

Sponsors a share of the associated wheeling revenues, congestion revenues and FTR auction revenues. The ISO proposed to allow FPL Energy, LLC (FPL Energy), which is not a Participating Transmission Owner, to be compensated for a recent upgrade to Southern California Edison Company's (SoCal Edison) Blythe-Eagle Mountain transmission line (also referred to Path 59). The ISO stated that the upgrade increased the amount of FTRs on Path 59 from 72 MW to 168. According to the ISO, the existing tariff does not expressly provide a means of compensation for any entities other than Participating Transmission Owners, who are able to recover their costs through the ISO's usage charge and wheeling access charge, along with the proceeds from FTR auctions.

3. In its March 12, 2003 Order,³ as modified by its July 25, 2003 Order on the ISO's first compliance filing,⁴ the Commission rejected the ISO's proposal for the Participating Transmission Owner and Project Sponsor to negotiate terms in each instance. Instead, the Commission determined that a Project Sponsor should receive FTR auction revenues, wheeling revenues and congestion revenues associated with the full amount of capacity added to the system, with that amount of capacity to be determined through the regional reliability council process. The Commission directed the ISO to amend section 3.2.7.3(d) of the tariff to refer to the Western Electricity Coordinating Council or its successor (referred to herein as WECC).

4. In its August 25, 2003 compliance filing, the ISO reflected the changes directed by the Commission. But the ISO also argued that the WECC changed the rating for Path 59 from 72 MW to 218 MW as a result of two contemporaneous, but separate, factors: (1) the physical upgrade of the Blythe-Eagle Mountain transmission line; and (2) the redefinition of the location of Path 59. It contended that the change in the rating of Path 59 thus was not entirely attributable to the upgrade paid for by FPL Energy and that, therefore, FPL Energy should not be compensated as if the change in the path's rating was due solely to the upgrade. Therefore, the ISO proposed to further amend the tariff to provide that the determination of the full amount of capacity added to the system will be "based on the physical addition to the transfer capability" as determined through the regional reliability council process of the WECC.

5. The Commission directed the ISO to remove the phrase "based on the physical addition to the transfer capability." The Commission held that:

³ *California Independent System Operator Corp.*, 102 FERC ¶ 61,278 (2003) (March 12 Order).

⁴ *California Independent System Operator Corp.*, 104 FERC ¶ 61,128 (2003) (July 25 Order).

The intent of the July 25 Order was that the regional coordinating council should be the forum for determining the full amount of capacity added to the system by the upgrade to transmission facilities. This was consistent with the March 12 Order's determination that the certainty of a known methodology for determining compensation in the ISO Tariff would encourage investment in transmission upgrades. To the extent that the ISO proposes to give itself discretion, outside of the regional reliability council process, to determine the amount of transmission capacity added by an upgrade to transmission facilities on the ISO-Controlled Grid, we reject the compliance filing as inconsistent with the July 25 Order. Further, we need not address whether the re-definition of Path 59 affects the compensation due FPL Energy. To the extent that the ISO has such concerns about the WECC's re-rating of Path 59 resulting from FPL Energy's upgrade, the ISO should pursue the matter with the WECC. This, too, is consistent with the Commission's prior determinations in this proceeding that the regional reliability council process be the forum for determining the amount of capacity added to the system by the upgrade.^{5]}

A. Request for Clarification and Conditional Request for Rehearing

6. On November 29, 2004, SoCal Edison filed a request for clarification and a conditional request for rehearing. According to SoCal Edison, the WECC has calculated Path 59 capacity after the inclusion of the upgrade financed by FPL Energy, but the WECC has not determined the comparable path rating of Path 59 before the upgrade. Therefore, SoCal Edison asserts that the WECC has not determined how much capacity was added to the system as a result of the upgrade. It requests two clarifications regarding the October 29 Order.

