rights available under the Amended Operating Agreement will have a quarterly term and should be elected on a quarterly basis in advance of the monthly congestion revenue rights process for the first month of the applicable quarter “i.e., that a PacifiCorp customer would make four elections per year, in advance of the January, April, July, and October CRR processes.”¹⁰ Powerex also requests confirmation that the ISO will accept elections to receive PacifiCorp option congestion revenue rights for the second quarter of 2013 on or before February 15, 2013, subject to the Commission’s acceptance of the

⁹ Powerex at 8.
¹⁰ *Id.* at 8-9.

Amended Operating Agreement.¹¹ The ISO confirms that the option congestion revenue rights available under the Amended Operating Agreement will have a quarterly term and should be elected on a quarterly basis. Also, the ISO did receive elections from PacifiCorp customers' for option congestion revenue rights for the second quarter of 2013 on February 15, 2013. The ISO intends to honor these elections if the Commission issues an order accepting the Amended Operating Agreement.

II. Conclusion

For the reasons explained above and in the ISO's January 24 filing in this proceeding, the Commission should accept the Amended Operating Agreement with PacifiCorp without condition.

Respectfully submitted,

By: /s/ John C. Anders

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¹¹ *Id.*

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced 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 Folsom, CA this 27th day of February, 2013.

Anna Pascuzzo

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