

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

City of Vernon, California

)

Docket No. EL00-105-000

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

Pursuant to Rules 212 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.212 and 385.214, and the Commission’s September 5, 2000 Notice of Filing, the California Independent System Operator Corporation (“ISO”)¹ hereby moves to intervene and submit comments in the above-captioned proceeding. In support thereof, the ISO states as follows:

I. COMMUNICATIONS

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¹ Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISO Tariff.

II. BACKGROUND

On August 30, 2000, the City of Vernon, California (“Vernon”) tendered for filing, pursuant to Section 207 of the Commission’s Rules of Practice and Procedure² and Section 9.2 of Appendix F to the ISO Tariff, a Petition for a Declaratory Order determining that Vernon’s proffered Transmission Revenue Requirement (“TRR”) is appropriate under the ISO Tariff for purposes of Vernon’s become a Participating Transmission Owner (“Participating TO”). Vernon’s filing included a number of specific proposals, some of which are discussed below. On August 31, 2000, Vernon filed, as a supplement to its petition, a proposed Transmission Owner Tariff (“TO Tariff”).

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 Pacific Gas and Electric Company (“PG&E”), Southern California Edison Company (“SCE”), and San Diego Gas & Electric Company (“SDG&E”), as well as for the coordination of the competitive electricity market in California. As the operator of this grid, the ISO believes that it has a unique interest in any Commission proceeding concerning a request to become a Participating TO. Accordingly, the ISO requests that it be permitted to intervene herein with full rights as a party.

² 18 C.F.R. § 385.207.

IV. COMMENTS

The ISO fully appreciates the steps that Vernon has taken to become a Participating TO. The ISO welcomes the opportunity to assist in any way it can to allow Vernon to reach this outcome, which is a goal of the ISO as well. Toward that end, the ISO submits the following comments concerning Vernon's proposed TRR and TO Tariff.

A. Vernon's Proposed TRR

As Vernon notes in its filing, Vernon is the first municipally-owned utility to seek Participating TO status.³ Moreover, the filing presents the Commission with an issue of first impression – under the ISO's proposed transmission Access Charge, which was accepted for filing in Docket No. ER00-2019-000, Vernon is the first Governmental Entity ("GE") that will have its TRRs blended with those of jurisdictional public utilities. The Commission has stated that the appropriate authority and criteria for review of the TRR of a GE that becomes a Participating TO is "a complex and evolving question" which is still unresolved.⁴ Although this issue is still evolving, the ISO is faced with a new application to become a Participating TO that must be considered, and decisions need to be made in the near-term to allow Vernon to become a Participating TO as early as January 1, 2001. Consequently, the ISO requests that the Commission provide detailed guidance on the type of approval a GE may request of the Commission for both the TRR and the TO Tariff, and the standard by which that request is to be evaluated. Such guidance from the Commission will aid GEs in the future in

³ Vernon at 6.

drafting their applications to become Participating TOs, and will facilitate the determination of a just and reasonable Access Charge for the ISO.⁵

Commission guidance would be useful regardless of the substance of Vernon's application, but such guidance is of particular importance here, in light of Vernon's inclusion of a number of potentially novel concepts in the calculation of its proposed TRR. Other GEs that are considering applying for Participating TO status will want to know the Commission's position on these aspects of Vernon's proposal. The same information will also be important for the participants in the settlement negotiations regarding the Access Charge proposal submitted in Amendment No. 27, so that they may model the impact of different settlement proposals appropriately. Additionally, if Vernon is successful in becoming a Participating TO on January 1, 2001, its TRR will be included in the formula rate that will apply to all Market Participants, including retail End-Use Customers of the public utilities.

The more notable aspects of Vernon's proposed TRR include the following:

- Vernon's proposed TRR is based in part on the deferral of a portion of the costs of certain transmission facilities that, it says, were built larger than is required to meet the present needs of their utility customers, because "economies of scale, and the need for reserves, are usually such that it is much more economical to build a facility now that will

⁴ *Id.* (citing *California Independent System Operator Corporation*, 91 FERC ¶ 61,205, at 61,724 (2000)).

accommodate expected needs in the future.”⁶ Commission guidance regarding the propriety of such an approach will be especially important for other GEs that, like Vernon, own transmission facilities that have not been fully utilized in the past. This issue may also affect how Transmission Owners are compensated for the costs of new investments in transmission system additions or upgrades, since acceptance of Vernon’s proposal here could imply that the costs of new transmission grid investment should not be recovered in rates until the project’s capacity is fully utilized. The ISO is concerned that such an implication could deter needed investments in grid expansion projects.

