

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

**California Independent System) Docket No. ER05-416-000
Operator Corporation)**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER TO
MOTION TO INTERVENE AND PROTEST OF THE CALIFORNIA
INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the California Independent System Operator Corporation (“ISO”) hereby requests leave to file an answer, and files its answer, to the Motion to Intervene and Protest of Southern California Edison Company (“SCE”).¹ In support whereof, the ISO states as follows.

I. Background

On December 30, 2004, the ISO² submitted an Informational Filing (“Informational Filing”) as to the ISO’s revised transmission Access Charge rates effective January 1, 2005 to implement the revised Transmission Revenue Balancing Accounts of the current Participating Transmission Owners. On

¹ The ISO requests waiver of Rule 213(a)(2) (18 C.F.R § 385.213(a)(2)) to permit it to make this answer to this protest. 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 Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

² Capitalized terms not otherwise defined herein have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

January 6, 2005, the Commission issued notice of the filing, and required interventions and comments to be filed by January 21, 2005.

On January 20, 2005 SCE filed a Motion to Intervene and Protest in this proceeding. In its Motion, SCE stated that it was

preserving all of its rights regarding all pending disputes, issues and outstanding dockets regarding any current PTO in the ISO, the Transmission Control Agreement, the ISO Tariff, and the Transmission Access Charge, particularly, and without limitations, as such disputes may affect the TAC rate proposed herein by the ISO and require the ISO to file a revised rate.

SCE Motion at 2. Earlier in its Protest SCE described some of those pending disputes. SCE requested that the Commission not approve the ISO's filing in this docket until the Commission resolves issues raised by SCE in other dockets.

SCE Protest at 3. The ISO now files this Answer to respond to SCE's Protest.³

II. Answer

SCE's statement regarding "preserving its rights" is misplaced in this proceeding. As approved by the Commission,⁴ the ISO's transmission Access Charge is a formula rate based on the Commission-approved Transmission Revenue Requirements ("TRRs") of the Participating Transmission Owners ("Participating TOs"). If a Participating TO has filed a revision to its TRR and the Commission accepts it subject to refund, or is filing a TRR for the first time, the ISO adjusts its formula to accommodate the new TRR, and subsequently makes

³ The ISO does not object to SCE's intervention.

⁴ *California Independent System Operator Corp.*, 109 FERC ¶ 61,301 (2004).

any necessary refunds that may be the result of future settlement or litigation in the Participating TO's TRR proceeding.

Thus, SCE's concerns should be taken up in the dockets assigned to the individual Participating TO's TRRs. Indeed, SCE has intervened in the relevant proceedings and is free to raise whatever arguments or issues it sees fit in those fora.⁵ When those proceedings are resolved, they may result in changes to Participating TOs' TRRs. At that time, as it has done in the past, the ISO will file a new transmission Access Charge informational filing incorporating the changes into the formula for the transmission Access Charge and process any Commission-ordered refunds in accordance with the ISO Tariff. Therefore, SCE's concerns about "preserving its rights" have no place in the instant docket.

Moreover, the issues raised by SCE in its Protest are so broad as to be all-encompassing. If the Commission were prevented from accepting the instant filing until "all pending disputes" regarding any PTO, on the one hand, and the ISO Tariff, on the other, have been resolved, it likely would be years before the transmission Access Charge, as calculated by the Commission-approved formula, could be updated – surely an absurd result.

⁵ With regard to one of the specific issues raised by SCE, the Net Firm Transmission Right ("FTR") calculation, SCE Protest at 1, the ISO notes that SCE has entered into a settlement in which it agreed, *inter alia*, to defer the Net FTR calculation to the ISO. See July 18, 2003 Offer of Settlement in Docket Nos. EL03-14, *et al.*

III. Conclusion

Wherefore, for the foregoing reasons, the ISO respectfully requests that the Commission accept the Informational Filing subject to refund, consistent with its previous practice.

Respectfully submitted,

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Date: February 7, 2005

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 7th day of February, 2005.

/s/ John Anders
John Anders