

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

California Independent System)
Corporation) Docket No. ER04-61-001

**MOTION FOR LEAVE TO ANSWER AND JOINT ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
AND PACIFIC GAS AND ELECTRIC COMPANY
TO REQUESTS FOR REHEARING**

I. INTRODUCTION AND SUMMARY

On October 21, 2003, the California Independent System Operator Corporation (“CAISO”) filed a revision to the Transmission Control Agreement (“TCA”)¹ between the CAISO and the Participating Transmission Owners (“Participating TOs”), which consist of Pacific Gas and Electric Company (“PG&E”), San Diego Gas & Electric Company, Southern California Edison Company, and the Cities of Anaheim, Azusa, Banning, Riverside and Vernon, California. The October 21 filing revised Exhibit B-1 to PG&E’s TCA Appendix B to substitute a new set of Path 15 Operating Instructions (“Instructions”) provided by PG&E in place of the existing set of Path 15 Operating Instructions, which expired by their terms on April 1, 2003. Protests were filed by the California Department of Water Resources – State Water Project (“DWR”) and the Modesto Irrigation District (“MID”). In its order issued December 19, 2003 (“December 19

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

Order”), the Commission rejected the protests and accepted the amendment for filing.² On January 20, 2004, DWR and MID each filed requests for rehearing of the December 19 order.

Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.213, the CAISO and PG&E hereby request leave to file an answer, and file this answer, to the requests for rehearing submitted in this proceeding.³ As they did in their Protests, DWR and MID again want to transform this limited update to the Instructions into an extensive hearing, in order to gain more rights than they have under their existing transmission service contracts (“ETCs”) involving the use of Path 15.⁴ Because they have not shown the Commission to have erred in accepting the Instructions, the Commission should decline to turn this proceeding into that kind of litigation. Moreover, because almost all of the changes from the previous filed version of the Instructions have nothing to do with the objections raised by DWR and MID, most of their rehearing requests constitute an impermissible collateral attack on prior Commission orders dealing with the Instructions.

² *California Indep. Sys. Operator Corp.*, 105 FERC ¶ 61,314 (2003).

³ The CAISO and PG&E request waiver of Rule 213 (18 C.F.R § 385.213) to permit them 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 Corp.*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Co.*, 93 FERC ¶ 61,098, at 61,259 (2000). This is particularly the case because DWR raises some claims not presented previously.

⁴ As required by Section 2.4.4.4.1.1 of the CAISO Tariff, the CAISO does not interpret Existing Contracts. Therefore, any element of this Answer that may provide an interpretation of Existing Contract terms is the sole responsibility of PG&E.

II. ANSWER

A. The Requests for Rehearing Should Be Denied As a Collateral Attack On Previous Commission Orders.

The Commission accepted the initial version of the Path 15 Operating Instructions in 1999 as filed, on rehearing requiring only the additional filing of PG&E's procedures for determining Available Transmission Capacity ("ATC") on Path 15.⁵ Both DWR and MID were parties to that proceeding, Docket No. ER99-1770, and MID unconditionally supported the original Path 15 Operating Instructions.⁶ Nevertheless, with two exceptions, all of the challenges to the Instructions that DWR and MID now raise have no relationship to any change made in the Instructions accepted in this docket.⁷ Instead, DWR and MID attack portions of the original instructions. As such, the current challenges should be rejected as an impermissible collateral attack on the Commission's acceptance of

⁵ *California Indep. Sys. Operator Corp.*, 87 FERC ¶ 61,312 (1999), *reh'g granted in part and denied in part*, 99 FERC ¶ 61,212 (2002).

⁶ MID simply repeats the incorrect claim in its Protest that the current docket constitutes the first time part of the Instructions have been included in the TCA, specifically Attachment 1 which specifies how PG&E calculates ATC. MID Rehearing at 3 and n.2. In fact, the ISO filed Attachment 1 as part of a compliance filing in Docket No. ER99-1770, to which MID was a party, on June 21, 2002. Moreover, the Commission clearly accepted the June 21, 2002, filing in that docket as being incorporated into the TCA, as the rate schedule designation provided in its May 28, 2003 Letter Order (unpublished) makes clear.

