

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

City of Anaheim, California)	Docket No. EL03-15-000
City of Riverside, California)	Docket No. EL03-20-000
)	

**INITIAL BRIEF OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

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Pursuant to the procedural schedule adopted in this proceeding, the California Independent System Operator Corporation (“ISO”) submits its Initial Brief. The ISO’s positions will be presented under headings in the Joint Narrative Stipulation of Issues adopted in this proceeding.

I. JOINT PROCEDURAL HISTORY

The Joint Procedural History is included as Appendix A to the Initial Brief of the Commission Staff.

II. FACTUAL BACKGROUND

A. The Anaheim and Riverside Entitlements on the NTS and STS

The ultimate issue in this proceeding is whether the Cities of Anaheim and Riverside (the “Cities”) may include the costs of their Entitlements¹ in the Southern Transmission System (“STS”) and Northern Transmission System (“NTS”) in their Transmission Revenue Requirements (“TRR”) (and thus recover those costs through

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

the ISO's transmission Access Charge). The NTS consists of two 345 kV lines from the Intermountain AC Switchyard to the Mona Substation, and one 230 kV transmission line from the Intermountain AC Switchyard to the Gonder Substation. The STS consists of a 500 kV DC line from the Intermountain Converter Station to the Adelanto Converter Station. They are part of the Intermountain Power Project, which comprises two generating units (which make-up the Intermountain Generating Station), the NTS and the STS. Exh. ISO-1 at 4. At the Intermountain AC Switchyard, the generation facilities are separate from the transmission facilities. It is possible to schedule from a point on one side of the switchyard to a point on the other side. *Id.* at 7.

The Cities' Entitlements on the NTS and STS are as follows:

City	From	To	Capacity
Anaheim	Gonder	Intermountain	34 MW
Riverside	Gonder	Intermountain	11 MW
Anaheim	Intermountain	Gonder	7 MW
Riverside	Intermountain	Gonder	2 MW
Anaheim	Mona	Intermountain	307 MW
Riverside	Mona	Intermountain	168 MW
Anaheim	Intermountain	Mona	361 MW
Riverside	Intermountain	Mona	200 MW
Anaheim	Intermountain	Adelanto	339 MW
Riverside	Intermountain	Adelanto	195 MW
Anaheim	Adelanto	Intermountain	247 MW
Riverside	Adelanto	Intermountain	142 MW

Exh. CIT-11. Neither the STS nor the NTS are connected within or directly connected to the ISO Control Area. *Id.* Anaheim and Riverside, however, also hold Entitlements between Victorville (which is directly connected to the ISO Control Area and the ISO Controlled Grid² at Lugo) and Adelanto. *Id.*

B. ISO Operational Control of the Cities' NTS and STS Entitlements

In 2002, the Cities proposed to become Participating Transmission Owners ("Participating TOs") and to transfer their transmission facilities and Entitlements, including the NTS and STS to the ISO. The ISO received comments from SCE noting concerns, *inter alia*, that facilities would not be available for all Market Participants' use because they were outside the ISO Control Area. The ISO concluded that the location of the facilities outside the Control Area would not present a significant hindrance to their availability, citing similarly situated Entitlements of SCE and another Participating TOs that were under ISO Operational Control. Exh. SWP-66 at 1-2. SWP provided comments objecting to the transfer on the basis that the STS and NTS were generation ties. The ISO found this objection to be without merit. *Id.* at 2.

When the ISO filed for authorization to acquire the Cities' facilities and Entitlements, SCE and SWP filed protests, asserting that the terminal points of these Entitlements are not ISO Scheduling Points and that the paths are not currently available for scheduling under the ISO's scheduling protocols. *California Ind. Sys. Oper. Corp.*, 102 FERC ¶ 61,058 at P.7 (2003). The Commission approved the transfer of the facilities by letter order on December 23, 2002. *Id.* at P 1. On January 24, 2003,

² Of course, once placed under the ISO's Operational Control, the Cities' Entitlements themselves became part of the ISO Controlled Grid.

the Commission rescinded its letter order and issued an order approving the transfer. *Id.* at P.2. It rejected the arguments of SCE and SWP, noting that Scheduling Points had indeed been established. *Id.* at P. 13.

The ISO assumed Operational Control of the Cities' Entitlements in the NTS and STS on January 1, 2003, the effective date of the Cities' execution of the Transmission Control Agreement ("TCA"). Exh. ISO-1 at 4.³ Under the ISO Tariff, Operational Control is the right conveyed to the ISO from the Participating TOs through the TCA to direct the Participating TOs how to operate their facilities or use their Entitlements. The nature of the ISO's rights to direct Participating TOs depends upon the underlying rights of the Participating TOs in the transmission lines and facilities that have been turned over to ISO Operational Control. The ISO can have no greater rights than the Participating TO had prior to transferring the facilities to the ISO's Operational Control. Accordingly, Operational Control is a multi-faceted term and no single description can describe all the features of the ISO's Operational Control. In general, the features of the ISO's Operational Control appear in the ISO Tariff and Protocols and in the ISO's Operating Procedures. Operational Control varies significantly depending upon whether the transmission facilities are inside or outside the ISO Control Area. Among other matters, the ISO schedules, directs maintenance, coordinates outages, measures and controls power flows, and responds to system emergencies for ISO Controlled Grid facilities inside the ISO Control Area. For ISO Controlled Grid facilities outside the ISO

³ The TCA is the agreement executed by all Participating Transmission Owners to establish the relationship between the ISO and the Participating TOs with respect to Operational Control, interconnections, maintenance and outage coordination, and information. *Id.*

Control Area, the ISO's Operational Control is largely limited to ISO coordination of schedules and outages with the applicable Control Area Operator. *Id.* at 5.

C. Scheduling on the Cities' NTS and STS Entitlements Prior to September 17, 2004

In order to permit parties to schedule on the NTS and STS, the ISO developed scheduling procedures consistent with the ISO's Congestion Management model. Since the beginning of ISO operations, the ISO network model for Congestion Management has been composed of radially connected Congestion Zones. Congestion Management has been performed in the forward markets only on the Inter-Zonal Interfaces between Congestion Zones. The zonal model only considered major Congestion bottlenecks internally at the Path 15 and Path 26 branch groups, and inter-ties with external Control Areas. The inter-ties with external Control Areas are also radial to be consistent with Western Electricity Coordinating Council Scheduling practices where imports to and exports from the ISO are scheduled individually at each inter-tie, rather than as a net interchange. Exh. ISO-8 at 3-4.