7. First, SoCal Edison interprets the October 29 Order to mean that the WECC is to make the capacity determination required by section 3.2.7.3 of the tariff and that the ISO can have no role in that determination. It interprets the order to require that the ISO and/or other interested parties ask the WECC to determine the increased capacity

⁵ October 29 Order, 109 FERC ¶ 61,098 at P 18.

attributable to the FPL Energy upgrade. It seeks clarification that its interpretation of the October 29 Order is correct. Alternatively, if the October 29 Order reflected the Commission's belief that the WECC has already determined the increased capacity attributable to the FPL Energy upgrade, then SoCal Edison seeks rehearing, reiterating the arguments that it raised in its answer to FPL Energy's protest of the ISO's August 25, 2003 compliance filing.⁶

8. Second, SoCal Edison does not object to the WECC determining how much capacity was added by an upgrade to a transmission facility. However, it expresses doubt about whether the WECC will agree to perform that role in all cases. SoCal Edison states that the WECC is a stakeholder-governed regional entity that deals primarily with ratings of paths between control areas and other Western Interconnection reliability issues. It states that the WECC generally does not determine path ratings for facilities that are not interconnections between WECC member systems or that are internal to a WECC member's system and that do not affect the operation of another WECC member's system. Further, SoCal Edison states that the WECC leaves the decision as to whether a transmission facility requires a rating to the discretion of the transmission owner and/or control area operator.⁷ SoCal Edison asserts that upgrades under section 3.2.7.3 of the tariff may involve facilities that do not have a significant impact on a neighboring WECC member's system. Further, the WECC does not currently study and develop path ratings for the vast majority of the ISO Controlled Grid. SoCal Edison argues that, reading section 3.2.7.3 literally, the regional reliability process in instances when the WECC does not determine a path rating would be to leave the rating to the control area operator, which is the ISO. SoCal Edison requests the following clarification:

To eliminate future disputes and problems, [SoCal Edison] asks, to the extent the WECC currently does not rate a path that is implicated by Section 3.2.7.3, what does the Commission propose be done, and who is supposed to do it?⁸

B. The ISO's Compliance Filing

⁶ See October 29 Order, 109 FERC ¶ 61,098 at P 15 for a summary of SoCal Edison's September 30, 2003 answer to FPL Energy's protest.

⁷ SoCal Edison's Request for Clarification and Conditional Request for Rehearing at 3.

⁸ *Id.* at 4.

9. On November 24, 2004, in Docket No. ER03-407-005, the ISO submitted a compliance filing. It removed the phrase “based on the physical addition to the transfer capability” from section 3.2.7.3(d) of the tariff.

10. Notice of the ISO’s filing was published in the Federal Register, 69 Fed. Reg. 71,023 (2004), with comments due on or before December 15, 2004. None were filed.

Discussion

A. Commission Determination on Request for Clarification or Rehearing

11. With respect to SoCal Edison’s first requested clarification, SoCal Edison is correct that we intended that the WECC, not the ISO, determine the amount of the increase in capacity attributable to an upgrade under section 3.2.7.3 of the tariff. The ISO and/or other interested parties will have to ask the WECC to determine the increased capacity attributable to the upgrade to Path 59 that FPL Energy funded. Further, the October 29 Order does not reflect any finding on our part as to whether the WECC has determined the amount of increased capacity on Path 59 attributable to the FPL Energy-funded upgrade. Accordingly, SoCal Edison’s conditional request for rehearing is moot.

12. SoCal Edison’s second requested clarification asks what should be done, and by whom, if the WECC does not rate a path. SoCal Edison’s question appears to be premature. The October 29 Order requires that the ISO seek a determination from the WECC regarding the amount of increased capacity attributable to the upgrade. Even if the WECC “currently” does not rate a path to a facility such as Path 59, that does not mean that it would refuse such a request if asked. Further, even if we interpret SoCal Edison’s request for clarification to simply ask what happens if the WECC declines to make the determination envisioned by the Commission, no party has indicated that it has asked the WECC to make such a determination, let alone that the WECC has refused such a request. If the ISO requests the WECC to determine the increase in capacity on Path 59 attributable to an upgrade made under section 3.2.7.3 of the tariff, and the WECC declines to make such a determination, then the ISO must so inform the Commission and seek further guidance from the Commission at that time.

B. Commission Determination on the ISO’s Compliance Filing

13. As noted above, the October 29 Order directed the ISO to remove the phrase “based on the physical addition to the transfer capability” from section 3.2.7.3(d) of the tariff. The ISO’s compliance filing makes this change and thus complies with the October 29 Order’s directive. Accordingly, we will accept the ISO’s unopposed compliance filing.

The Commission orders:

(A) The October 29 Order is hereby clarified, as discussed in the body of this order.

(B) The ISO's November 24, 2004 compliance filing is hereby accepted.

By the Commission.

Secretary