

183 FERC ¶ 61,019
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Acting Chairman;
James P. Danly, Allison Clements,
and Mark C. Christie.

California Independent System Operator Corporation Docket No. ER23-861-000

ORDER ACCEPTING PROPOSED REVISIONS
AND GRANTING WAIVER REQUEST

(Issued April 14, 2023)

1. On January 17, 2023, as supplemented on January 18, 2023, pursuant to section 205 of the Federal Power Act¹ and Part 35 of the Commission's regulations,² the California Independent System Operator Corporation (CAISO) submitted proposed revisions to the Transmission Control Agreement (TCA) among CAISO and its participating transmission owners to add Citizens S-Line Transmission LLC (CSLT) as a new participating transmission owner. CAISO also requests waiver of its Open Access Transmission Tariff (Tariff) section 4.3.1.1 and Appendix F, Schedule 3, section 8.1, which prescribe the effective date for new participating transmission owners to join CAISO, as well as the implementation date for CAISO's transmission access charge. As discussed below, we accept CAISO's proposed TCA revisions, effective April 15, 2023, as requested, and grant CAISO's waiver request.

I. Background

2. The TCA is the agreement among CAISO and participating transmission owners that establishes the terms and conditions pursuant to which transmission owners place certain transmission facilities and entitlements under CAISO's operational control.³ The TCA describes how CAISO and each participating transmission owner will discharge

¹ 16 U.S.C. § 824d.

² 18 C.F.R. pt. 35 (2022).

³ Transmittal at 2.

their respective duties and responsibilities with respect to the operation of those facilities and entitlements.⁴

3. Tariff section 4.3.1.1 and Appendix F, Schedule 3, section 8.1, prescribe either January 1 or July 1 of the relevant year as the effective date for new participating transmission owners to join CAISO as well as the implementation date for CAISO's transmission access charge.⁵

4. CAISO states that CSLT will become a new participating transmission owner upon acquiring from Imperial Irrigation District (IID) a portion of the incremental transfer capability created by the S-Line and El Centro Switching Station upgrades (S-Line Project).⁶

II. CAISO's Filing

5. CAISO proposes to revise the TCA to include CSLT as a participating transmission owner, as well as to include updates to the TCA table of contents, signature pages, and appendices for CSLT. CAISO also proposes to update the TCA to reflect the addition of Appendix F as a placeholder Appendix, since it is currently reserved for use to capture contacts for notices for all participating transmission owners.⁷ CAISO explains that Appendix F exists as a standalone document on the CAISO website and is revised periodically and re-posted when changes to contacts occur.⁸ CAISO states that it is including a reserved version of Appendix F for administrative clarity and will continue to use Appendix F as a standalone reference document on the CAISO website so that the contacts for notices can be updated and available in the future.⁹ In addition, CAISO states that the CSLT transmission facilities will be under its operational control and included in the CAISO transmission register. CAISO proposes to add new TCA section

⁴ *Id.*

⁵ CAISO, eTariff, § 4.3.1 (Nature of Relationship) (5.0.0), § 4.3.1.1; *id.*, App. F, Rate Schedules, (25.0.0), Schedule 3 (Regional Access Charge and Wheeling Access Charge), § 8.1 (Updates to Regional Access Charges).

⁶ Transmittal at 1.

⁷ *Id.* at 3.

⁸ *Id.* at 4 (citing *Cal. Indep. Sys. Operator Corp.*, 139 FERC ¶ 61,198 (2012) (accepting non-controversial changes to the TCA, including provisions to support maintenance to Appendix F as a standalone document posted on the CAISO website)).

⁹ *Id.*

4.4.12 to address any concerns about the possibility that CSLT might recover all or a portion of the revenue requirement for its high voltage transmission assets and then subsequently seek to withdraw those interests from CAISO's operational control and operate them as transmission rights not subject to the Commission's jurisdiction. CAISO explains that this provision is consistent with similar TCA provisions related to other participating transmission owners.¹⁰

6. CAISO requests that the proposed revisions to the TCA become effective on April 15, 2023, which is the projected closing date that CSLT will acquire its interest in the S-Line Project from IID.¹¹ CAISO also states that, although April 15, 2023 is close to the estimated closing date, the actual effective date of the proposed changes to include CSLT as a new participating transmission owner should coincide with the actual closing date between IID and CSLT.¹² For this reason, CAISO requests that the Commission direct CAISO to submit a compliance filing to revise the effective date of the TCA revisions that add CSLT as a new participating transmission owner, in the event that CSLT acquires its interest in the S-Line Project from IID on a date other than the requested effective date of April 15, 2023.¹³

7. To accommodate the requested April 15, 2023 effective date for the proposed revisions to the TCA, CAISO requests waiver of Tariff section 4.3.1.1, and Appendix F, Schedule 3, section 8.1, which prescribe either January 1 or July 1 of the relevant year as the effective date for new participating transmission owners to join CAISO as well as the implementation date for CAISO's transmission access charge.¹⁴ CAISO asserts that its waiver request satisfies the Commission's criteria for granting waiver.