In developing the branch groups for the NTS and STS, the ISO had to take into account the fact that the three branch groups form essentially a "T" shaped transmission system. In contrast to the Eldorado Branch Group, which puts Four Corners, Moenkopi, and Eldorado Schedules into a single radial path with one total Operating Transmission Capacity ("OTC"), the STS/NTS group is divided into separate branch groups with their own individual OTCs. All the Energy from NTS and STS must flow on STS; therefore the STS OTC was the limiting factor. As described above, the available (inbound) STS capacity is 534 MW. The ISO decided to divide the STS OTC between the paths to

three Scheduling Points on the “T”, IPP (representing the Intermountain AC Switchyard), Mona, and Gonder. In that manner, each could be represented as though it were a single branch group with its own individual OTC. This allowed the ISO to fix curtailments to the right segment and to apply necessary management to the individual points. Because the only Energy that could be injected at IPP was Generation from the Intermountain Generating Station, the IPP Branch Group OTC was established to allow the full Generation Schedules (i.e., the Cities’ 370 MW entitlement of the Intermountain Generating Station) into the ISO and the remainder of the 534 MW STS rating was distributed between Mona and Gonder OTC capacities. Exh. ISO-8 at 5. Accordingly, the Lugo-IPP import capacity was 370 MW; the Lugo-Mona import capacity was 160 MW; and the Lugo-Gonder capacity was 4 MW. Exh. ISO-12 at 7. Although the NTS and STS could have been treated as one branch group with one total, the ISO determined that its network model did not have the capability of managing a simultaneous dispatch because the ISO could not control the redistribution of OTC when there is a curtailment. Exh. ISO-8 at 5.

In addition, although the Cities have export-direction capacity from Adelanto to the Intermountain AC Switchyard and from the Intermountain AC Switchyard to Mona and Gonder, in order to get from the ISO SP15 Congestion Zone to Adelanto, it is necessary to use a portion of the Cities’ Entitlements from the mid-point of the Victorville-Lugo segment (i.e., the ISO Control Area boundary with the Los Angeles Department of Water and Power (“LADWP”) Control Area to Adelanto. The use of these Entitlements is governed by Anaheim’s and Riverside’s contracts with LADWP regarding the Mead-Adelanto Project and Mead-Phoenix Project transmission lines.

Because the ISO believed that these contracts prohibit “conjoining” the transmission rights under the LADWP contracts with other Entitlements for scheduling purposes, the ISO’s scheduling procedures prohibited exports from SP15 at Mona or Gonder. Exports were also impossible at IPP because there was no take-out point, *i.e.*, no connection to Load other than station service for the IPP Generators. Exh. ISO-12 at 4-5.

D. Scheduling on the Cities’ NTS and STS Entitlements After September 17, 2004

During the course of the proceedings, concerns were raised regarding the limitations that the ISO’s scheduling procedures imposed on the use of the NTS and STS by Market Participants. *See generally* Exhs. SWP-1, 49, 68, and 76; SCE-1, 10, and 21. Significantly, although Anaheim and Riverside had expressed concerns when the procedures were developed, there had been no indication of problems with the procedures in practice. Until this proceeding, no party had brought to the ISO’s attention any complaints about the operation of the models or access to the ISO Controlled Grid associated with NTS and STS. There was no significant Congestion on the branch group, which meant that no one who wanted to Schedule on the branch group was being denied the opportunity. Exh. ISO-12 at 13. Apparently, the concerns expressed did not reflect any actual deprivation of Scheduling opportunities.

After the close of the hearing in the initial phase of this proceeding, the ISO worked with the Cities and LADWP to revise the procedures to address, to the degree possible within the limitations of the ISO’s Congestion Model, the concerns raised by certain parties. Exh. ISO-12 at 5-6, 8. First, LADWP and Riverside informed the ISO that although the contracts do not specifically authorize the conjoining of the

Entitlements, they do not prohibit it, and LADWP indicated that it would not object to an interpretation that allowed conjunction of the Mead-Adelanto and NTS and STS Entitlements. This enabled the ISO to make Riverside's export capacity available to Mona and Gonder. Because of the ISO's radial model, however, Riverside's export capacity was constrained by Riverside's 118 MW of capacity from Victorville-Lugo midpoint to Adelanto. As a result, the new procedures make 116 MW of Riverside's export capacity available from Lugo to Mona and 2 MW of export capacity available from Lugo to Gonder. *Id.* at 6.

Second, the ISO concluded that it could merge the Mona and IPP Scheduling Points, so that there will be only one branch group. The total capacity of the branch group is 530 MW (reserving 4 MW for schedules from Gonder), although the status of the Intermountain Generating Units can reduce STS capacity from 534 MW to 222 MW when both generating units are offline.⁴ Anaheim and Riverside retain their scheduling priority for their Intermountain generation through the use of their Firm Transmission Rights ("FTRs"). *Id.* at 8.

Although the branch group import capacity from Mona exceeds the Cities' combined actual 475 MW OTC from the Intermountain AC Switchyard to Mona, this is not a practical problem. First, the ISO's share of the import capacity of the STS is 534 MW with both of the units of the Intermountain Generation Station units online, 383 MW with one unit online, and 222 MW with both units unavailable. If both units are operating, however, Anaheim and Riverside will receive 370 MW of Energy from the IPP

⁴ Similar to any other transmission line, the transfer capability is contingent upon the amount of generation at either end of the transmission line, especially on remote ties like the STS.

generation units, and Anaheim and Riverside have Firm Transmission Rights (“FTRs”) that they can use to schedule that Energy in the Day-Ahead Market. Transmission of that Energy does not require use of the NTS component of the branch group. In other words, during the period that Anaheim and Riverside possess FTRs, the actual capacity available on the NTS portion of the branch group should never exceed 475 MW because Anaheim and Riverside must take the IPP Energy. When the IPP generating units are available, Anaheim’s and Riverside’s exercise of FTRs in the Day-Ahead Market should reduce the 534 MW total capacity below 475 MW. When the IPP generating units are unavailable, the total capacity will be either 383 MW or 222 MW. LADWP agrees with this methodology and will, as the actual path manager, ensure that no section of the NTS or STS is overscheduled. *Id.* at 9-10.

The revised scheduling procedures include some additional modifications that are not relevant to the discussion below. The ISO will address them in its Reply Brief as necessary.

