

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

California Independent System        )       Docket Nos. ER98-997-000  
Operator Corporation                 )       and ER98-1309-000

**BRIEF ON EXCEPTIONS OF  
THE WESTERN SYSTEMS COORDINATING COUNCIL**

Pursuant to Rule 711 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure, 18 C.F.R. § 385.711, the Western Systems Coordinating Council (“WSCC”) hereby submits this brief on exceptions in response to the Initial Decision issued in this proceeding.<sup>1</sup> As the WSCC will show herein, the Initial Decision should be reversed to the extent that it interferes with, seeks to modify, or impedes the applicability and enforcement of the WSCC’s reliability standards with respect to the determination of operating reserves, or would have the Commission undertaking a criteria setting role in establishing reliability standards. Such an action would depart from the Commission’s historic practice of relying on the North American Electric Reliability Council (“NERC”) and the regional reliability councils to establish operating reliability requirements, violate other Commission policies, and ignores the full integration of the behind-the-meter loads with the rest of the interconnected system. It would also adversely impact the reliability of the Western Interconnection by reducing the operating reserve available for use in emergencies.

**I. STATEMENT OF THE CASE**

The WSCC is the regional reliability council for the Western Interconnection and is one of ten regional reliability councils in the United States. As such, the WSCC issues

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<sup>1</sup> California Indep. Sys. Operator Corp., 96 FERC ¶ 63,015 (2001) (“Initial Decision”). Because the WSCC has not previously intervened in the proceeding, it is also today filing a motion to intervene.

standards and criteria for the safe and reliable operation of the bulk transmission grid, including minimum operating reserve requirements. The WSCC has no economic motive for participating in this proceeding, but merely seeks to ensure that its standards and criteria, approved by its members, are preserved, implemented and enforced in a way that protects reliability within the Western Interconnection and that such standards and criteria are implemented on a consistent, fair, and equitable basis.

This proceeding arises out of the filing by the California Independent System Operator, Inc. (“California ISO” or “ISO”) of certain Participating Generator Agreements (“PGA”) with three qualifying facility (“QF”) cogeneration facility owners. As is relevant here, one issue in this proceeding was the extent to which the load served by the QFs should be included in the determination of the relevant control area’s operating reserve obligation.<sup>2</sup> In the PGAs, the California ISO stated that the operating reserve requirement must be based on the QF’s gross load, i.e., that the reserve requirement take into account the QF’s behind-the-meter load.<sup>3</sup> This position is consistent with the WSCC’s interpretation of its operating criteria, and is the position that the WSCC supports. Other parties argued that the operating reserve obligation should be calculated on a net basis; that is, the difference between the QF’s behind-the-meter load and generation as determined by a single bi-directional meter.<sup>4</sup> In the Initial Decision, the Presiding Judge found that the proposed terms of the PGAs with respect to the determination of operating reserve were not just and reasonable, and held that the

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<sup>2</sup> The relevant control area operator in this proceeding is the California ISO.

<sup>3</sup> Id., 96 FERC at 65,134. The QF’s generation and load would be separately metered.

<sup>4</sup> Id.

operating reserve requirements should be determined on a net load basis. Initial Decision, 96 FERC at 65,138-39. The Presiding Judge also determined that this finding should be generally applicable to all PGAs with QFs, not just the ones at issue in this proceeding. Id. at 65,133.

The WSCC is filing this brief on exceptions out of the concern that affirming this Initial Decision could detrimentally affect reliability in the West by allowing the operating reserve requirements for loads, including behind-the-meter loads (which comprise thousands of megawatts), served by all QFs and a growing number of independent power producers (“IPP”) to be calculated on a net load basis.<sup>5</sup> The Initial Decision, if upheld, will reduce the amount of operating reserves to a level less than that required by WSCC’s criteria through a FERC-directed exemption, thereby reducing the reliability of the Western Interconnection. The Initial Decision, if affirmed, also will increase the potential for uneven and unfair obligations for maintaining system reliability.

