



California Independent
System Operator Corporation

May 23, 2006

The Honorable Magalie Roman Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

**Re: Pacific Gas and Electric Company
Docket No. ER06-902-000**

Dear Secretary Salas:

Enclosed please find an electronic filing of the Motion to Intervene and Protest of the California Independent System Operator Corporation.

Thank you for your attention to this filing.

Respectfully submitted,

/s/ Anna A. McKenna

Anna A. McKenna
Counsel for the California Independent
System Operator Corporation

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

**Pacific Gas & Electric)
Company)
)**

Docket No. ER06-902-000

**MOTION TO INTERVENE AND PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.214, and the Commission’s May 8, 2006, Notice of Filing, the California Independent System Operator Corporation (“CAISO”) hereby moves to intervene and submits this protest in the above-captioned proceeding.¹ In support thereof, the CAISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following persons:

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, Appendix A to the CAISO Tariff, as filed August 15, 1997, and subsequently revised.

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II. BACKGROUND

On May, 1, 2006, Pacific Gas and Electric Company (“PG&E”) submitted for filing and acceptance, in accordance with Section 205(d) of the Federal Power Act, 16 U.S.C. § 824d(d), and Section 35.13(a)(2)(iii) of the Commission’s rules and regulations, 18 CFR § 35.13, modifications to Service Agreement No. 42 for Network Integration Transmission Service (“NITS agreement”), between PG&E and the San Francisco Bay Area Rapid Transit District (“BART”) under PG&E’s Open Access Transmission Tariff (“OAT Tariff”).

Specifically, PG&E proposes to revise the NITS agreement to reflect the agreement between BART and PG&E to accommodate BART’s new power supply arrangements with the Northern California Power Agency (“NCPA”) to serve its load. In order to accommodate BART’s new power supply arrangements, the NITS agreement will include the CAISO Zone North of Path

15 (“NP-15”) as an alternate Point of Receipt (“POR”) for residual power or when its primary POR, the California Oregon Border (“COB”) is not available. This filing also establishes the Western Cottonwood 230 kV Substation (“Cottonwood”) as a “backup” POR for Western power when Western Tracy 230 kV Substation (“Tracy”) is not available as a POR.

III. BASIS FOR MOTION TO INTERVENE

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California and is responsible for the reliable operation of a grid comprising the transmission systems of PG&E, Southern California Edison Company, San Diego Gas & Electric Company, Trans-Elect NTD Path 15 LLC, Western Area Power Administration - Sierra Nevada Region, and the Cities of Vernon, Anaheim, Azusa, Banning, Riverside and Pasadena, California. Accordingly, the CAISO has a unique interest in any Commission proceeding concerning the issues raised in the captioned proceeding.

IV. PROTEST

A. The Commission Should Condition its Approval of the Amended NITS on further Amendment of Section 11.1 Such That the Amendment to Designate NP-15 as the Point of Receipt Expires On the First Effective Date of MRTU.

Pursuant to written request by PG&E sent to the CAISO on April 17, 2006, on May 17, 2006, the CAISO provided its assessment of whether the proposed changes to the terms of service received by BART under NITS agreement to include NP-15 as an alternative POR constitute a new Encumbrance on the CAISO Controlled Grid, and if so, whether the CAISO consents to the new Encumbrance. The NITS agreement is an Existing Contract under the CAISO

Tariff and accordingly is afforded certain distinct treatment under the CAISO Tariff. The CAISO's task in evaluating such requests is to weigh any new Encumbrances against its objective of providing fair, non-discriminatory open access to the transmission grid it operates. For the reasons contained herein, the CAISO informed PG&E of its conclusion that, conditional on the terms further specified herein, the inclusion of NP-15 as an alternative POR in the NITS agreement constitutes a new Encumbrance to which the CAISO conditionally consents with respect to the CAISO's existing Zonal Congestion Management system, but to which the CAISO does not consent with respect to the CAISO's new Market Redesign and Technology Upgrade ("MRTU") as filed in FERC Docket No. ER06-615-000 or otherwise approved by the Commission.