III. ARGUMENT

A. What Factors Should Be Considered And What Standards Should Be Applied In Determining Whether The Transmission Revenue Requirements (“TRRs”) Of The Cities, For Purposes Of Developing The ISO’s Access Charges, Should Include Costs, In Whole Or In Part, Associated With Their STS, NTS, And Related LADWP Contract Entitlements?

1. If A Facility Is Under The ISO’s Operational Control, And Performs Any Type Of Network Function, It Is Properly Included In The Participating TO’s TRR.

The Commission has established a two-part test governing the determination of whether facilities of a Participating TO should be included in its TRR. In *Pacific Gas and Electric Co.*, Opinion No. 466, 104 FERC ¶ 61,226 at P.13 (2003), the Commission

held that “[t]he relevant question now is simply whether operational control of the facilities was transferred to the ISO. If control was turned over, the facilities should be included in the [TRR].” Operational Control remains a prerequisite for inclusion in the TRR. On rehearing, the Commission revised that determination in part, holding that “issues relating to the utilities’ Transmission Revenue Requirements would be resolved in their individual tariff filings,” and that integrated network facilities were eligible for inclusion in the TRR. *Pacific Gas and Electric Co.*, Opinion No. 466-A, 106 FERC ¶ 61,144 at P 10,22 (2004). In denying SWP’s request for rehearing, the Commission elaborated on this point by stating that “ ‘any degree of integration is sufficient’ ” to justify rolled-in rate treatment. *Pacific Gas and Electric Co.*, Opinion No. 466-B, 108 FERC ¶ 61,297 (2004) at P 19⁵

⁵ *Quoting Northeast Texas Electric Cooperative, et al.*, Opinion No. 474, 108 FERC ¶ 61,084, at P 48 & n.66 (2004) (emphasis supplied by Order No. 466-B), *citing American Electric Power Service Corp.*, Opinion No. 311, 44 FERC ¶ 61,206 at 61,478 (1988), *reh’g denied*, Opinion No. 311-A, 45 FERC ¶ 61,408 (1988), *reh’g denied*, Opinion No. 311-B, 46 FERC ¶ 61,382 (1989).

Although the Commission has identified a two-part test, the ISO notes that, under the ISO’s policies, the two parts should be indistinguishable. Under the ISO’s policies, as reflected in the application to become a Participating TO, the following types of lines are excluded from a Participating TO’s transmission network:

- i. directly assignable radial lines and associated facilities interconnecting generation (other than those facilities which may be identified from time to time interconnecting ISO Controlled Grid Critical Protective Systems or Generators contracted to provide Black Start or Voltage Support) and
- ii. lines and associated facilities classified as “local distribution” facilities in accordance with FERC’s applicable technical and functional test and other facilities excluded consistent with FERC established criteria for determining facilities subject to ISO Operational Control.

Of particular significance in this proceeding, in Opinion No. 466-B, the Commission was primarily addressing SWP's arguments that the Commission had failed properly to evaluate the evidence showing that the facilities in question were generation ties. The Commission responded:

Our problem with the Initial Decision was that the judge -- having found the record "conclusive" that each of the contested facilities in all three categories performed "at least some network transmission function," and that "[n]o party disputes this fact," -- did not apply the proper legal standard, i.e., that any degree of integration is sufficient to establish that the costs of the facilities should be treated as transmission.

Turning to the issues concerning the record, the Commission observes that [SWP's] evidentiary claims largely do not come to terms with the judge's finding that all of the facilities perform some network function. Rather, [SWP's] focus is on to how great an extent the facilities perform such a function, which is irrelevant to the application of the policy described above. As the judge observed, the fact that the facilities performed some network function was not in dispute during the hearing.

108 FERC ¶ 61,297 at PP 19-20 (footnotes omitted.).

In addition, the ISO can refuse to accept facilities that cannot be integrated into the ISO Controlled Grid. Thus, the TCA criteria for the transfer of Operational Control are consistent with and reflect the Commission's criteria for the inclusion of facilities in rates, and issues regarding network integration properly can be resolved when the ISO submits an amendment to the TCA to provide for a New Participating TO. As a result, only those facilities that meet the Commission's criteria for inclusion in rates should be under ISO Operational Control.

2. Transmission Facilities Are Presumed To Be Part Of The Integrated Network And Thus Should Be Rolled In Unless There Is A Special Circumstance (Such As Lack Of A Fully Integrated Network, Facilities So Isolated From The Network That They Are And Will Remain Non-Integrated, Or Customer-Specific Distribution Facilities That Are Not Supportive Of The Network).

SCE witness Cuillier has accurately identified various Commission tests for evaluating whether a facility serves a network function; however, most of these tests are inapplicable to this proceeding. There is no suggestion by any participant that the STS and NTS are distribution facilities, so the Presiding Judge need not address the factors for distinguishing transmission and distribution facilities.⁶

Regarding other tests, the Commission in Opinion No. 466-B pointed to another recent decision, Opinion No. 474, *Northeast Texas Electric Cooperative, Inc, et al.*, 108 FERC ¶ 61,084 (2004), for relevant guidance regarding the nature of integration. Opinion No. 474 involved transmission provider-owned transmission expansions. The Commission explained that the various tests for customer credits were not applicable because that proceeding did not involve customer-owned facilities. *Id.* at P. 51. The STS and NTS are not customer-owned facilities for which the Cities are seeking a credit. Although the Cities may be “customers” when they take transmission service (just like any transmission provider takes service under its transmission tariff), they are not customers in their role as Participating TOs. In their role as Participating TOs, receiving the revenues from the ISO’s Access Charges, the Cities are transmission

⁶ In *Mansfield Municipal Electric Department et al. v. New England Power Company*, Opinion No. 454, 97 FERC ¶ 61,134 at 61,614 n.7 (2001), reh'g denied, Opinion No. 454-A, 98 FERC ¶61,115 (2002), (“*Mansfield*”) the Commission concluded that the seven-factor test for distinguishing distribution from transmission facilities was irrelevant to a determination of whether facilities were integrated network facilities.

providers, albeit indirectly (through the ISO). Thus, under Opinion 474, precedent concerning customer-owned facilities is inapplicable.