⁷ The exceptions are (a) the revision to the Instructions allowing interested parties to propose revisions and reserving the rights of any party to oppose revisions submitted by PG&E, and (b) the added provision applying CAISO operating procedures to capacity reservations by ETC Parties after specified times in the Day-Ahead and Hour-Ahead Markets. Both changes are challenged (again) by MID and are discussed under parts B.2.b and B.2.c below.

the Instructions because the alleged problems with them were clear from the text filed and accepted nearly five years ago.⁸

B. Specific Objections Of DWR and MID Are Unfounded Or Repeat Claims Previously Made And Rejected By the Commission.

1. Department of Water Resources – State Water Project

DWR repeats the claim, rejected by the Commission in the December 19 Order, that DWR is entitled to bypass PG&E in its role as Path 15 ETC Facilitator. DWR also asserts that the CAISO and PG&E are not honoring DWR's ETC rights. And citing a completely inaccurate Trial Staff argument in another proceeding, DWR attempts to prove that the Instructions cause "phantom Congestion," a phenomenon arising from the continued existence of ETCs with scheduling rights different from the procedures used by the CAISO. All of these arguments are unfounded. DWR's attack on PG&E's role as Path 15 ETC Facilitator is contrary to the Commission's previous determination that PG&E's role as Path 15 ETC Facilitator should be maintained until the relevant ETCs have expired.⁹ The existence of that role is not at issue in this docket, such role has existed since the CAISO began operating, and for these reasons as well as DWR's failure to show the modified provisions of the Instructions are not just and reasonable and that its concerns are unwarranted, its request for rehearing should be denied.

⁸ If DWR or MID's concerns are about the implementation of the Instructions, their remedy is in a complaint to the Commission because that is outside the scope of this proceeding. *E.g.*, December 19 Order at P 12.

⁹ December 19 Order at P 9, *citing California Indep. Sys. Operator Corp.*, 99 FERC ¶ 61,212 (2002).

a. Direct Scheduling

DWR notes that it acts as its own Scheduling Coordinator rather than requiring PG&E to perform that function like other ETC Parties. That is not in dispute. However, as it did in its Protest, DWR demands that it be allowed to ignore the Instructions and bypass PG&E as an intermediary between it and the CAISO for transmitting schedules involving Path 15. DWR Rehearing at 5. Despite PG&E's willingness to negotiate an arrangement with DWR that will make this possible—including the express recognition added to the Instructions in the recent amendment that PG&E may make such arrangements with an ETC Party¹⁰—DWR demands the unilateral right to ignore the Path 15 Operating Instructions.

Apparently DWR is unwilling to negotiate with PG&E because it believes the Commission will impose different terms for the Path 15 ETC Facilitator role than were filed by the CAISO. However, allowing DWR to ignore the Instructions without any agreement would deny PG&E the ability to protect itself and its customers from certain costs. The protection needed is referenced generally in note 5 to PG&E's Exhibit B-1 to the TCA: "Any such arrangements will preserve the purpose and objectives of these Operating Instructions." When it approved the CAISO Tariff and allowed the CAISO to begin operation, the Commission required that only Participating Transmission Owners such as PG&E had the ability to submit schedules for ETC Parties.¹¹ The Instructions offer exceptions to

¹⁰ See Attachment B, Exhibit B-1, page 2, paragraph 1. and note 5.

¹¹ *Pacific Gas and Elec. Co.*, 81 FERC ¶ 61,122, at 61,473 (1997).

that, but this must be done in a way that does not interfere with sound CAISO operations or PG&E's ability to manage risk.

Specifically, if an ETC Party schedules directly with the CAISO, PG&E will no longer have the ability to protect itself from Usage (Congestion) Charges that the CAISO imposes as a result of scheduled ETC service in excess of the ETC reservation amount. At present PG&E takes all risk of incurring Usage Charges, which normally do not result from ETC use of the CAISO Controlled Grid, because—except for Path 15 ETC use—there is a reservation of the full amount of service available, whether or not the ETC Party uses all of it.¹² Offsetting this Path 15 ETC reservation risk is PG&E's complete control of the Path 15 ETC reservation amount submitted to the CAISO for ETCs where PG&E is the transmission service provider.¹³ DWR's proposal would result in PG&E retaining the risk of Usage Charges while no longer having the ability to control that portion of the risk related to DWR's service.¹⁴ If DWR wants to submit its own schedules

¹² The full reservation regardless of ETC use contributes to phantom Congestion, which is why the Instructions were written to reduce this effect on Path 15, by allowing less-than-full reservation amounts.

