

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

California Independent System Operator Corporation)	Docket No. ER03 -218-000
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California Independent System Operator Corporation)	Docket No. ER03 -219-000
)	
)	(not consolidated)

ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEMS OPERATOR CORPORATION TO COMMENTS AND PROTESTS

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2002), the California Independent System Operator Corporation ("ISO") submits its Answer to the comments and protests submitted in the above captioned dockets. ¹

I. BACKGROUND

On November 25, 2002, the ISO filed, in Docket No. ER03 -219-000, an amended Transmission Control Agreement ("TCA"), ² executed by Pacific Gas and Electric

¹ Notwithstanding Rule 213(a)(2), 18 C.F.R. § 385.213(a)(2), the Commission also has accepted answers to protests that assist the Commission's understanding and resolution of the issues raised in a protest, *Long Island Lighting Co.*, 82 FERC ¶ 61,129 (1998); clarify matter under consideration, *Arizona Public Service Co.*, 82 FERC ¶ 61,132 (1998), *Tennessee Gas Pipeline Co.*, 82 FERC ¶ 61,045 (1998); or materially aid the Commission's disposition of a matter, *El Paso Natural Gas Co.*, 82 FERC ¶ 61,052 (1998). The ISO's Answer will clarify matters under consideration, aid the Commission's understanding and resolution of the issues and help the Commission to achieve a more accurate and complete record, on which all parties are afforded the opportunity to respond to one another's concerns. *Northern Border Pipeline Co.*, 81 FERC ¶ 61,402 (1997); *Hopkinton LNG Corp.*, 81 FERC ¶ 61,291 (1997). The Commission accordingly should accept this Answer.

² The TCA is the agreement among the ISO and Participating Transmission Owners ("Participating TOs") that establishes the terms and conditions under which Transmission Owners place certain transmission facilities and Entitlements under the ISO's Operational Control, thereby becoming Participating TOs. The TCA describes how the ISO and each Participating TO will discharge its respective duties and responsibilities with respect to the operation of those facilities and Entitlements. Capitalized terms not otherwise defined herein are used in the sense given in the Master Definitions Supplement, Appendix A to the ISOTariff.

Company (“PG&E”), San Diego Gas & Electric Company (“SDG&E”), Southern California Edison Company (“SCE”), and the City of Vernon (“Vernon”) (the existing ISO Participating TOs), and the Cities of Anaheim, Azusa, Banning, and Riverside, California (together, “Southern Cities”). The purpose of the amendment to the TCA was: (1) to clarify, amend, and supplement various provisions of the current TCA in response to issues raised by the Southern Cities, (2) to identify the transmission interests that Southern Cities would be turning over to the ISO’s Operational Control, and (3) to make certain other changes to the TCA proposed by the ISO and the current Participating TOs.

In connection with the amended TCA, the ISO also filed on November 25, 2002, in Docket No. ER03 -218-000, Amendment No. 47 to the ISO Tariff, which proposes to modify the Tariff to be consistent with the provisions of the TCA that are being amended to accommodate the Southern Cities becoming Participating TOs. The process of becoming a Participating TO involves signing the TCA and turning over Operational Control of transmission facilities and Entitlements to the ISO. The Southern Cities requested several changes to the TCA prior to signing it, which necessitated minor changes to the ISO Tariff. Amendment 47 reflects the necessary Tariff revisions.

One of the requested changes was to add a provision to the TCA that would allow a Participating TO to withdraw from the TCA under certain circumstances. To accommodate this request, Amendment 47 clarifies that for the ISO to collect the Access Charge or Wheeling Access Charge and reimburse a Participating TO’s Transmission Revenue Requirement (“TRR”), the transmission facilities of the

Participating TO must be under the ISO's Operational Control. If a Participating TO withdraws from the TCA, the ISO will not collect the TRR for the withdrawn facilities.