In Opinion No. 474, the Commission also refused to apply the *Mansfield* test⁷ as recommended by certain participants. The Commission explained that the test was to be used in special circumstances to establish the lack of integration, not the existence of integration:

The five-factor Mansfield Test was used to determine whether the radial lines at issue exhibited any degree of integration. Thus, the lines' negative showing with respect to all five factors established there were "exceptional circumstances" that merited direct assignment of their costs. In this proceeding, Trial Staff and [the utility] would have us require that facilities meet all five parts of the Staff Test to merit rolled-in treatment. This contradicts the Commission's policy that costs should be rolled in when any degree of integration has been shown.

Id. at P. 51.

Ultimately, in Opinion No. 474, the Commission endorsed the Initial Decision's reaffirmation of the Commission's "long-standing preference for rolled-in pricing of transmission facilities on a fully-integrated grid, based on the presumption that such facilities are integrated with the network and thereby benefit all customers." *Id.* at P. 9. As the Commission stated, "Transmission facilities are presumed to be part of the integrated network and thus should be rolled in unless there is a special circumstance

⁷ The five *Mansfield* Factors are (1) whether the facilities are radial, or whether they loop back into the transmission system; (2) whether energy flows only in one direction, from the transmission system to the customer over the facilities, or in both directions; (3) whether the transmission provider is able to provide transmission service to itself or other transmission customers over the facilities; (4) whether the facilities provide benefits to the transmission grid in terms of capability or reliability, and whether the facilities can be relied on for coordinated operation of the grid; and (5) whether an outage on the facilities would affect the transmission system. *Id.* at n. 31.

(such as lack of a fully integrated network, facilities so isolated from the network that they are and will remain non-integrated, or customer-specific distribution facilities that are not supportive of the network).” *Id.* at n. 13. Thus, the test of network integration that the Presiding Judge must apply is whether any participant has shown such special circumstances that the Presiding Judge must conclude that the Cities’ STS and NTS Entitlements are not integrated with the ISO’s network *to any degree*. *Only then* may the Presiding Judge conclude that the Cities are not entitled to include in the TRRs the costs associated with those Entitlements on the basis that the Entitlements are not integrated network facilities.

3. No Other Factors Should Be Considered Or Standards Should Be Applied In Determining Whether The TRRs Of The Cities Should Include Costs Associated With Their STS, NTS, And Related LADWP Contract Entitlements

Although SCE witness Cuillier does not quarrel with the Commission standards for inclusion of a Participating TO’s facilities in its TRR, he asserts that where there are scheduling procedures that limit Market Participants’ use of a Participating TO’s facilities, a revenue credit should be imputed to the Participating TO. The revenue credit would be applied against the TRR, reducing overall recovery. See Exh. SCE-1 at 22-23; SCE-10 at 6-7.

According to SCE, this is analogous to the treatment of an Encumbrance under the ISO Tariff. The ISO Tariff defines an Encumbrance as:

A legal restriction or covenant binding on a Participating TO that affects the operation of any transmission lines . . . and which the ISO needs to take into account in exercising operational control over such transmission lines. . . .
Encumbrances shall include Existing Contracts

ISO Tariff, Appendix A (Master Definitions). Under Section 2.4.4.1 of the ISO Tariff, the transmission rights provided under Existing Contracts are called Existing Rights. ISO Tariff, § 2.4.4.1.1. A Participating TO's TRR must be reduced by revenue received from Existing Rights. ISO Tariff, Appendix A (Master Definitions), Definition of Transmission Revenue Requirement. In other words, if the transmission facilities of a Participating TO are subject to an Existing Contract such that the ISO cannot make the encumbered capacity available for use by Market Participants, the Participating TO must reduce its TRR by "any transmission revenue expected to be actually received by the Participating TO for Existing Rights or Converted Rights." *Id.* Modeling limitations are not analogous to Existing Contracts, however. Existing Contracts are contracts that provide either "actual" revenue or a balance of benefits and burdens to the parties. Moreover, if the contract is a balance of benefits and burdens and no "actual" revenue is provided to the Participating TO, then the value of the Existing Contract is not determined on an annual basis and is not subtracted from the Participating TO's TRR.⁸

In sum, the Commission has definitively established the test for determining whether a Participating TO's facilities may be included in its TRR. If a facility is under the ISO's Operational Control, and serves any type of network function, then it is properly included in the Participating TO's TRR. Moreover, any reduction in the TRR is limited to the ISO tariff definition of Transmission Revenue Requirement.

⁸ As an example, integration agreements provide for the integration of two utilities resource to serve the combined total load. These agreements result in sharing of Energy and Ancillary Services typically in the merchant side of the utility versus the transmission side.

B. Should the Cities' STS, NTS, And Related LADWP Contract Entitlements Be Considered Network Facilities Or Direct Assignment Facilities?

The Cities' STS, NTS, And Related LADWP Contract Entitlements Are Network Facilities.

Witnesses for every party in this proceeding, except for SWP, have concluded that the Cities' STS and NTS Entitlements are network, rather than direct assignment, facilities. See, e.g., Exh. CIT-1 at 10; ISO-1 at 6; S-7 at 6; and SCE-1 at 10. As ISO witness Le Vine explained, the NTS and STS are not devoted exclusively to the transmission of Energy generated at the Intermountain Generating Station. It is possible to schedule from a point on one side of the switchyard to a point on the other side. This is borne out by the physical configurations of both the Intermountain AC switchyard and the interconnection to the DC converter station. Exh. ISO-1 at 7. Exhibit No. ISO-5, the one-line diagram of the transmission facilities at the Intermountain AC Switchyard, shows that the generation facilities are separate from the transmission facilities. Thus, they are capable of delivering bulk power to the remainder of the ISO network. While there is other considerable evidence in this proceeding of network functions served by the STS and NTS, that fact alone suffices to establish that the Cities' Entitlements on the STS and NTS are network facilities under the standards discussed above.

In contrast to the consensus among other witnesses, SWP witness Marcus in testimony offered five reasons to support his assertion that the STS is a generation tie, or "direct connection facility": (1) the STS was built to deliver generator output; (2) the purpose of the STS is still to deliver generator output; (3) the operational transfer capability of the STS is dependent on the operation of the Intermountain Generation

Station and drops 58% when the Intermountain Generating Station is not operating; (4) actual usage of the STS is as much as 93% Intermountain Generating Station output; and (5) the IPP-Lugo Branch Group is 100% dedicated to delivering generator output. Exh. SWP-1 at 10-15. The IPP-Lugo Branch Group, of course, is just an ISO scheduling construct for its network model pre-September 17 that represents a portion of the STS capacity. Exh. ISO-8 at 2-4. Mr. Marcus's testimony fails to set forth a factual basis to support a finding that the STS is a generation tie that is consistent with Commission policy. Indeed, Mr. Marcus acknowledged that he had not read Opinion No. 466-A, Tr. 935:18-22, and that he did not rely upon the Commission precedent to establish the meaning of "direct connection," Tr. 962:17-22. As the Commission so aptly noted in the context of SWP's failed efforts to establish that certain PG&E facilities were generation ties, "[SWP's] focus is on to how great an extent the facilities perform a [generation] function, which is irrelevant to the application of the [Commission's policy on rolled in rates.]" 108 FERC ¶ 61,297 at P 20.