8. First, CAISO argues that it is acting in good faith to address the effective date issue and accommodate the addition of CSLT as a party to the TCA. CAISO states that the actual effective date of the proposed changes should coincide with the actual closing

¹⁰ *Id.* at 3. CAISO states that proposed TCA section 4.4.12 is modeled on existing TCA sections 4.4.4 through 4.4.11, which were incorporated into the TCA to address similar concerns relating to other participating transmission owners when they proposed to become parties to the TCA. *Id.* at 4 (citing *Cal. Indep. Sys. Operator Corp.*, 139 FERC ¶ 61,198 at PP 5, 17; *Cal. Indep. Sys. Operator Corp.*, 164 FERC ¶ 61,148, at PP 4, 8 (2018); *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,102, at P 7 (2021)).

¹¹ *Id.* at 1.

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.* at 5.

date between IID and CSLT.¹⁵ Second, CAISO asserts that the waiver is of limited scope because it applies only to two provisions in the Tariff in order to permit the requested effective date for certain provisions in the TCA. Third, CAISO contends that the waiver addresses the concrete problem that the Tariff provisions for which CAISO requests waiver would otherwise be at variance with the requested effective date. Fourth, CAISO states that the waiver does not have undesirable consequences and, instead, will resolve any concerns that other participating transmission owners may express.¹⁶

III. Notice and Responsive Pleadings

9. Notice of CAISO's filing was published in the *Federal Register*, 88 Fed. Reg. 6718 (Feb. 1, 2023), with interventions and protests due on or before February 7, 2023. CSLT and IID filed timely motions to intervene. On February 10, 2023, Southern California Edison Company (SoCal Edison) filed a motion to intervene out of time.

IV. Discussion

A. Procedural Matters

10. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2022), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

11. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant SoCal Edison's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

12. We accept CAISO's proposed revisions to the TCA, effective April 15, 2023, as requested. We find that CAISO's proposed revisions are just and reasonable and consistent with previous modifications made to the TCA for the purpose of either including new participating transmission owners or otherwise providing discrete updates and corrections.¹⁷

¹⁵ *Id.* at 4-5.

¹⁶ *Id.* at 5.

¹⁷ *See supra* note 10.

13. We also grant CAISO's request for waiver of Tariff section 4.3.1.1, and the related provisions of Tariff Appendix F, Schedule 3, section 8.1, to allow the proposed revisions to the TCA to become effective as of April 15, 2023. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.¹⁸ We find that the circumstances of CAISO's waiver request satisfy these criteria.

14. First, we find that CAISO has acted in good faith. CAISO explains that its request is intended to accommodate the addition of a new participating transmission owner to the TCA as soon as CSLT acquires its interest in the S-Line Project from IID. Second, we find that CAISO's request is limited in scope because the waiver applies to only two provisions of the Tariff and is limited to permitting the requested effective date for certain provisions in the TCA. Third, we find that granting CAISO's request addresses a concrete problem. Absent waiver, certain provisions of the TCA that prescribe dates for new participating transmission owners to join CAISO will conflict with the anticipated date that CSLT will become a CAISO participating transmission owner. The waiver will allow CSLT to join CAISO as soon as CSLT acquires its interest in the S-Line Project. Fourth, we find that granting the waiver request will not have undesirable consequences, such as harming third parties. CAISO explains that the waiver request will resolve any concerns that other participating transmission owners may express.¹⁹ We note that no party opposes the waiver request.

15. Finally, as CAISO requests, we remind CAISO to submit a compliance filing revising the effective date of the proposed revisions to the TCA in the event that CSLT acquires its interest in the S-Line Project on a date other than April 15, 2023. The compliance filing is due within 30 days of the actual date that CSLT acquires its interest in the S-Line Project.

¹⁸ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

¹⁹ Transmittal at 5.

The Commission orders:

(A) CAISO's proposed revisions to the TCA are hereby accepted, effective April 15, 2023, as requested, as discussed in the body of this order.

(B) CAISO's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Deputy Secretary.