In addition to the amended TCA and the companion ISO Tariff amendment, the ISO filed, on December 2, 2002, in Docket No. EC03-27-000, an application to assume Operational Control of the facilities and Entitlements being turned over by the Southern Cities. The Commission issued an order on December 23, 2002 authorizing the transfer. *California Independent System Operator Corp.*, 101 FERC ¶62,191.

Several parties filed comments or protests in these dockets. This answer responds to those comments and protests filed by the Transmission Agency of Northern California ("TANC"), the California Department of Water Resources ("CDWR"), SCE, the Cities of Redding and Santa Clara, California and the Modesto-S-R Public Power Agency (collectively, "Cities/M -S-R"), Modesto Irrigation District ("MID"), and The Metropolitan Water District of Southern California ("MWD") in Docket Nos. ER03-219-000 and ER03-218-000. This answer does not respond to the protest filed by SCE in Docket No. EC03-27-000 since the Commission already has issued an order in that proceeding.

II. ANSWER TO COMMENTS AND PROTESTS

A. Public On-Line Access to ISO Transmission Register

CDWR, TANC, Cities/M -S-R, and MWD all object to the proposed revision of TCA Section 4.2.4 to remove the listing of the elements of the ISO Controlled Grid and their ratings from public on-line access through the ISO's internet web site. The objections to the proposed revision fall into four general categories. First, CDWR, TANC, and MWD raise the concern that the lack of public on-line access to the ISO Register under revised TCA Section 4.2.4 will deny ISO transmission rate payers access

to information regarding the components of the ISO Controlled Grid on which the TRR for the Access Charge is calculated. Second, TANC, Cities/M -S-R, and MWD assert that revised TCA Section 4.2.4 will discriminate in providing Participating TOs on -line access to information in the ISO Register that will be denied to non -Participating TOs. Third, TANC, Cities/M -S-R, and MWD assert that information in the ISO Register should be made available on -line to all Market Participants on a secure basis. Finally, CD WR and MWD question whether these security concerns regarding the public availability of the information in the ISO Register are legitimate, while Cities/M -S-R question whether the removal of the ISO Register from public on -line access will resolve security concerns. As discussed below, there is no validity to the substance of these concerns and objections.

1. Access to Information Regarding Transmission Rates

CDWR, TANC, and MWD raise concerns that the proposal to withdraw the ISO Register from public on -line access will impair the ability of ISO transmission rate payers to raise issues regarding the facilities that comprise the ISO Controlled Grid whose TRR is used as the basis for the ISO's transmission Access Charge. CDWR at 4 -6; TANC at 9; MWD at 5. Information regarding the facilities that comprise the ISO Controlled Grid is, however, available in at least two ways independent of the public on -line ISO Register. First, Section 203 of the Federal Power Act ("FPA") requires the ISO to make a filing with the Commission whenever there is a change in the facilities that compose the ISO Controlled Grid. Second, the TRRs of the Participating TOs are the subject of public review in the Commission's proceedings establishing the ISO's transmission Access Charge. CDWR, TANC, MWD and all other interested Market Participants have

the opportunity to obtain information regarding the facilities that comprise the ISO Controlled Grid and to raise any issues regarding the appropriateness of the inclusion of the costs of those facilities in the TRR for the Participating TOs in those proceedings, which provide a more appropriate forum for disputing transmission Access Charge costs than the TCA filing.

CDWR contends that the ISO's proposal to restrict access to the ISO Register raises issues concerning compliance with the FPA protections for ratepayers and should be rejected unless the ISO is required to comply fully with FPA Section 203 requirements before Operational Control of a facility can be transferred to the ISO. CDWR at 2. Citing a PG&E proceeding³ in which the ISO Register process was relied upon in lieu of a Section 203 compliance filing to give notice of the transfer of Operational Control of additional PG&E facilities to the ISO, CDWR argues that "experience has proven that transfer of facilities by existing Participating TOs to the ISO has not in practice received Section 203 scrutiny." CDWR at 4. CDWR's argument is without merit. In the single example cited by CDWR, the Commission concluded that a supplemental Section 203 filing to transfer Operational Control of certain facilities was unnecessary because the facilities in question were mistakenly overlooked or mis-coded in the initial Section 203 filing. The PG&E proceeding thus did not enunciate a shift in Commission policy to use the ISO Register process in lieu of a Section 203 filing as CDWR concludes. In fact, in the PG&E proceeding, the Commission affirmed its policy of requiring a Section 203 filing for the transfer of Operational Control of