¹³ As part of its Path 15 Facilitator role, PG&E submits to the CAISO for each Day-Ahead scheduling period an aggregate ETC reservation of Path 15 capacity needed for all PG&E's ETCs that involve Path 15. Given diversity of use, this number is usually well less than the total amount of transmission service available under those ETCs, which results in less phantom Congestion on this relatively congested path. However, all ETCs allow for schedule changes after the CAISO's close of Day-Ahead scheduling. Consequently, PG&E bears the risk that it may have reserved too little capacity to accommodate such later changes and will incur Usage Charges from the CAISO when adjusting schedules for increased ETC usage.

¹⁴ If DWR were to submit its Path 15 schedules and schedule changes directly to the CAISO, then without an agreement protecting PG&E from any Usage Charges that might result from inaccurate ETC reservation resulting from DWR's actions, PG&E would incur Usage Charges even though it had no ability to avoid them, and DWR would have no obligation to pay the charges. Without the protection of such an agreement with DWR, PG&E would have to reduce its exposure to Usage Charges by reserving a higher

to the CAISO for service involving Path 15, the revised Instructions expressly offer that opportunity. What DWR cannot do, and what the Commission should not allow it to do, is to unilaterally set the terms for assuming that function.

b. Existing Rights

In a new argument on rehearing, DWR contends the CAISO is not honoring DWR's Existing Rights under its ETC because this service may not be given highest priority over Path 15 when the CAISO has insufficient adjustment bids to manage Congestion in its usual manner. DWR Rehearing at 5-6. DWR mixes this assertion with the statement that PG&E has "oversold" Path 15 capacity.

Addressing DWR's first concern has nothing to do with the Path 15 Operating Instructions, and its second concern is both unfounded and unsupported. This new argument is actually an attack on the CAISO Tariff, since the Path 15 Operating Instructions have no effect on the tariff provisions governing the CAISO's actions to preserve reliability when insufficient market mechanisms are available.

When the CAISO has insufficient adjustment bids, Congestion Management is far more difficult and dangerous to system reliability than at other times. This happens, and should happen, rarely, although DWR offers no indication of the frequency. To avoid a system emergency, in such a situation the CAISO may have less latitude than under normal circumstances to follow every term of every ETC to the letter, just as PG&E faced such situations when it

amount of Path 15 capacity for ETC use. This would increase phantom Congestion and frustrate a major purpose of the Path 15 Operating Instructions.

operated the control area that included Path 15. That is why ETCs, including DWR's, contain provisions authorizing the transmission service provider to take actions to avoid emergencies and risk to life or property and to maintain continuity of service that may vary from the normal terms of service. Moreover, the Commission decided long ago that a Participating TO remains responsible for service under ETCs and the CAISO cannot interpret ETCs.¹⁵ By contrast, the Path 15 Operating Instructions only provide the mechanism for PG&E to submit the ETC reservation amount to the CAISO, to submit the schedules for ETC Parties and to notify such parties of curtailments consistent with the terms of the ETCs. DWR's complaint, if it has any merit, is aimed in the wrong direction.

Nor does DWR's reference, without any discussion, to the amount of ETC service provided by PG&E over Path 15 demonstrate anything substantive. DWR merely alludes to "derates of Path 15 capacity" without any showing that these were some improper implementation of the CAISO Tariff or Path 15 Operating Instructions and therefore improperly deprived DWR of service to which it is entitled. If there is a problem DWR is experiencing, it is impossible to determine what it is from this vague, accusatory prose. Rhetoric aside, DWR has failed to demonstrate that the Instructions themselves are unjust and unreasonable, and thus there is no basis to grant the request for rehearing.

c. Phantom Congestion

DWR attempts to shift the burden to the Commission or PG&E to "offer[] ... evidence that PG&E's role [as Path 15 ETC Facilitator] has contributed in any

¹⁵ ISO Tariff Section 2.4.4.4.1.1.

way to an equitable allocation of unused transmission capacity.” DWR Rehearing at 7. In an attempt to prove its claim that PG&E exacerbates phantom Congestion, DWR attaches several pages from Trial Staff’s opening brief in Docket Nos. ER00-2019-006, *et al.* (“TAC”) that DWR says shows how “miscommunication” among DWR, PG&E and the CAISO causes phantom Congestion. DWR’s apparent, though unstated, conclusion is that the Path 15 ETC Facilitator role should be abolished and there should be no intermediary between ETC Parties and the CAISO.

