

February 11, 1999

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: California Independent System Operator Corporation,
Docket No. ER98-1971-____
Revised Appendix B of the Transmission Control Agreement,
Relating to Path 15**

Dear Secretary Boergers:

Pursuant to Section 205 of the Federal Power Act ("FPA"), 16 U.S.C. § 824d, the California Independent System Operator Corporation ("ISO") respectfully submits for filing fourteen copies of a revised Appendix B of the Transmission Control Agreement ("TCA") among the ISO and Transmission Owners ("TOs").¹

The revisions being filed today are the result of negotiations involving Pacific Gas and Electric Company ("PG&E") and all of the major holders of transmission rights over Path 15. In its orders on ISO Tariff Amendment Nos. 3 and 7, the Commission encouraged the Rightholders and PG&E to attempt to resolve the disputes relating to competing claims of transmission priority over the Path. The ISO understands that PG&E and the Existing Rightholders have done so, and the revised Appendix B is submitted as a resolution of those competing claims by PG&E and all of the Existing Rightholders except one.

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

Background

The TCA is the agreement among the ISO and TOs which establishes the terms and conditions under which the TOs will become Participating TOs and dictates how the ISO and each Participating TO will discharge their respective duties and responsibilities.²

The initial TCA was filed as part of the comprehensive "Phase II" filings submitted by a trustee on behalf of the ISO on March 31, 1997. Refinements to the TCA were made as a result of an ongoing stakeholder process, and a revised TCA was submitted on August 15, 1997, in compliance with the Commission's order in Pacific Gas & Electric Company, et al., 80 FERC ¶ 61,128 (1997). In its order dated October 30, 1997, the Commission granted interim and conditional authorization to the ISO to commence operations and required certain modifications to the TCA. Pacific Gas & Electric Company, et al., 81 FERC ¶ 61,122 ("October 30 Order"). The ISO filed the revised TCA on February 20, 1998. By order dated March 30, 1998, California Independent System Operator Corporation, 82 FERC ¶ 61,325 ("March 30 Order"), the Commission conditionally accepted the TCA for filing to become effective on the ISO Operations Date and required further modifications to be made in a compliance filing within 60 days of the date ISO grid operations commenced. March 30 Order, 82 FERC at 62,276-79.

On June 1, 1998, the ISO submitted a compliance filing amending the TCA as well as the ISO Tariff, the ISO Code of Conduct, certain of the ISO's pro forma operating agreements, and certain of the ISO's bilateral operating agreements. The June 1 amendments to the TCA were submitted to comply with the October 30 and March 30 Orders. The Commission noticed the ISO's June 1 compliance filing on June 9, 1998 and directed that comments related to the proposed changes to the TCA be submitted in Docket No. ER98-1971-001.

A number of parties submitting comments in Docket No. ER98-1971 raised concerns about certain proposed revisions to the TCA related to Path 15. Path 15 is a transmission path owned by PG&E which generally extends south from PG&E's Los Banos Substation to a point of interconnection with SoCal Edison's transmission facilities at the Midway Substation. PG&E has executed numerous Existing Contracts on this transmission path with various priority rights which often result in congestion on the path. Due to constraints on this path and Existing Contract rights, ISO Market Participants have expressed concerns about the transmission priorities for Path 15 since early in the restructuring of the California electric market.³ Under

² The initial TOs executing the TCA are PG&E, San Diego Gas & Electric Company ("SDG&E"), and Southern California Edison Company ("SoCal Edison").

³ See, e.g., October 30 Order, 81 FERC at 61,541.

the TCA, transmission priorities for Path 15 are established by information and operating instructions provided to the ISO by PG&E. Pursuant to Sections 2.2.1(ii) and (iii) of the TCA, applicants for Participating TO status provide the ISO with "a copy of each document setting out the applicant's Entitlements to . . . lines and facilities" and "a statement of any Encumbrances" to which those lines and facilities are subject. This information is then incorporated in Appendices A and B, respectively to the TCA.⁴

In the March 30 Order, the Commission had rejected a proposed change to the TCA Appendix B for PG&E in response to concerns that the change would afford PG&E priority over other existing arrangements for the use of available transmission capacity on Path 15.⁵ The Commission's action on the TCA in the March 30 Order was based in part on its earlier order on ISO Tariff Amendment No. 3.⁶ In that order, the Commission rejected a proposed amendment to the ISO Tariff intended, in large part, to implement operating instructions for Path 15 provided to the ISO by PG&E. The Commission stated that it was unclear whether the rights of entities other than PG&E for transmission capacity on Path 15 would be preserved under the proposed amendment and urged all affected parties to negotiate a resolution of the Path 15 priority issue.⁷ In its May 28, 1998 order on ISO Tariff Amendment No. 7, the Commission again directed the affected parties to negotiate a resolution of the transmission priority issue.⁸