As important, the decision, if upheld, would also represent an intrusion into the WSCC’s establishment, implementation and enforcement of reliability criteria and would amount to an exercise of reliability criteria setting by this Commission, a step it has never before taken.<sup>6</sup> This is contrary to the Commission’s stated policy of deferring to the standards and criteria of NERC and its regional reliability councils.<sup>7</sup> The Initial Decision is also contrary to the Commission’s policy of allowing reliance on regional reliability

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<sup>5</sup> While the Initial Decision applies to QFs, the WSCC fears that if adopted, IPPs and perhaps other generators will seek similar treatment.

<sup>6</sup> See Notice of Interim Procedures to Support Industry Reliability Efforts and Request for Comments, 91 FERC ¶ 61,189, at 61,673-74 (2000) (FERC stating it does not have direct authority over reliability matters).

<sup>7</sup> See Western Sys. Coordinating Council, 87 FERC ¶ 61,060, at 61,234 (1999).

council operating reserve requirements in establishing ancillary service requirements,<sup>8</sup> and conflicts with the Commission's requirement in Order No. 888-A that all loads served by behind-the-meter generation be fully responsible for their full transmission costs.<sup>9</sup>

## II. LIST OF EXCEPTIONS AND POLICY ISSUES

1. The Initial Decision is in error to the extent that its application would modify or interfere with the WSCC's reliability requirements, standards and criteria, and with the WSCC's consistent, fair and equitable enforcement of these requirements, standards and criteria.
2. The Initial Decision is in error to the extent it seeks to mandate that operating reserves should be calculated on a net load basis, rather than on a gross load basis as required by the WSCC's operating reserve criteria.

In addition, the Initial Decision raises the following important policy issue:

1. Whether the Commission should defer to regional and national reliability councils in establishing reliability criteria, or whether the Commission should take on that role for itself.

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<sup>8</sup> See American Elec. Power Serv. Corp., 88 FERC ¶ 61,141, at 61,460 (1999) (approving use of ECAR minimum operating reserve requirements). The FERC has allowed a number of other transmission providers to include in their open access transmission tariffs ("OATT") provisions that base operating reserve requirements on the applicable reliability council criteria. See Commonwealth Edison Company OATT, Schedules 5 and 6; PJM Interconnection, L.L.C. OATT, Schedule 5.

<sup>9</sup> Order No. 888-A, 1996-2000 FERC Stats. & Regs., Regs. Preambles ¶ 31,048, at 30,259-60 (1997).

### III. EXCEPTIONS

**A. The Commission Should Reverse The Initial Decision To The Extent That It Allows QFs' Behind-The-Meter Load To Be Excluded From The Determination Of A Control Area's Operating Reserve Requirement, And Seeks To Override WSCC Reliability Criteria**

**1. Behind-the-Meter Load Benefits from the existence of Operating Reserves Provided by All Control Areas in the Western Interconnection, and Must Be Fully Accounted for in Each Control Area's Determination of Its Operating Reserve Requirements.**

The WSCC excepts to the Initial Decision's findings that allow a QF's behind-the-meter load to be exempted from operating reserve requirements. The QF load, just like any other load, benefits from operating reserve being available when needed. For example, if a QF generator trips, the load will be instantly served from the spinning reserve portion of the operating reserves of all control areas.<sup>10</sup> Within 10 minutes after notification by the control area operator, the contingency reserves in the control area containing the QF load will replace the energy being provided by other control areas.<sup>11</sup> Just like any other load, the QF load causes a need for operating reserve based on the full amount of the load, not just on the net level transmitted across the ISO's grid.<sup>12</sup> Thus, such load not only benefits but also causes a need for additional operating reserves to maintain system reliability. Consequently, the control area load must be accounted for as the control area bears responsibility for such reserves and must know the amount of load for which reserves must be provided. This is the principle reflected in the WSCC's

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<sup>10</sup> Transcript at 157.