When evaluated in the context of the Commission's criteria, Mr. Marcus's own testimony actually establishes that the Cities' STS and NTS Entitlements are indisputably network facilities. In that regard, Mr. Marcus testifies that three percent to seven percent of the flow away from the Intermountain Generating Station on the STS does not originate from the Intermountain Generating Station. SWP-1 at 13-14 and note 16. Moreover, Mr. Marcus fails to acknowledge that the STS accommodates exports through the Intermountain Generating Station AC Switchyard to Mona and Gonder. Exh. ISO-1 at 4, 7. These facts easily meet the Commission's test of "any network function."

C. Does The ISO Have Meaningful Operational Control Over The Cities' STS, NTS, And Related LADWP Contract Entitlements?

1. Commission Orders Establish that the Cities' STS and NTS Entitlements Are Under ISO Operational Control

As described above, the Cities executed the Transmission Control Agreement placing their NTS, STS, and related LADWP contract Entitlements under the ISO's Operational Control. The Commission approved the transfer of the facilities to the ISO⁹ and the amendment of the TCA.¹⁰ These orders establish conclusively that the ISO has the legal authority to direct the Cities in the operation and use of their STS and NTS Entitlements and therefore has Operational Control of the facilities. Although Staff has argued in other contexts that Operational Control requires that the ISO implement its legal authority by establishing Scheduling Points and permitting scheduling on the facilities, there is no dispute that the ISO has taken such steps with regard to the STS and NTS Entitlements. *See California Ind. Sys. Oper. Corp.*, 102 FERC ¶ 61,058 at P.13 (2003); Exh. ISO-8 at 5.

2. There Is No Legal or Factual Basis to Reject or Disregard the ISO's Operational Control of the Cities' STS and NTS Entitlements

In light of the Commission orders, it is not surprising that witnesses for every participant except SWP recognize that whether the ISO has Operational Control over the Cities' Entitlements in the STS and the NTS is relevant to determining whether to include the costs associated with those Entitlements in the Cities' TRRS. *See, e.g.*, Exhs. CIT-1 at 10-11; PGE-1 at 4; S-7 at 9; and SCE-1 at 3. SWP witness Marcus,

⁹ *California Independent System Operator Corp.*, 102 FERC ¶ 61,058 (2003).

¹⁰ *California Independent System Operator Corp.*, 102 FERC ¶ 61,061 (2003).

however, proffers a comparative analysis, from which he concludes that the ISO does not have “sufficient” operational control to justify inclusion of the costs of the Cities’ Entitlements in the STS and the NTS in the Cities’ TRRs. Exh. SWP-1 at 7-8. For the reasons set forth below, Mr. Marcus’s conclusion is neither factually nor legally supportable.

a. The Location of the Cities’ STS and NTS Entitlements Outside the ISO Control Area Is Irrelevant to the Issue of Operational Control.

First, Mr. Marcus asserts that the ISO has less operational control over the NTS and STS because they are outside the ISO Control Area. SWP-1 at 18. Among the factors he mentions in support of this position is that the ISO has no real time control and no metering on the transmission lines; that the ISO has no physical or economic control over imbalances between schedules and actual operations because the ISO deems all schedules delivered; that the ISO has less control over maintenance; and that the ISO has less operational control because it has only a minority share. *Id.* at 19-21. However, none of these factors distinguish the STS and NTS from other Entitlements under the ISO’s Operational Control. The Eldorado-Moenkopi-Four Corners line, the Pacific DC Intertie, Mead-Phoenix Project, the Mead-Adelanto Project, Marketplace-McCullough, Mead 500/230 kV, Marketplace-Mead, and Entitlements from Adelanto to the Victorville-Lugo Midpoint are all part of the ISO Controlled Grid and are all outside of the ISO Control Area. Exh. ISO 6 at 4. As Ms. Le Vine testified, Operational Control of facilities outside the Control Area typically does not include maintenance, measurement

and control of power flows, or response to system emergencies. Exh. ISO-1 at 5.¹¹ In addition, the treatment of imbalances and deeming schedules as delivered is typical of all Inter-Control Area schedules and pursuant to Western Electricity Coordinating Council procedures. Tr. at 1083-1094. These factors do not distinguish the STS and NTS from any other facilities outside the ISO Control Area that have been placed under the ISO's Operational Control. The effect of Mr. Marcus's testimony would be to preclude the inclusion of facilities outside the ISO Control Area in the ISO Controlled Grid. Yet the Commission has explicitly rejected that suggestion. In *Pacific Gas & Electric Company, et al.*, 81 FERC ¶ 61,122 at 61,568, the Commission stated, "To the extent an entity located outside of California or in another Control Area wishes to turn operational control of its facilities over to the ISO, and thereby be included in the ISO Controlled Grid, that entity should be permitted to do so."¹²

b. The ISO's Operational Control of the Cities' STS and NTS Entitlements Does Not Differ in Any Relevant or Meaningful Manner from Its Operational Control of Other Entitlements Outside the ISO Control Area.

Second, Mr. Marcus asserts that the ISO has "less" Operational Control of the STS or NTS than over other ISO facilities outside the ISO Control Area. As an initial matter, the relevance of such testimony is unclear. Opinion No. 466 does not distinguish between degrees of Operational Control for the purposes of inclusion of

¹¹ Thus, the ISO's "admissions" of its lesser exercise of Operational Control outside the Control Area, as discussed by Mr. Marcus, SWP-1 at 21, are neither surprising nor revealing.

¹² Although Mr. Marcus suggested that he might consider facilities outside the Control Area under the ISO's operational control if the ISO's control were broader than under current circumstances, the existing limitations are inherent in the location of the facilities outside the Control Area.

facilities and Entitlements in a Participating TO's TRR. Indeed, when confronted with the possibility that the Commission, as discussed above, had already concluded that the NTS and STS were under ISO Operational Control, Mr. Marcus suggested it may affect the relevance of his testimony to the decision in this proceeding. Tr. 1102:24 – 1103:2.