Not only does DWR’s attempt to shift the burden constitute a collateral attack on the Commission’s prior orders in Docket No. ER99-1770, but its reliance on Trial Staff is misplaced. Trial Staff seriously misunderstands what PG&E does in its role as Path 15 ETC Facilitator, a fact PG&E demonstrated in its reply brief in the TAC proceeding. The fact that PG&E communicates a total Path 15 ETC reservation amount to the CAISO and uses its judgment in setting this amount, based on schedules submitted by ETC Parties, results in *lower* phantom Congestion than if PG&E did not use such judgment and the CAISO were forced to reserve Path 15 capacity at all times as though the ETC Parties would use all available service.¹⁶ These differing views also show that this issue is being examined in another docket altogether, and although the TAC case is not addressing whether there should be a Path 15 ETC Facilitator, neither is that properly raised in this docket. Nor has DWR provided enough evidence to show

¹⁶ See Attachment 1 below at 6-7 (response to Trial Staff on this issue); see *also* n.11 above.

that there is a problem in need of a solution, in whatever proceeding that should be considered.

d. Southern California Edison's ETCs

DWR suggests it is improper that the Instructions apply to its ETC schedules but not to those of Southern California Edison Company ("SCE"). DWR Rehearing at 11-13. SCE presents its ETC schedules involving Path 15 directly to the CAISO; PG&E therefore has no involvement in those schedules.

As discussed above in part B.1.a concerning direct scheduling, PG&E bears the risk of incurring Usage Charges as the service provider under its ETCs, which is one reason it acts as Path 15 ETC Facilitator. SCE's ETCs pose no such risk to PG&E because SCE accepts the risk of Congestion charges by being the Scheduling Coordinator, which is why PG&E has never insisted that SCE utilize the Instructions.¹⁷ Because DWR's remedy poses the risk of PG&E incurring charges, unless there is an agreement to address this DWR should remain subject to the Instructions.

e. Order Nos. 888 and 889

DWR's final complaints are that PG&E's refusal to allow DWR to schedule directly with the CAISO for Path 15 in the absence of a written agreement constitutes unlawful "delaying tactics" under Order 888; and that requiring DWR to follow the Path 15 Operating Instructions while failing to impose these on SCE scheduling arrangements violates Order 889. DWR Rehearing at 14-15.

¹⁷ SCE is, however, welcome to participate under the Instructions. PG&E has proposed to SCE that it schedule SCE's ETC use under the Path 15 Operating Instructions.

The second complaint has been addressed above. DWR and SCE are not similarly situated with respect to the Instructions or, in this context, Order No. 889. DWR's "rights as a Scheduling Coordinator" do not include the "right" to impose costs on PG&E and its customers for actions over which PG&E would have no control.

DWR's first complaint is even more groundless. In place of evidence of any delaying tactics by PG&E, DWR cites a reference in Order 888 to cases well over 10 years ago in which the Commission decided PG&E had inappropriately delayed completion of service arrangements for a different customer. Fortunately, under the rule of law, with which a California state agency should be conversant, violation of regulations must be proved by at least substantial evidence. A reference to historic conclusions about a different situation is not enough even to constitute a valid allegation, let alone proof. DWR's complaint relies on nothing more than an *ad hominem* attack.

2. Modesto Irrigation District

MID simply repeats three of the four objections to the Path 15 Operating Instructions included in its Protest, adding nothing except the complaint that the Commission has not paid enough attention to its arguments. MID claims that the Instructions allow PG&E to receive twice as much revenue as it is entitled to for service related to the ETC used by MID, provides too many opportunities for unexamined revision, and leaves too much discretion to the CAISO in terms of

implementation. As discussed below, MID's concerns on these issues are unwarranted and, as to the latter two, are completely repetitive.¹⁸

a. Double compensation to PG&E

In its Protest MID argued that it should be paid for the use of transmission service over Path 15 that CAISO customers use when MID is not using the full amount of service to TANC allocated to it. On rehearing, MID now argues that PG&E is being paid twice for the same service because MID, through TANC, pays a charge for service under PG&E's Principles for Tesla-Midway Transmission Service ("SOTP") and receives revenues from the CAISO related to other parties' use of service over Path 15 that is available at times when TANC members are not using all the service available under the SOTP. MID Rehearing at 5-6. However, MID has not abandoned its claim to compensation for unused service, a claim squarely rejected by the Commission.¹⁹ Instead, it has recast its argument as a claim to be credited by the CAISO for PG&E's "overcollections." MID Rehearing at 6. MID has failed to demonstrate facts to support its claim; nor has it shown how this argument has *any* relationship to the changes to the Path 15 Operating Instructions filed by the CAISO.

