

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

**California Independent System
Operator Corporation**

**Docket Nos. ER00-2019-006
ER01-819-002
ER03-608-000**

**ORDER DENYING MOTION FOR RECONSIDERATION AND MOTIONS FOR
LEAVE TO FILE INTERLOCUTORY APPEAL**

(Issued August 6, 2003)

1. Pacific Gas and Electric Company (“PG&E”) filed a Motion for Reconsideration and Motion for Leave to File an Interlocutory Appeal on July 25, 2003. PG&E seeks reconsideration and/or interlocutory appeal of my July 16, 2003 rulings that reliability service costs and the license plate based rate proposal are beyond the scope of this proceeding. PG&E argues that prompt Commission action is necessary because of the September hearing date scheduled in this proceeding.
2. Also on July 25, 2003, San Diego Gas & Electric Company (“San Diego”) filed a Motion to Appeal Presiding Officer’s Decision seeking appeal of my July 16, 2003 ruling that the license plate based rate proposal is beyond the scope of this proceeding. San Diego argues that prompt Commission resolution is necessary in order to avoid the detriment to the public interest posed by the adoption of a postage stamp rate.
3. Commission Trial Staff (“Staff”) filed an Answer to both the PG&E and San Diego motions averring that the subject rulings are consistent with Commission precedent and that there are no extraordinary circumstances to support interlocutory appeal. Staff’s answer is accepted since it aids in the resolution of this matter. See Rule 715(b)(2), 18 C.F.R. § 385.715(b)(2).
4. For the reasons discussed herein, PG&E’s Motion for Reconsideration and Motion for Leave to File and Interlocutory Appeal, as well as San Diego’s Motion to Appeal Presiding Officer’s Decision, are denied.
5. My determination that reliability service costs are beyond the scope of this proceeding is consistent with Commission precedent. PG&E’s argument in support of its position is not persuasive. As staff points out, while the Commission in *Southern California Edison Company*, 103 FERC ¶ 61,166 (2003) did state that “CDWR’s

discrimination claims should be directed to the CA ISO tariff provisions;”¹ the Commission did not consolidate the reliability service charges into this docket. Moreover, the Commission has not directed that CDWR’s claims or any other matters related to PG&E’s reliability costs, be consolidated into this docket.

6. Additionally, my determination that the license plate based rate proposal is beyond the scope of this proceeding is also consistent with the Commission’s designation order in this proceeding. To wit, in the hearing order² the Commission rejected Sempra Energy’s (“Sempra”)³ arguments against grid-wide rates (Sempra had championed the use of license plate rates and criticized bifurcation of the Access Charge into high and low voltage rates). As Staff correctly points out, “the Commission saw the goal of this proceeding as a grid-wide rate.” Staff’s Answer at 5. “This evolution in rate design away from the utility-specific zone rates to a high voltage grid-wide methodology ensures a uniform grid-wide rate.” 91 FERC at 61,722, emphasis added. The Commission added in a footnote, “As such we reject Sempra’s arguments against a ‘postage stamp’ HV Access Charge and the bifurcation of the ISO-operated transmission facilities into low and high voltage components.” *Id.* fn. 9. This statement is not “arguably ambiguous” as PG&E

¹ The cited proceeding involved SoCal Edison's charges for Reliability Services ("RS"). The California Department of Water Resources (CDWR) argued that it was discriminatory for SoCal Edison to charge RS costs to entities with Existing Transmission Contracts ("ETCs") who had not joined the ISO, but not charge those who had become Participating Transmission Owners ("PTOs"). Concerning this matter, the Commission stated: “Our review indicates that CDWR's arguments regarding discrimination are outside the scope of this proceeding and are hereby denied. SoCal Edison's filing in Docket No. ER03-142-000 did not establish the rules by which certain ETCs are allocated RS costs and others are not, if they are PTOs under the CA ISO's Tariff. Rather, SoCal Edison correctly interpreted the CA ISO's current Tariff and recognized that three of its ETCs were becoming PTOs and, as such, would not be subject to these RS costs. Accordingly, CDWR's discrimination claims should be directed to CA ISO tariff provisions, which are not the subject of SoCal Edison's filing in the underlying docket. Additionally, CDWR has not cited to any discriminatory barriers that will not permit it to become a PTO and, thus, be similarly situated to those ETCs who have become PTOs.” 103 FERC at 61,606, P 7. In the instant proceeding, Staff points out, PG&E is arguing that because the Commission found that CDWR's disagreement was with the ISO tariff, not with SoCal Edison, then PG&E can litigate the issue of reliability services charges here. Staff’s Answer at 2-3.

² *California Independent System Operator Corporation*, 91 FERC ¶ 61,205 (2000).

³ As Staff correctly points out, Sempra is the corporate parent of San Diego and thus it can be assumed that both entities argue the same position. Staff’s Answer at 4.

contends. PG&E and Sempra did not request rehearing of this Commission determination; therefore, this issue is beyond the scope of this proceeding.

7. Finally, there are no extraordinary circumstances warranting prompt Commission action concerning these matters. The designation order in this proceeding was issued three years ago. Further, the movants have failed to establish that prompt Commission review is necessary to prevent detriment to the public interest or irreparable harm to any person. Accordingly, the subject motions **ARE DENIED**.

Bobbie J. McCartney
Presiding Administrative Law Judge