

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

Pacific Gas and Electric Company)
) **Docket No. ER00-3214-000**
)

**MOTION TO INTERVENE AND PROTEST
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R.

§§ 385.211, 385.214, and the Commission’s July 25, 2000, Notice of Filing, the California Independent System Operator Corporation (“ISO”)¹ hereby moves to intervene in the above-captioned proceeding and protests. In support thereof, the ISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following persons:

Roger E. Smith, Senior Regulatory Counsel	Edward Berlin
Deborah A. Le Vine, Director of	Kenneth G. Jaffe
Contracts & Compliance	Michael E. Ward
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II. THE FILING

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff, Appendix A, as filed August 15, 1997, and subsequently revised.

On July 20, 2000, Pacific Gas and Electric Company (“PG&E”) tendered for filing with the Commission a Revised Interconnection Agreement (“IA”) between PG&E and Northern California Power Agency (“NCPA”). PG&E states that Appendices A and E are revised to replace the deviation band requirements with certain Imbalance Energy market settlement procedures of the ISO. PG&E further states that it replaced the energy rate for various services with the ISO’s Ex Post Price or the California Power Exchange’s Market Clearing Prices. Finally, PG&E has added a Letter Agreement for Short-Term Firm Transmission Service (“STFTS”), effective April 1, 1998.

III. BASIS FOR MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of a grid comprising the transmission systems of PG&E, San Diego Gas & Electric Company, and Southern California Edison Company, as well as for the coordination of the competitive electricity market in California. The IA concerns Transmission and Generation service that the ISO must schedule under the terms of its tariff and limits the ability of the ISO to serve other customers under the ISO Tariff. The ISO therefore has an interest in the proceeding that cannot adequately be represented by any other party.

The ISO is committed to, and responsible for, maintaining fair and nondiscriminatory access to the electric grid in California. Therefore, the ISO’s participation in the proceeding is also in the public interest.

Accordingly, the ISO requests that it be permitted to intervene herein with full rights of a party.

IV. PROTEST

The ISO protests PG&E's Letter Agreement for the provision of STFTS to NCPA. PG&E has not obtained the ISO's consent to this agreement, as required by the Transmission Control Agreement ("TCA").

PG&E and the ISO are parties to the TCA, filed with the Commission and effective on the date the ISO commenced operations (March 31, 1998), according to which PG&E placed its Transmission Facilities under the ISO's Operational Control. Under Sections 4.1.1 and 13 of the TCA, the ISO must honor the encumbrances on PG&E's Transmission Facilities that are identified in Appendix B of the TCA. Section 4.4.3 of the TCA prohibits PG&E from creating any new encumbrances on its Transmission Facilities without the consent of the ISO.

Although the IA is identified as an encumbrance that the ISO must honor under the TCA, the STFTS to be provided under the Letter Agreement is not encompassed within that encumbrance. The ISO understands that NCPA purchases the service under section 6.1.3 of the IA.² Section 6.1.3 of the IA states that PG&E may provide STFTS to NCPA *at its discretion*. The provision of service requires a request from NCPA and the acceptance by PG&E.

As of the effective date of the TCA, the IA did not obligate PG&E to

² To the extent that the service under the Letter Agreement is not considered a service under Section 6.1.3, but rather an expansion of the short-term firm transmission service contemplated therein, the arguments below apply with equal force.

provide any such service; to the contrary, the service was discretionary.³ The service thus encumbers the ISO Controlled Grid, restricting new firm uses of the system, and adding to the encumbrances that existed when the TCA became effective. As a result, the Letter Agreement constitutes a new encumbrance, within the terms of Section 4.4.3 of the TCA, on the facilities the PG&E has transferred to the ISO's Operational Control. Absent the ISO's consent – which PG&E has not sought – the Letter Agreement is prohibited by the TCA.

³ PG&E indicates that it has provided the service since April 1, 1998. PG&E does not state the nature of the agreement under which it provided the service during various periods between April 1, 1998, and the present. Regardless of the nature of that agreement, however, it is not identified in the TCA.

V. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene and that it be accorded full party status in this proceeding. Further, the ISO requests that the Commission find that the Letter Agreement is prohibited by the TCA absent the consent of the ISO.

Respectfully submitted,

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Counsel for the
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Date: August 10, 2000

CERTIFICATE OF SERVICE

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

Dated at Washington, DC, on this 10th day of August, 2000.

Michael E. Ward

August 10, 2000

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

**Re: Pacific Gas and Electric Company,
Docket No. ER00-3214-000**

Dear Secretary Boergers:

Enclosed for filing are one original and 14 copies of the Motion to Intervene and Protest of the California Independent System Operator Corporation in the above-identified proceeding. Two additional copies of the filing are also enclosed. Please stamp the two additional copies with the date and time filed and return them to the messenger.

Thank you for your assistance in this matter.

Yours truly,

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