Moreover, the connection between the ISO's Operational Control and Mr. Marcus's assertions is unclear. As previously explained, Operational Control is the ISO's legal authority to direct Participating TOs in the operation of their transmission facilities and Entitlements. Mr. Marcus asserts that the ISO is unable to use the full physical capacity of the STS and NTS Entitlements, SWP-1 at 22; that the ISO's ability to use the capacity of the STS is dependent upon the operation of a non-participating generator, SWP-1 at 27; that the NTS Entitlements are dependent upon output rights on a non-participating generator held by non-participants in the ISO, SWP-1 at 29; and that the STS and NTS do not connect directly to the ISO Control Area, SWP-1 at 30.

In support of his first assertion, Mr. Marcus cites the limits on the import capacity from Mona and Gonder, SWP-1 at 22, and the prohibitions and limitations on exports, SWP-1 at 24, SWP-76 at 3-4. The limitations are a function of the ISO's Congestion Model and the prohibition was the function of a confusion regarding contractual requirements.¹³ See Exh. ISO-8 at 4-6; Exh. No. ISO-12 at 9. Mr. Marcus does not explain how the limitations and prohibition relate to Operational Control as defined in the

¹³ To the degree that prohibition on exports using Anaheim's Entitlements, see ISO-12 at 5, cannot be resolved through refinements of the ISO's Congestion models, these prohibitions are simply limits on the Entitlements themselves and have nothing to do with the nature of the ISO's Operational Control. For example, the ISO does not have less Operational Control over an Entitlement with 50 MW of import capacity and 50 MW of export capacity than it does over an Entitlement with 50 MW of import capacity only. They are simply different Entitlements.

ISO Tariff or as used by the Commission; neither can he, because there is no logical connection.

With regard to Mr. Marcus's second assertion, ISO Witness Le Vine explained that the ability to use almost any transmission line is affected by generating units interconnected to the transmission line. In the case of transmission lines outside the ISO Control Area, most generating units are not subject to Participating Generator Agreements. The ISO cannot control the Dispatch of such generating units. Exh. ISO-6 at 3. The circumstance described by Mr. Marcus simply depends upon the configuration of an Entitlement and associated generation. To allow such circumstances to preclude the ISO from assuming Operational Control of facilities would severely circumscribe, if not frustrate, Commission's conclusion that the ISO be authorized to accept facilities and Entitlements outside the ISO Control Area.

Moreover, this circumstance does not distinguish the Cities' STS and NTS Entitlements from all other Entitlements under the ISO's Operational Control outside the ISO Control Area. ISO witness Mr. Alaywan testified that Generation at Four Corners affects scheduling capacity on Moenkopi-Four Corners. The Eldorado Branch Group capacity is 1,555 MW maximum, but is reduced to 740 MW when Four Corners Unit 5 is off line. Exh. ISO-8 at 7. There was considerable debate at the hearing whether the derating is in fact a result of the unit being taken off-line (*see, e.g.,* Tr. 825); although the ISO believes that the evidence would support that conclusion, it is not necessary to resolve the issue. It suffices that the capacity of the Eldorado Branch Group is subject to factors beyond the ISO's control in the same manner that the capacity of the IPP-Lugo, Gonder-Lugo, and Mona-Lugo branch groups are affected by the output of the

Intermountain Generating Station. The Cities' STS Entitlement simply cannot be distinguished by this fact.

Mr. Marcus's third assertion, regarding potential reductions in the Cities' Entitlements on the NTS, again, has nothing to do with the degree of Operational Control. As shown by Mr. Marcus's testimony and exhibits, these are adjustments in capacity that are made, if at all, on a semi-annual basis with adequate notice. SWP-1 at 29-30 and SWP-19A. They are not haphazard, real-time or even short-notice changes that interfere with the ISO's ability to schedule transactions on the line. They are simply changes to the amount of capacity under the ISO's Operational Control similar to any upgrade or derate on a transmission line. Mr. Marcus might as well be arguing that the ISO has less Operational Control over a 50 MW Entitlement than over a 75 MW Entitlement.

With respect to Mr. Marcus's final assertion, that the Cities' STS and NTS Entitlements do not directly connect to the ISO Control Area, Mr. Marcus relied upon a document that has been rendered inaccurate by the transfer of the Cities' facilities to the ISO's Operational Control. Tr. 1099-1102. Although Mr. Marcus noted that his own statement (as opposed to the document) is still correct, Tr. 1101:11-12, it is meaningless. The Cities' NTS Entitlement is directly connected to the Cities' STS Entitlement, which is directly connected to the Cities' LADWP contract Entitlement from Adelanto to Victorville/Lugo, which in turn is directly connected to SP 15, which is the southern Zone in the ISO Control Area. *Id.*; Exh. CIT-11. *All of these facilities are part of the ISO Controlled Grid.* In other words, the Cities' STS and NTS Entitlements are both part of the ISO Controlled Grid and *seamlessly* connected to the ISO Control Area.

Mr. Marcus offers no explanation why the existence of an intervening Entitlement, also under the ISO's Operational Control, somehow diminishes the ISO's Operational Control of the Cities' STS and NTS Entitlements.

In sum, Mr. Marcus has provided no factual basis related to Commission or ISO Tariff criteria for Operational Control for distinguishing the Cities' STS and NTS Entitlements from any other ISO Entitlements that are outside the ISO Control Area. His testimony in this regard provides no basis for excluding any portion of the costs associated with the Cities' STS and NTS Entitlements from their TRRs.

D. Do Restrictions on Access to or Usage of the Cities' STS, NTS, and Related LADWP Contract Entitlements Justify the Exclusion of Costs, or the Imposition of a Revenue Credit, Associated with those Entitlements in Developing the Cities' TRRs to be Reflected in the ISO's Access Charges?

As discussed in section II.C, *supra*, the ISO initially established three branch groups for the Cities' STS and NTS Entitlements: IPP, Mona and Gonder. See ISO Exh. ISO-8 at 5, ISO-12 at 7, SCE-23. Because the total available capacity on the STS was 534 MW, the ISO limited the combined capacity of the three branch groups to that amount. *Id.* In order to ensure that the Cities' generation entitlement from the Intermountain Generating Station could be delivered to the ISO Controlled Grid and thus ensure the reliability of the ISO Control Area, the ISO assigned 370 MW of the capacity to the IPP Branch Group and divided the remaining capacity between Mona and Gonder. Exh. ISO-8 at 5. Only the Cities could schedule from the IPP Scheduling Point and no exports were allowed at the IPP Scheduling Point to avoid potential gaming by other Market Participants. Tr. 802; 805-807.