- Vernon’s cost of service figures include a return of 11.6% of Vernon’s total rate base.⁷ This is the same percentage as the rate of return on equity granted to SCE, the Participating TO to whose transmission facilities Vernon is connected, in its most recent rate case.⁸ The Commission should offer guidance both as to the appropriateness of applying another Transmission Owner’s approved equity return to a GE’s TRR calculation, and also as to the application to a GE’s entire transmission investment of an equity return allowance, rather than the overall return on rate base.

⁵ The ISO’s Access Charge is a formula rate based on the approved High Voltage Transmission Revenue Requirements of jurisdictional utilities and the High Voltage Transmission Revenue Requirements of non-jurisdictional entities.

⁶ Vernon, Exhibit V-1 at 10-11.

⁷ *Id.*, Exhibit V-2 at 1, 4.

⁸ *Id.*, Exhibit V-1 at 16.

- In calculating its proposed TRR, Vernon similarly applies the depreciation factor of SCE.⁹ The Commission should provide guidance regarding whether this approach is acceptable, in lieu of determining a depreciation allowance based on a review of Vernon's own facilities.
- Vernon has provided limited information to substantiate its Operations and Maintenance expenses, Administrative and General expenses ("A&G"), or property taxes.¹⁰ It also does not explain the basis for the growth in A&G expenses, which appear to have approximately doubled between 1998 and 1999.¹¹ The Commission should offer guidance regarding the level of support required for these expenses.

B. Vernon's Proposed TO Tariff

As described above, on August 31, 2000, Vernon filed a supplement to its Petition for a Declaratory Order. The supplement consisted of a one-page proposed TO Tariff. The purpose of a TO Tariff is to provide the rate, terms, and conditions of service of the Participating TO.¹²

Again, the ISO appreciates the steps that Vernon has taken to become a Participating TO. While Vernon may not have to file a TO Tariff that is identical in every respect to the TO Tariffs filed by jurisdictional utilities, it must provide more detail in its tariff to address certain issues that may arise, and in some cases

⁹ *Id.*, Exhibit V-1 at 10.

¹⁰ *See generally id.*, Exhibit V-2.

¹¹ *Id.*, Exhibit V-2 at 4.

¹² *See Pacific Gas and Electric Company, et al.*, 81 FERC ¶ 61,122, at 61,566, 61,588 (1997). The Commission accepted the TO Tariffs of PG&E, SCE, and SDG&E, and set them for hearing, in *Pacific Gas and Electric Company, et al.*, 81 FERC ¶ 61,323 (1997). The non-rate terms and conditions of these TO Tariffs were the subject of an initial decision, *Pacific Gas and Electric Company, et al.*, 88 FERC ¶ 63,007 (1999), *exceptions pending*.

likely or certainly will arise. For example, Vernon's proposed TO Tariff does not explain terms such as the following:

- Statement of relationship to the ISO Tariff – the TO Tariff should specifically note that the rates and charges for transmission access over the ISO Controlled Grid and the terms and conditions for transmission expansion and interconnection are set forth in the TO Tariff and the ISO Tariff (including, but not limited to, the requirement to have a Transmission Revenue Balancing Account).
- Eligibility – the TO Tariff should require that transmission service over the Participating TO's system shall be provided only to Eligible Customers; moreover, any dispute as to whether a customer is eligible for wholesale transmission service shall be resolved by the Commission, and any dispute as to whether an End-Use Customer is eligible shall be resolved by the Local Regulatory Authority.
- Access Charges – the TO Tariff should state that transmission Access Charges and Wheeling Access Charges shall be as provided for in the ISO Tariff.
- Disputes – the TO Tariff should identify the procedures for resolving disputes between parties which arise under the TO Tariff.¹³

V. CONCLUSION

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, that the ISO be accorded full party status

in this proceeding, and that the Commission provide detailed guidance that includes consideration of the following:

- (1) the appropriateness of Vernon's proposed TRR as included in the transmission Access Charge under the ISO Tariff; and
- (2) the scope of Vernon's proposed TO Tariff.

Respectfully submitted,

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Date: September 29, 2000

¹³ Cf., e.g., Section 14 of SDG&E's TO Tariff, which was filed in Docket No. ER97-2364-000 on March 31, 1997.

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, in accordance with Rule 385.2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C., on this 29th day of September, 2000.

Bradley R. Miliauskas