MID's revised argument is just as specious as the one in its Protest because it relies on the erroneous notion that TANC's service under the SOTP cannot be used for any other purpose when it is not being used by TANC or its

¹⁸ It should be noted that the service involving Path 15 that MID relies on is provided by PG&E to the Transmission Agency of Northern California ("TANC"), a joint powers agency of which MID is a member, and that TANC itself did *not* protest this filing or seek rehearing.

¹⁹ December 19 Order at P 17.

members. MID has offered no evidence that this ETC works that way. In fact, service under the SOTP does not work that way, since available transfer capability after meeting TANC's scheduled service is expressly available for other uses.²⁰ PG&E's and the CAISO's rates are set by the Commission based on the nature of the service provided as well as the costs incurred to provide that service. In the absence of any showing that the services or rates involved in the SOTP or under the CAISO Tariff result in double recovery by PG&E, MID's claim can have no weight.

In addition, acceptance of MID's argument would harm all users of the ISO Controlled Grid by limiting ATC on Path 15 to an amount that assumed complete use of TANC's 300 MW of SOTP service at all times, thus creating artificial scarcity with attendant Congestion costs to be borne by consumers. Because such unnecessary additional Congestion costs would be imposed on customers except those of MID, its proposal should be soundly rejected as anti-competitive.²¹

b. Revision of Operating Instructions

MID argues again that the language contained in Exhibit B-1 to PG&E Appendix B allows the Instructions to be revised too easily, and that the Commission should require the CAISO and PG&E "to establish firmer and clearer criteria to delineate when and why future revisions to the Path 15 Instructions should be made." MID Rehearing at 8.

²⁰ See SOTP Section 3.2, PG&E Rate Schedule FERC No. 143.

The changes MID complains about are an addition to the current Instructions intended to allow the CAISO and PG&E to better respond to the legitimate needs of ETC Parties. If MID objects to the possibility that the Instructions can be revised, it should have raised that point in Docket No. ER99-1770. Nevertheless, both the initial and these revised Instructions resulted from careful consultation between PG&E and all ETC parties. MID has put forward nothing more than the potential for the CAISO filing further revisions presented by PG&E that are contrary to its wishes. As its Protest indicates, MID has every opportunity to raise concerns with the Commission to which it believes PG&E and the CAISO were inadequately responsive. This is not a sufficient showing to bureaucratize the process by requiring the CAISO to file criteria to limit PG&E's ability to respond to future changes by proposing revisions to the Instructions.

c. Discretion of the CAISO

MID repeats its allegation that the Instructions leave the CAISO with too much discretion as to implementation, especially in that such implementation is linked to CAISO operating procedures including M-423. MID Rehearing at 8-9. MID repeats verbatim its argument that M-423 and other CAISO operating procedures "have substantive and detrimental effects on the honoring of [Existing Rights]". MID Rehearing at 9. In light of this, MID requests that the Commission prohibit the CAISO from taking action that would unilaterally modify the Instructions. *Id.*

²¹ Bizarrely, MID states that its concerns stem from its opposition to the concept of phantom Congestion explained by the CAISO in other proceedings, since MID's proposed remedy would exacerbate the phenomenon whose very existence it denies.

The reference added, to CAISO Operating Procedures, has and can have no impact on the rights of ETC Parties, and therefore MID's objection continues to be misplaced. Once again MID fails to provide any substance behind its allegation that CAISO Operating Procedures, including M-423, have been detrimental to honoring ETC rights. Moreover, the language cited by MID deals with the amount of capacity reserved for use by ETC Parties by PG&E with the CAISO. This amount is for administrative convenience only and *cannot limit* the service an ETC Party has under its Existing Contract; it is based on PG&E's role as Path 15 ETC Facilitator, a role which neither exists in nor modifies rights under any ETC. The added reference to the CAISO's Operating Procedures is for clarity to all interested parties, holders of Existing Rights as well as Scheduling Coordinators, as to what procedure will be employed to reserve capacity for ETC service after the close of Hour-Ahead scheduling. This clarification should not necessitate creating criteria intended by MID to make it more difficult to adapt the Instructions to the efficient operation of the ISO Controlled Grid.

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III. CONCLUSION

For the foregoing reasons, the CAISO and PG&E respectfully request that the Commission deny the requests for rehearing.

Respectfully submitted,

/s/ Charles F. Robinson

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document by first class mail, postage prepaid, upon each person designated on the official service list for Docket No. ER04-61 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at San Francisco this 4th day of February, 2004.