As Ms. Le Vine explained, the purpose on the restrictions on exports and on scheduling by other parties at the IPP Scheduling Point was to avoid infeasible schedules. Tr. 704:7-14, 704:20 – 705:5. Allowing entities that do not have generation at IPP to schedule energy from IPP, or allowing entities to schedule exports to IPP when there is no take out point at IPP, would allow market manipulation. Tr. 707:8-15.

1. The ISO's Scheduling Procedures Are Compatible with the Provision of Nondiscriminatory Transmission.

SWP witness Marcus suggested that the restrictions on exports and on scheduling by other parties at the IPP scheduling point violated ISO Tariff requirements for the provision of open and nondiscriminatory access under the terms of the ISO Tariff. SWP-1 at 31-32. Open and nondiscriminatory access under the terms of the ISO Tariff requires the absence of *undue* discrimination. See generally, Order No. 888,¹⁴ , *Atlantic City Elec. Co., et al.*, 77 FERC. ¶ 61,148 at 61,572 (1996). Undue discrimination is the unjustified differential treatment of similarly situated classes. See *El Paso Natural Gas Co.*, 104 FERC ¶ 61,045 at P 115 (2003). SWP and other Market Participants that do not have entitlements to generation at the Intermountain Generating Station are not similarly situated to the Cities, which have such an entitlement.¹⁵ The

¹⁴ *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in part and rev'd in part sub nom. Transmission Access Policy Study Group, et al. v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

¹⁵ Such entities could not become similarly situated to the Cities merely by purchasing Energy from a utility with an entitlement to the generation. LADWP would

ISO's goal of avoiding market manipulation justified the disparate treatment. It was standard ISO procedure to allowing only entities with rights to generation to schedule from generating stations. Tr. 793-94. Moreover, in the event that another entity obtained generation rights from the Intermountain Generating Station, the ISO was willing and able to revise the scheduling procedures accordingly. Tr. 718.

2. Neither the ISO Tariff nor Commission Precedent Provides for a Reduction in TRR Based on Capacity Limitations Attributable to Scheduling Procedures.

The capacity allocation to the IPP branch group and the resulting limitations on the Mona and Lugo branch groups provide no basis to limit the inclusions of costs associated with the Cities' Entitlements in the STS and NTS in the Cities' TRRs. As discussed above, these capacity allocations reflect (1) limitations inherent in the ISO's Congestion Model; and (2) decisions regarding how best to integrate the Cities' Entitlements in light of the Congestion model. Neither of these negate the ISO's legal authority to direct the Cities' operation of the Entitlements, and thus the ISO's Operational Control. Even if one assumes that Operational Control requires that the ISO take actions to implement is Operational Control, the ISO's establishment of Scheduling Points and the scheduling of transactions on the Entitlements meet that test. Further, the limitations inherent in the ISO's Congestion Model; and the ISO's decisions regarding how best to integrate the Cities' Entitlements in light of the Congestion model to not in any manner affect the nature of the Cities' Entitlements as integrated network facilities. There is thus no legal basis to deny the Cities' recovery of their costs through their TRRS.

require such Energy to be delivered at an LADWP Control Area tie point, such as Lugo. Tr. 796. Accordingly, LADWP would preclude the need to schedule the Energy at IPP.

Neither should SWP or SCE be heard to argue that the Cities' recovery should be reduced because of the ISO's decisions regarding the allocation of capacity to the branch groups or the restriction on the right to Schedule on the IPP branch group. Throughout the period prior to this proceeding, neither SWP nor SCE Scheduled or sought to Schedule a transaction on the Cities' STS or NTS Entitlements. See Tr. 548; 1006-07. Equally or more important, neither voiced any complaints or sought any reform regarding the existing scheduling procedures. Exh. ISO-12 at 13. Had they done so, the ISO could have sought to revise the procedures to accommodate any concerns. If the ISO had refused to do so, they could have filed a complaint with the Commission. As it was, when the concerns were brought to the ISO's attention, the ISO did modify the procedures, resolving at least SCE's concerns. See *Id.* at 5-8; Exh. SCE-21 at 3; Tr. 1556

The Scheduling limitations on the Cities' Entitlements are thus not only legally distinct from the Encumbrances to which SCE analogizes them (as discussed in section III.A, *supra*), but factually distinct. An Encumbrance is a legal restriction on the ISO's use of an Entitlement – it limits the ISO's legal authority and cannot be negated by the ISO's actions. The Scheduling limitations at issue are matters that can be addressed by revisions to the ISO's Scheduling Procedures, as they have been, and further addressed by development of revised Congestion Model, as the ISO plans. Exh. ISO-8 at 8-11; ISO-12 at 15-16.

SCE's testimony contends that the Cities' TRRs should similarly be reduced proportionally to the degree that any capacity was unavailable for use by Market Participants. This theory is highly suspect. First, to the extent that a Participating TO's

facilities are network facilities properly recovered through its TRR – as SCE agrees the Cities’ facilities are, Exh. SCE-1 at 13 –under the filed rate doctrine,¹⁶ such recovery must be governed by the ISO Tariff. The ISO Tariff provides for the reduction of a Participating TO’s TRR by amounts received in connection with Existing Rights. It does not provide for similar reductions for capacity unavailable due to ISO scheduling procedures. Second, Participating TO’s are paid for the Existing Rights; in contrast, the Cities received no compensation for the scheduling limitations.¹⁷ Indeed, the definition of Transmission Revenue Requirement specifically provides that the revenue reduction is specifically tied to the compensation, not a reduction in capacity. For example, if a Participating TO’s revenues for 75 MW of capacity that is unavailable to Market Participants is only 10 percent of its cost for that 75 MW, the Participating TO would only reduce its TRR by the actual revenues expected to be received. The Participating TO would recover the remaining 90 percent through the TRR even though the full 75 MW of capacity is unavailable. Yet SCE would reduce the Cities’ TRRs commensurate with the capacity reduction. There is just no legal or rational basis for this argument.