Pursuant to Section 4.4.3 of the Transmission Control Agreement Among the Independent System Operator and Transmission Owners, FERC Electric Tariff No. 7 ("TCA"), the CAISO is required to respond to written requests for its consent within thirty days of having received the written request. The CAISO is submitting this protest based on the information provided to the CAISO in PG&E's April 17, 2006 letter and in the e-mail sent by Mr. Frank Schultz, Manager, Energy Division of BART, both attached as Attachment A and Attachment B respectively, and reserves the right to withdraw this protest should the CAISO receive additional information that would change this analysis. Also pursuant to Section 4.4.3 of the TCA, the CAISO must give its consent to the creation or extension of an Encumbrance unless the CAISO reasonably determines that the change is inconsistent with the Participating TO's obligations

under the CAISO Tariff or the Participating TO's Tariff or that the change may materially impair the CAISO's ability to exercise Operational Control² over the relevant lines or facilities or may reduce the reliability of the CAISO Controlled Grid.

The TCA defines Encumbrance as:

A legal restriction or covenant binding on a Participating TO that affects the operation of any transmission lines or associated facilities and which the ISO needs to take into account in exercising Operational Control over such transmission lines or associated facilities if the Participating TO is not to risk incurring significant liability. Encumbrances shall include Existing Contracts and may include: (1) other legal restrictions or covenants meeting the definition of Encumbrance and arising under other arrangements entered into before the ISO Operations Date, if any; and (2) legal restrictions or covenants meeting the definition of Encumbrance and arising under a contract or other arrangement entered into after the ISO Operations Date.

FERC Electric Tariff No. 7, Second Replacement Transmission Control Agreement, Original Sheet No. 187.

The CAISO has determined that the addition of NP-15 as an alternate POR to COB in the NITS agreement constitutes a new Encumbrance. As the existing NITS agreement did not contemplate NP-15 as a possible POR, its inclusion expands the transmission lines affected by the NITS agreement, which the CAISO must take into account in exercising its Operational Control. If the NITS agreement were such that the addition of NP-15 as an alternate POR was permissible without amendment, the CAISO would have found that BART's

² Operational Control has the meaning provided in the Appendix A of the CAISO Tariff, FERC Electric Tariff, Third Replacement Volume No. 11, Original Sheet No. 516.

request is not a new Encumbrance, as BART would simply have been exercising its rights under the Existing Contract.

The CAISO has conditionally consented to this new Encumbrance under the CAISO's current Zonal Congestion Management system, as it has concluded that the addition of the alternate POR of NP-15 for the NITS agreement would have no effect on the CAISO's ability to exercise Operational Control. This consent is conditional on PG&E and BART agreeing to change Section 11 of the modified NITS agreement as filed in Docket No. ER06-902-000 on May 1, 2006 such that Section 11.1 specifies that the designation of NP-15 as a POR automatically expires as of the first effective day that Locational Marginal Price ("LMP") based markets as contemplated in FERC Docket No. ER06-615-000 or otherwise approved by the Commission, at which time the POR reverts back to the California Oregon Border ("COB") as originally specified in the existing NITS agreement. This change is necessary because, as further described below, under an LMP-based Congestion Management system the change of the POR from COB to NP-15 constitutes a new Encumbrance to which the CAISO does not consent. If BART and PG&E do not agree to this change, or the Commission does not order this change, the CAISO must withdraw its conditional consent to the new Encumbrance, as it would under MRTU materially alter CAISO's ability to exercise Operational Control of the affected facilities.

Recognizing the need to honor existing transmission rights that precede the existence of the ISO, the CAISO has developed as part of its MRTU proposal detailed rules that enable it to schedule, operate the market, and settle

transactions in an equitable fashion. These rules, as contained in the provisions of the MRTU Tariff filed in FERC Docket No. ER06-615-000, strike a proper balance between the need to honor such existing rights while not imposing constraints on the CAISO's ability to exercise Operational Control over the system reliably or imposing significant costs on other market participants. In its market redesign, the CAISO has gone to great lengths to develop a policy for the treatment of Existing Contracts without again imposing significant burdens on other market participants or impinging on its ability to operate the system reliably.³