/s/ Charmayne Wilson

Attachment 1

Excerpts from Post-Hearing Reply Brief of
Pacific Gas and Electric Company
in Docket Nos. ER00-2019-006, *et al.*
dated January 13, 2004

In sum, the Presiding Judge should view the TAC proposal as a whole and determine whether, as a single proposal, it adequately balances the benefits and burdens and treats all PTOs on the same basis. PG&E has proposed several modifications that seek to ensure that the TAC proposal satisfies these criteria. With PG&E's proposed modifications, the TAC methodology fully satisfies the Commission's stated directive and thus should be found by the Presiding Judge to be just, reasonable and not unduly discriminatory.

I. PHANTOM CONGESTION

A. Whether phantom Congestion exists.

As the California Electric Oversight Board ("CEOB") and the ISO both point out in their Initial Briefs, the Commission, in its May 31st Order, found that "'Phantom Congestion' is a market inefficiency that must be addressed and rectified as quickly as possible."²² As a result, PG&E does not believe any point is served by disputing whether phantom Congestion exists. Instead, as is discussed in PG&E's Initial Brief, it is PG&E's position that the concept of phantom Congestion exists because of the way the ISO's scheduling and congestion management processes work.²³

B. What is the cause of phantom Congestion?

As PG&E explained in its Initial Brief, the cause of phantom congestion is the inability of the ISO's scheduling and congestion management systems to accommodate

²² CEOB at 6; ISO at 14 (citing May 31st Order at 61,727).

²³ PG&E at 14.

the differing scheduling rights contained in many Existing Contracts.²⁴ Whether this reality is the ISO's "fault" or the "fault" of Existing Contract rights holders who choose not to conform their scheduling rights to those of the ISO, really makes no difference. The situation exists.

PG&E does feel the need, however, to respond to the unsupported and erroneous conclusions on this issue found in the Commission Trial Staff's Initial Brief. In particular, Trial Staff suggests that, by virtue of its acting as Facilitator for Path 15, PG&E is left with "a great deal of discretion"²⁵ and that PG&E may be "reserving more capacity until real time in the name of the ETC rights holders than those rights holders want or intend to use."²⁶ In addition, in Trial Staff's proposed Finding of Fact 14, Staff takes the same position. The only basis for this position, however, is Staff's erroneous understanding of the testimony of PG&E witness Richard Weingart at hearing.

In responding to questions concerning PG&E's role as the Existing Contract Facilitator for Path 15, Mr. Weingart acknowledged that there is some discretion as to the amount of capacity PG&E reserves with the ISO for Existing Contract use. However, as Mr. Weingart explained, that discretion exists so that PG&E, working with the ISO, can minimize, not contribute to, phantom Congestion.²⁷ Indeed, the Existing Contracts agreed that PG&E should assume the Path 15 Facilitator role as a result of a stakeholder

²⁴ *Id.* at 15.

²⁵ Staff at 12.

²⁶ *Id.* at 14.

²⁷ PGE-1 at 23:6-10.

process intended to resolve transmission priority issues on Path 15.²⁸ PG&E's role as Path 15 Facilitator was approved by the Commission, as were the operating instructions PG&E uses to fulfill its responsibilities.²⁹ As the Presiding Judge properly explained, PG&E does not have operational control over Path 15 but instead, at the request of the Existing Contract holders, acts as a Commission-approved facilitator to assist the ISO.³⁰ There is simply no evidence in the record of this proceeding that supports a conclusion, let alone a finding of fact, that PG&E's acting as Facilitator for Path 15 *contributes* to phantom Congestion.

C. What is the economic impact of phantom Congestion?

None of the Initial Briefs that addresses this issue has persuaded PG&E that its position on the merits of this issue should change. In short, as explained in PG&E's Initial Brief, no party has offered any reliable quantification of the past, or expected future, economic effect of phantom Congestion.³¹ On this point, PG&E agrees wholeheartedly with Trial Staff's conclusion that "as of 2003, this record doesn't prove anything" with respect to this issue.³² As a result, no value should be put on the

²⁸ PGE-20 at 6; Tr. 1905:21-1907:16 (Jones) (discussing Path 15 Facilitator role).

²⁹ PGE-20; *see also California Independent System Operator*, 105 FERC ¶ 61,314 (2003) (approving revised operating instructions). Notably, Staff did not object in either of these proceedings to PG&E's role as Path 15 Facilitator or to the operating instructions. Staff's attempt to do so in this proceeding, which has nothing to do with the operation of Path 15, is clearly misplaced.

³⁰ Tr. 2301:7-15 (Presiding Judge).

³¹ PG&E at 15.

³² Staff at 14.

Submission Contents

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