¹⁶ See, e.g., *Arkansas Louisiana Gas Co. v. Hall*, 453 U.S. 571, 577 (1981).

¹⁷ SCE may claim that the Cities received compensation by virtue of their exclusive use of the Lugo-IPP branch group capacity. The Cities had use of that capacity as the owner of the Intermountain Generating Station generation. Exh. ISO-8 at 11-12. At any time, if another entity obtained title to such Generation, the ISO was ready and able to make the IPP-Lugo branch group capacity available to such party. Tr. 834, 839, 882, and 886.

E. What Policy Considerations Should Guide the Determination of Whether the TRRs of the Cities, for Purposes of Developing the ISO's Access Charges, Should Include Costs Associated with their STS, NTS, and Related LADWP Contract Entitlements?

There is no Commission precedent for the consideration of any policies other than those discussed in section II.A. *supra*, in the determination of whether the TRRs of the Cities, for purposes of developing the ISO's Access Charges, should include costs associated with their STS, NTS, and related LADWP contract Entitlements.

IV. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Findings of Fact

1. The Cities' STS and NTS Entitlements were placed under the ISO's Operational Control effective January 1, 2003.
2. The Cities' Entitlements are not used exclusively to deliver generation.
3. The Cities' Entitlements serve an integrated network function by, *inter alia*, allowing the ISO to schedule bulk power from remote areas to various portions of the ISO Controlled Grid.
4. Operational Control is the right conveyed to the ISO from the Participating TO upon Commission approval of the TCA that allows the ISO to direct the Participating TOs with respect to operation of their facilities or use of their Entitlements.
5. Operational Control varies significantly depending upon whether the transmission facilities are inside or outside the ISO Control Area. Among other matters, the ISO Schedules, directs maintenance, coordinates outages, measures and controls power flows, and responds to System Emergencies for ISO Controlled Grid facilities inside the ISO Control Area. For ISO Controlled Grid facilities outside the ISO Control

Area, the ISO's Operational Control is largely limited to ISO coordinating schedules and outages with the applicable Control Area Operator.

6. The ISO's Operational Control of the Cities' STS and NTS Entitlements does not differ significantly from its Operational Control of other Entitlements outside the ISO Control Area.

7. The Cities' STS and NTS Entitlements are seamlessly connected to the ISO Control Area.

8. In order to permit parties to schedule on the NTS and STS, the ISO developed scheduling procedures consistent with the ISO's Congestion Management model, as set forth in the ISO's Commission approved.

9. The ISO network model for Congestion Management is a radial model, and inter-ties with external control areas are radial branch groups.

10. In developing the branch groups for the NTS and STS, the ISO had to take into account the fact the three branch groups form essentially a "T" shaped transmission system and all the Energy from NTS and STS must flow on STS, such that OTC (534 MW) was the limiting factor.

11. Accordingly, because of the ISO's Congestion Management system, as set forth in its Commission approved Tariff, the ISO needed to allocate scheduling capacity on the Cities' STS and NTS Entitlements in amounts below the contractual capacity of the Entitlements.

12. In order to facilitate reliability of the ISO Control Area and allow the delivery of the Cities' Entitlement to generation at the Intermountain Generating Station to be delivered to the ISO Control Area, the ISO initially allocated 370 MW of

Scheduling capacity to an IPP branch group for the Intermountain Generating Station, and divided the remaining capacity between a Mona and Gonder Branch Group.

13. In order to avoid gaming and market manipulation, the ISO limited the entities eligible to schedule at the IPP Scheduling Point to the Cities.

14. No ISO Market Participants (except potentially other owners of Entitlements to generation at the Intermountain Generating Station) are similarly situated to the Cities with regard to scheduling at the IPP Scheduling Point.

15. The ability to receive generation from the Intermountain Generation Station is limited by the procedures of its Control Area operator, LADWP, which require delivery of such Energy at the Control Area boundary, not at the Intermountain Generating Station.

16. Between January 1, 2003, and the filing of testimony in this proceeding, no ISO Market Participating expressed concerns regarding the Scheduling procedures for the Cities' STS and NTS Entitlements.

17. The initial limitation on exports on Riverside's STS and NTS Entitlements was attributable to confusion regarding Riverside's contractual arrangements with LADWP.

18. After concerns were expressed during the proceedings, the ISO revised the Scheduling procedures for the Cities' STS and NTS Entitlements to remove the limitations on exports at Mona and to reduce import scheduling limitations.

B. Conclusions of Law

1. If a facility is under the ISO's Operational Control, and serves any type of network function, then it is properly included in the Participating TO's TRR.

2. Operational Control is the legal right conveyed to the ISO from the Participating TO in the TCA to direct the Participating TOs how to operate their facilities or use their Entitlements.

3. Transmission facilities are presumed to be part of the integrated network and thus should be rolled in unless there is a special circumstance (such as lack of a fully integrated network, facilities so isolated from the network that they are and will remain non-integrated, or customer-specific distribution facilities that are not supportive of the network).

4. The Commission has found that the Cities' STS and NTS Entitlements are under the ISO's Operational Control.

5. The location of the Cities' STS and NTS Entitlements outside the ISO Control Area does not affect the ISO Operational Control for the purposes of determining whether the costs associated in the Entitlements should be included in the Cities' TRRS.

6. The Cities' STS and NTS Entitlements are not direct connections or generation ties.

7. The Cities' STS and NTS Entitlements are integrated network facilities.

8. The scheduling limitations on the use of the Cities' STS and NTS Entitlements from January 1, 2003, to September 17, 2004, are not equivalent or analogous to an Encumbrance under the ISO Tariff.

9. There is no legal basis under Commission precedent or the ISO Tariff for limiting a Participating TO's ability to include in its TRR the costs of Entitlements under the ISO's Operational Control based on scheduling limitations on those Entitlements.

10. The definition of Transmission Revenue Requirement provides only for crediting of transmission revenue expected to be actually received by the Participating TO for Existing Rights and Converted Rights.

11. The Cities are entitled to include in their TRRs the full amount of the costs associated with their Entitlements in the STS, NTS and related LADWP contracts since the ISO assumed Operational Control on January 1, 2003.

IV. CONCLUSION

For the reasons set forth above, the ISO respectfully requests that the Presiding Judge issue an Initial Decision adopting the positions set forth herein.

Respectfully submitted,

/s/ Julia Moore

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Dated: December 15, 2004

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 15th day of December, 2004.

/s/ Geeta O. Tholan _____
Geeta O. Tholan