

January 29, 2002

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

**Re: Pacific Gas & Electric Company and ETrans LLC
Docket No. ER02-455-000**

Dear Secretary Salas:

Enclosed for filing in the above-captioned proceeding are the original and fourteen copies of the Motion to Intervene and Comments of the California Independent System Operator Corporation. Two additional copies of the filing are also enclosed. I would appreciate your stamping the additional copies with the date filed and returning it to the messenger.

Respectfully submitted,

David B. Rubin
Counsel for the California Independent
System Operator Corporation

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

**Pacific Gas and Electric Company) Docket No. ER02-455-000
and ETrans LLC)**

**MOTION TO INTERVENE AND COMMENTS 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”), 18 C.F.R. § 385.214, and the Commission’s December 11, 2001, Notice of Filing, the California Independent System Operator Corporation (“ISO”) hereby moves to intervene in the above-captioned proceeding. In support thereof, the ISO states as follows:

I. COMMUNICATIONS

Please address communications concerning this filing to the following persons:

William Hayes*
Deborah A. Le Vine
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630

David Rubin*
Swidler Berlin Shereff Friedman,
LLP
3000 K Street, NW, Suite 300
Washington, DC 20007

* Individuals designated for service pursuant to Rule 203(b)(3), 18 C.F.R. § 385.203(b)(3).¹

¹ In addition to Mr. Hayes and Mr. Rubin, the ISO respectfully requests that Ms. Le Vine be included on the Official Service List. Mr. Hayes and Ms. Le Vine work in separate buildings, and it would be of significant assistance to the ISO if both were included on the list.

II. BACKGROUND

On November 30, 2001, as described in the Notice of Filing, Pacific Gas and Electric Company ("PG&E") filed: (1) a Back-to-back Agreement between ETrans and Reorganized PG&E, (2) a Transmission Availability Agreement for Offsite Power Supply between ETrans and Electric Generation, LLC ("Electric Generation"), (3) an Interconnection Agreement between ETrans and Reorganized PG&E load serving facilities, (4) an Interconnection Agreement between ETrans and Electric Generation providing for the interconnection between ETrans and Electric Generation's generation facilities, (5) an Interconnection Agreement between ETrans and Reorganized PG&E retained generation facilities, and (6) an Interconnection Agreement between Reorganized PG&E and Electric Generation providing for the interconnection between Reorganized PG&E distribution facilities and Electric Generation's generation facilities. Applicants state that the Agreements have been established as part of the plan of reorganization filed by PG&E with the Bankruptcy Court on September 20, 2001.

III. BASIS FOR MOTION TO INTERVENE

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of a grid comprising the transmission systems of PG&E, San Diego Gas & Electric

Company, and Southern California Edison Company, as well as for the coordination of the competitive electricity market in California. As the operator of this grid, the ISO believes that it has a unique interest in any Commission proceeding concerning the PG&E agreements described above.

IV. COMMENTS

In its filing, PG&E recognizes that it “expect[s] that there will be other jurisdictional agreements or (amendments thereto) filed in the future under Section 205 to implement certain aspects of the plan.” Filing letter at 4. PG&E notes that these “could include any amendments to PG&E’s ISO-related tariffs that are necessary to accommodate the assignment of these tariffs to ETrans.” *Id.* PG&E commits to file any such agreements or amendments not later than 60 days prior to consummation of the plan. *Id.*

The ISO agrees that numerous additional agreements will require modification. Agreements between the ISO and PG&E that will need to be revised to reflect the new organizational structure and responsibilities include the: (1) Transmission Control Agreement; (2) Utility Distribution Company Operating Agreement; (3) Responsible Participating Transmission Owner Agreement; (4) Scheduling Coordinator Agreement; (5) Participating Generator Agreement, (6) Meter Service Agreement for Scheduling Coordinators; (7) Meter Service Agreement for ISO Metered Entities; and (8) certain Reliability Must Run Contracts.

Under the Back-to-Back Agreement, PG&E recognizes that the Commission's initiatives to form one or more Regional Transmission Organizations in the West. *Id.* at 8. PG&E states that in the event ETrans' facilities are transferred to an RTO different than the ISO it must use all reasonable efforts to permit PG&E, on a basis comparable to the treatment of existing contracts of other customers or members of such RTO, to obtain an necessary service from the RTO under the same rates, terms and conditions applicable to the transmission services under the Reorganized PG&E Contracts, for the life of those contracts. *Id.*, citing Back-to-Back Agreement at Section 2.2.1. Such a statement appears to presume there will be a single multi-state RTO in the West. While this may come to pass, it is also possible that the ISO will qualify as an RTO on either an interim or longer basis. Accordingly, the Back-to-Back Agreement should be revised to recognize the possibility that the ISO will become an RTO.

V. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, and that it be accorded full party status in this proceeding. Further, the ISO respectfully requests that the Commission condition any approval on PG&E's commitment to make the necessary revisions to its agreements with the ISO and recognize the possibility that the ISO will be granted status as an RTO.

Respectfully submitted,

David B. Rubin
Swidler Berlin Shereff Friedman, LLP
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643

Counsel for the California Independent
System Operator Corporation

Date: January 29, 2002

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 29th day of January, 2002.

David B. Rubin
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, D.C. 20007
Tel: (202) 424-7500
Fax: (202) 424-7643