<sup>11</sup> WSCC Minimum Operating Reliability Criteria ("MORC") Section 1.A. The relevant MORC sections are included as Exhibit I hereto. To the extent necessary, the WSCC requests that the Commission take official notice of these standards pursuant to 18 C.F.R. § 385.508(d) or grant any other relief to allow consideration of this document.

<sup>12</sup> Transcript at 451.

requirement that a control area's operating reserves be calculated on a gross load basis. Although the operating reserve may actually be provided by another entity by mutual agreement, in the end, it is the control area that is responsible for ensuring that the reserve is provided and the control area will be monitored by the WSCC for compliance with the WSCC reliability criteria. In other contexts, the Commission has recognized that cost causation principles require behind the meter load to bear its fair share of the costs it imposes on the system.<sup>13</sup>

In the Initial Decision (at 65,138), the Presiding Judge concludes that because Southern California Edison Company ("SCE," the relevant utility distribution company or "UDC") provides the ancillary services (including operating reserves) for the QF behind-the-meter load, the WSCC's and the NERC's operating reserve requirements are met. He also concludes that only net loads need to be included in the ISO's control area firm load. *Id.* at 61,138. This finding is flawed in a number of respects. In the first place, it assumes that the NERC and the WSCC reliability requirements are satisfied jointly by SCE and the California ISO. However, there is no evidence that SCE provides operating reserve in accordance with the WSCC criteria, or that SCE and the California ISO are acting together to meet these requirements. Furthermore, it appears as if SCE's calculation of the operating reserve requirement is not consistent with the operating reserve requirement set forth in the WSCC's Minimum Operating Reliability Criteria, in that it has solely determined a probability of losing a certain amount of the QF generation, then provides only a percentage of its calculated loss as reserve.<sup>14</sup> The WSCC's current criteria do not contain provisions for determining reserve requirements

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<sup>13</sup> Order No. 888-A at 30,259-60.

<sup>14</sup> Compare MORC Section 1.A.1 (establishing minimum reserve criteria).

based on the probability of losing a certain amount of the QF (or any other) generation. In essence, SCE has apparently developed its own criterion for determining operating reserve requirements for the QF loads, which is inconsistent with the WSCC criteria. To be an approved WSCC criterion, any proposed criterion must go through the established WSCC public due process for member and nonmember review and member approval. SCE's approach to establishing control area operating reserve requirements yields a result that is inconsistent with the existing WSCC criteria.

Moreover, the Presiding Judge's findings, if affirmed, would amount to an overriding of the WSCC's operating reserve requirements. Consistent with the recognition that behind-the-meter load benefits from the existence of an interconnected system's operating reserves, the WSCC's MORC require that all firm load, whether or not it is behind-the-meter, be subject to operating reserve requirements. The WSCC MORC Section 1.A states that Operating Reserves must be sufficient to "avoid loss of firm load following . . . generation contingencies."<sup>15</sup> Firm load behind-the-meter satisfies this requirement as from an electrical viewpoint the load is no different from any other firm load on the system if it is not disconnected when the QF trips. At the instant the QF generator trips, the load is served from operating reserves within the western interconnected system. Further, the fact that standby service is being provided demonstrates that the load is firm load. It makes no sense to provide standby service for load that is interruptible. While the Initial Decision seems to conclude that the fact that a QF has entered into a contract to purchase standby service from another entity is sufficient to meet the WSCC criteria, standby service alone is not adequate because there

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<sup>15</sup> For loads served by QFs, firm load refers to load that is not simultaneously curtailed when the QF experiences an outage.

may be a delay before standby service begins. In contrast, the Interconnection's spinning reserves provide instantaneous power supply to the QF loads, with the control area replacing the Interconnection's resource support.