Under these provisions, certain preferential treatment has been conveyed to self-schedules submitted to the CAISO pursuant to Existing Contracts. For example, Existing Contract self-schedules have to be accepted by the CAISO with priority over most other schedules. In addition, all Existing Rights self-schedules will not be charged for the congestion component of the applicable nodal prices for the valid and balanced portions of the self-schedules source to sink (this is referred to as the "perfect hedge"). The perfect hedge also has a potential financial impact to other market participants as the CAISO is required to carve out the affected capacity from the available capacity over which Congestion Revenue Rights⁴ ("CRRs") will be allocated, thereby resulting in

³ 110 FERC ¶ 61, 113 (2005) (stating that its approval of the CAISO's proposal for honoring scheduling rights for Existing Contracts within the CAISO Control Area is conceptually approved in part because it "makes additional capacity available in the day-ahead and subsequent markets for the use by other users of the system, reduces the likelihood and magnitude of phantom congestion and promotes the convergence of day-ahead and real-time prices.")

⁴ Congestion Revenue Rights are directional point-to-point (or multipoint) financial instruments that entitle holders of such instruments the right to receive payments associated with

fewer CRRs allocated or auctioned to market participants or potentially reducing the financial value of allocated or auctioned CRRs.

The addition of NP-15 as an alternate POR once MRTU is effective would require that the CAISO extend this preferential treatment to include all potential sources that might be used in NP-15 to provide service under the NITS agreement. It is important to note that the NP-15 Zone *per se* will not continue to exist under MRTU. The CAISO contemplates that the proxy for NP-15 is the Existing Zone Generation Trading Hub.⁵ It is expected under MRTU that the Participating TO will provide the CAISO the applicable sources and sinks to which the Existing Right will apply. In any case, such a change would expand the potential physical sources that could be declared under MRTU. Although it can be argued that only a relatively small amount is at stake in this particular contract, the CAISO cannot consent to this new Encumbrance under MRTU because of the precedent it would set for other Existing Rights holders that want to expand the scope of their Existing Rights treatment through the creation of new Encumbrances. Such repeated expansion of Encumbrances would materially impair the CAISO's ability to exercise Operational Control over the affected facilities, as the CAISO would be required to provide the priority scheduling treatment and perfect hedge financial benefits to all such expanded rights. In addition, with regard to the general matter of requests for new or increased service under arrangements inconsistent with the CAISO Tariff, the

LMP-based congestion charges. CRRs are characterized as obligations as they may require that the CRR holder pay the CAISO if the congestion charges are in the opposite direction of the right.

⁵ See MRTU Tariff definition for Existing Zone.

Commission's order authorizing the start-up of the CAISO recognized that the CAISO has a legitimate interest in limiting such new or increased service, stating:

With respect to PG&E's request for guidance concerning requests for new or increased service under its Open Access Tariff, we find that it is necessary to limit future requests for service in order to minimize the ISO's burden of administering these existing services and in order to expedite the transition to service under the ISO's newly established operating rules and protocols. ... With respect to all future requests for service, we direct the Companies to limit the term of all transmission service agreements so that service does not extend beyond the ISO Operations Date.⁶

As recognized to be appropriate by the Commission, the CAISO is proposing to limit this request by BART for increased service under the NITS agreement in order to minimize its burden of administering Existing Contracts and to expedite the transition to service under the CAISO's MRTU Tariff.

The CAISO believes that its inability to consent to extend the new Encumbrance into MRTU should not prevent BART and NCPA from contracting with each other to serve BART load. In addition to the original provisions of the agreement to take service at COB, the CAISO encourages BART to consider exercising its full right to make use of NP-15 as a point of receipt for power deliveries from NCPA pursuant to the terms of the CAISO Tariff. The CAISO provides market participants with open access to the CAISO Controlled Grid that would facilitate BART's ability to receive power deliveries from NCPA in NP-15. The CAISO believes that such service can be met most efficiently under MRTU and parties will be able to benefit from the market improvements that will accrue under MRTU.

⁶ 81 FERC ¶ 61,122 (1997) at 61,472.