The June 1 compliance filing included revisions to Reference No. 54 in Appendix B of the TCA for PG&E that specifically addressed transmission priorities for Path 15. A number of parties submitted comments in Docket No. ER98-1971 objecting to these revisions.⁹ The commenters argued that the revised Appendix B still failed to preserve the rights and priorities of entities other than PG&E to transmission capacity on Path 15 under Existing Contracts. Some commenters also noted that efforts to negotiate mutually acceptable operating instructions for Path 15 had been unsuccessful up to that point.

⁴ The TCA contains separate Appendices A and B for PG&E, SDG&E and SoCal Edison.

⁵ March 30 Order, 82 FERC at 62,277.

⁶ California Independent System Operator Corporation, 82 FERC ¶ 61,312 (1998).

⁷ Id. at 62,242-43.

⁸ California Independent System Operator Corporation, 83 FERC ¶ 61,209, at 61,922 (1998).

⁹ The commenters included SoCal Edison, the California Department of Water Resources, The Metropolitan Water District of Southern California, the Transmission Agency of Northern California, Modesto Irrigation District, and Dynegy Power Services, Inc.

The ISO submitted its Answer to comments in Docket No. ER98-1971 on September 3, 1998. In this Answer, the ISO explained that, consistent with the Commission's direction that the ISO have no role in interpreting Existing Contracts¹⁰, the ISO had accepted Appendices A and B of the TCA as submitted by the Participating TOs, including PG&E's revisions relating to Path 15. The ISO noted that it expected any Existing Rightholders who objected to these Appendices to raise their concerns when the revised TCA was filed with the Commission. This is exactly what occurred in the instant proceeding. In its Answer, the ISO informed the Commission that it was aware of PG&E's negotiations with Existing Rightholders to address the transmission priority rights for Path 15 and stated that the ISO would file a revised Appendix B for Commission approval, pursuant to Section 26.11 of the TCA, once PG&E provided the ISO with a revised Appendix B that reflected the results of its negotiations with Existing Rightholders.

Revisions to Appendix B

PG&E has recently concluded its negotiations with Existing Rightholders on the Path 15 issues described above and has provided the ISO with revised operating instructions for Path 15. PG&E informs the ISO that every Existing Rightholder but one has agreed to these revised operating instructions and that further discussions would be unlikely to result in a unanimous consensus on such operating instructions.

The ISO now submits revisions to Appendix B of the Transmission Control Agreement based on the information provided by PG&E. The revisions consist of changes to Reference Nos. 54 of PG&E Appendix B. The revised portion of Appendix B includes explicit references to the negotiated operating instructions for Path 15. In addition, PG&E has provided the ISO with its "Path 15 Operating Instructions for Existing Encumbrances Across the Path 15 Interface" to be included as Exhibit B-1 to PG&E Appendix B in order to avoid any potential ambiguity in Reference No. 54.

Effective Date

The ISO respectfully requests waiver of the notice requirements of Section 35.3 of the Commission's regulations, 18 C.F.R. § 35.3, to permit the revision to Appendix B of the TCA to become effective as of February 11, 1999, the date the revised Appendix B of the TCA is being filed. Granting the waiver will permit the TCA to reflect the Path 15 operating instructions negotiated between PG&E and the Existing Rightholders as soon as possible and allow implementation by the ISO of the revised operating instructions.

¹⁰ See ISO Tariff Section 2.4.4.4.1.1.

Notice and Service of Documents

Communications regarding this filing should be addressed to the following individuals:

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The ISO is serving copies of this filing on all parties on the official service list compiled by the Secretary in Docket No. ER98-1971.

Supporting Documents

- Revised page PG&E APP. B-6 to supersede page PG&E APP. B-6 of TCA Appendix B submitted in the June 1 compliance filing (Attachment A).
- Black-lined text showing the changes to Reference No. 54 in Appendix B of the TCA for PG&E (Attachment B).
- The Path 15 Operating Instructions for Existing Encumbrances Across the Path 15 Interface, to be included as Exhibit B-1 to the TCA Appendix B for PG&E (Attachment C).
- A Notice of this filing, suitable for publication in the Federal Register (Attachment D), together with a diskette containing that Notice in WordPerfect format.

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An additional copy of this filing is also enclosed. Please stamp this copy with the date and time of filing and return it to our messenger.

Respectfully submitted,

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