In order to help preserve reliability and the WSCC's authority over such issues, the Commission must make it clear that it is not in any way amending, making an exception to or overriding the WSCC's reliability standards, requirements or criteria, or circumventing the WSCC's processes for establishing such criteria, and modify or reverse the Initial Decision as necessary. The relevant operating reserve requirements were developed by the WSCC and approved by its membership. The FERC has expressed a willingness to defer to groups such as the WSCC in the development of regional reliability criteria, as well as to the consensus-based findings of regional groups.<sup>16</sup>

## **2. The Initial Decision Potentially Discriminates Against Other Generators**

If affirmed, the Presiding Judge's decision would result in undue discrimination in that the QFs' loads would be treated differently (exempt from meeting established WSCC criteria) than the load served by other generators (IPPs and utilities) with regard to operating reserve requirements without any reasoned justification. Exempting the QFs' loads from this requirement would be discriminatory as it could allow the QF loads to avoid the responsibility associated with providing operating reserve that loads served by other generators would be forced to bear. This difference is not justified because the

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<sup>16</sup> See supra, Western Sys. Coordinating Council, 87 FERC at 61,234 and cases cited therein; see also GridFlorida LLC, 94 FERC ¶ 61,363 at 62,329 (2001) (stating Commission has no reason to question GridFlorida's planned reliance on, and implementation of, the Florida Reliability Coordinating Council's decisions and policies).



power system does not know the difference between a utility-served load, an IPP-served load and a QF-served load. The system reacts automatically in accordance with the laws of physics to increase the output of other generators when either a utility, IPP or a QF generator trips.<sup>17</sup> Allowing the operating reserve requirement for the interconnected system to be based on a net load basis argument will result in degradation of reliability.

**3. The Commission Has Recognized that the Full Impact of Behind-the-Meter Load Should Be Accounted for**

The Commission has addressed the issue of reflecting behind-the-meter loads in the context of transmission service. In Order No. 888-A, the Commission found that for purposes of network transmission service the load of a transmission customer includes the load behind-the-meter.<sup>18</sup> The Commission recognized that such behind-the-meter load has an impact on and uses the transmission system as transmission providers were required to provide transmission service when the generator was not in service. The Commission also found that there was no such thing as partial integration.<sup>19</sup> That is, the Commission stated that “a load at a discrete point of delivery cannot be partially integrated – it is either fully integrated or not integrated.” Id. Here, the behind-the-meter load is fully integrated as it will be served from the interconnected system’s operating

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<sup>17</sup> The Presiding Judge’s determination that the load is backed up by the UDC’s provisions of standby service (Initial Decision, 96 FERC at 65,137-38), while perhaps correct from a contractual viewpoint, ignores operational realities. In the event a QF trips, generators throughout the WSCC automatically will increase their output in order to satisfy the QF’s load. In addition, the fact that QFs are entitled to different regulatory treatment than other generators, upon which the Presiding Judge (at 65,132-33) relies is similarly irrelevant; from the standpoint of the need to provide operating reserves, the system is indifferent to whether the load is served by a QF or other type of generator.

<sup>18</sup> Order No. 888-A at 30,259-60.

<sup>19</sup> Id. at 30,259.

reserves when the QF goes off line. Thus, consistent with Order No. 888-A, the full load should be reflected in determining the required operating reserves.

Moreover, the Commission's ruling in Order No. 888-A on behind-the-meter generation and load has a direct relationship to the operating reserve issue in this case. In Order No. 888-A (at 30,259), FERC found that if the customer chose to take network service, the gross amount of load, rather than the net amount of load, should be reflected. Thus, a customer taking network service would be required to take or arrange for ancillary services, which include operating reserves, for the entire amount of the gross load. It would be inconsistent for the Commission to require that gross load be used in determining operating reserve payments for network customers, as it did in Order No. 888-A, and to allow the use of net load in this case.

#### IV. CONCLUSION

For the reasons stated herein, the Commission should reverse the Initial Decision to the extent it mandates that the determination of control area operating reserves should be calculated on a net load basis, rather than on a gross load basis and to the extent that it infringes on WSCC's role in establishing reliability criteria.

Respectfully submitted,

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October 1, 2001

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## **Exhibit I**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 1st day of October, 2001.

/s/ \_\_\_\_\_  
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