B. The Commission Should Only Approve the Permanent Establishment of Western Cottonwood as a Back-Up to Western Tracy Subject to the Changes Proposed Herein.

The CAISO has additional concerns regarding the proposed establishment of Cottonwood as more than just a temporary back-up POR for Western power when Tracy is not available as a POR. In 2005, PG&E and BART amended the NITS agreement to provide for the use of Cottonwood as a temporary back-up POR from December 15, 2005 to July 1, 2006 due to the unavailability of the Tracy POR when PG&E's Tracy-Tesla 230 kV line was unavailable due to reconductoring, other improvements, and maintenance work as described in a separate letter agreement between BART and PG&E. In considering that amendment, the CAISO concluded that the temporary back-up use of Cottonwood would not affect the CAISO's exercise of Operational Control given its finite duration and limited circumstances and did not file a protest or comment with the Commission regarding the then-proposed change.

Upon review of PG&E's current filing, the CAISO has now determined preliminarily that the unlimited extension of Cottonwood as a back-up POR to Tracy in the NITS agreement would pose a significant operational constraint unless it is conditioned such that the rights to use the back-up POR are consistent with the CAISO's scheduling practices.

In contrast to the CAISO's conclusion with regard to the addition of NP-15 as a new POR, the CAISO believes that the unlimited extension of Cottonwood as a back-up POR to Tracy in the NITS agreement would have an adverse effect on the CAISO's ability to exercise Operational Control under the CAISO's current

Zonal Congestion Management system in the event that the opportunity to change the POR to Cottonwood extends into the real-time. Unlike NP-15, the Cottonwood POR is a different Scheduling Point than Tracy for the CAISO Control Area over which transmission capacity must be reserved to accommodate Existing Contract rights in the CAISO's current system. The CAISO's current scheduling practice in the event an Existing Contract allows for real-time changes in points of receipt is to honor the ability to implement the Schedules at any of the Scheduling Points until 8:30 a.m. of the Day-Ahead, after which the CAISO will choose a point of receipt based on prior day use. This allows the CAISO to implement such flexibility without posing significant operational constraints into the real-time. The CAISO proposes that this scheduling practice be made applicable to the NITS agreement. Otherwise, the CAISO would have to maintain indefinitely the systems programming to enable it to reserve transmission capacity at Cottonwood as well as Tracy and would have to accommodate an unlimited number of changes between these PORs. This would be a burden on the CAISO's exercise of its Operational Control well beyond the current temporary accommodation the CAISO has made for BART. Therefore, the CAISO requests that the amendment not allow Cottonwood as a permanent back-up to Tracy unless the change is conditioned such that it be consistent with the CAISO current scheduling practices.

Furthermore, for the same reasons as discussed above with regard to the addition of the NP-15 POR, the unlimited extension of Cottonwood as a back-up POR will require the CAISO to extend the same rights and privileges afforded to

Existing Contracts under MRTU to Cottonwood as well as Tracy. Similarly, had PG&E requested the CAISO to determine whether such a change constitutes a new Encumbrance to which the CAISO provides its consent, the CAISO would have informed the parties that such an expansion of rights would not be reasonable under MRTU.

Again, as recognized to be appropriate by the Commission, the CAISO is proposing to limit this request by PG&E and BART for increased service under the NITS agreement in order to minimize its burden of administering Existing Contracts. The CAISO notes, however, that such actions do not prevent BART from using Cottonwood as a back-up under the CAISO Tariff and should, therefore, not prevent BART from accomplishing its commercial goals.

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V. CONCLUSION

For the foregoing reasons, the CAISO respectfully requests that the Commission permit it to intervene, and that the CAISO be accorded full party status in this proceeding, and that as a condition of its approval, the Commission require amendment of the NITS agreement as provided herein.

Respectfully submitted,

/s/ Anna A. McKenna

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Counsel for the California Independent
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Date: May 23, 2006

CERTIFICATE OF SERVICE

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

Dated at Folsom, CA, this 23rd day of May, 2006.

/s/ Anna A. McKenna

Anna A. McKenna