³ *Pacific Gas & Electric Co.*, 97 FERC ¶63,014 (October 31, 2001).

transmission facilities to the ISO.⁴ The recent Commission approval of the ISO's Section 203 application to assume Operational Control of the Southern Cities' facilities and Entitlements is further evidence that CDWR's concern is unfounded.

2. Discrimination in Access to Information

TANC, Cities/M-S-R, and MWD raise concerns that the limited accessibility of the ISO Register under the revised version of TCA Section 4.2.4 will discriminate against non-Participating TOs by allowing Participating TOs greater access to information about the elements of the ISO Controlled Grid than non-Participating TOs. TANC at 9; Cities/M-S-R at 9; MWD at 6. TANC, Cities/M-S-R, and MWD misunderstand the intended effect of revised TCA Section 4.2.4 in this regard. The intended effect of revised TCA Section 4.2.4 is not to discriminate between Participating and non-Participating TOs; rather, the intent is that a Participating TO only will be able to access information regarding its own facilities that comprise the ISO Controlled Grid through the ISO's internet website, but will *not* be able to access information regarding the transmission facilities of other Participating TOs. As a result, Participating TOs and non-Participating TOs will be in exactly the same position with regard to their inability to access information concerning the transmission facilities of other Participating TOs. If the Commission determines that a clarification should be made to TCA Section 4.2.4 to ensure that the discrimination concern raised by TANC, Cities/M-S-R, and MWD is clearly eliminated, the ISO would propose to make a compliance filing to revise the provisions of TCA Section 4.2.4 by adding the underlined sentences so that the section will read as follows:

⁴ *Id.* at 65,062.

4.2.4 **Publication** The ISO shall make the ISO Register available to the Participating TOs on WEnet or a secure ISO -maintained internet website. A Participating TO only shall be provided access to information through the ISO Register regarding the facilities that it has turned over to ISO Operational Control and shall not be provided access to information regarding the facilities of other Participating TOs.

3. Secure Access

TANC proposes that the ISO implement “[r]easonable screening protocols” to permit Market Participants on -line access to the ISO Register. TANC at 9. Cities/M-S-R propose that the ISO make the information in the ISO Register available to all Market Participants through some type of mechanism that “will not compromise security.” Cities/M -S-R at 9. MWD cites the Commission’s recent *Critical Energy Infrastructure Information* (“CEII”) Notice of Proposed Rulemaking (“NOPR”), FERC *Statutes and Regulations* ¶32,564 (2002), for the proposition that the Commission has endorsed the availability of transmission facility information to Market Participants and recommends that the Commission reject the proposed amendments as being “unduly cautious and restrictive.” MWD at 6. MWD urges, however, that “To the extent that the Commission agrees that public access to the ISO Register is inappropriate, it should nevertheless require the ISO to continue ISO Market Participants access. This would be consistent with the Commission’s recent Critical Energy Infrastructure Information (“CEII”) NOPR ... ” where the Commission noted that it could consider an information requester’s status and need to know the information. *Id.*

These proposals, however, are unsupported by any assertion of a business need for the information in the ISO Register to be made publicly available through on-line internet access, and thus should be rejected. The ISO is not aware of any routine business purpose for which Market Participants would need on-line access to the detailed information regarding the facilities that compose the ISO Controlled Grid. If a Market Participant, including another Participating TO, can demonstrate a special need for information regarding a Participating TO's facilities comprising the ISO Controlled Grid, the ISO would recommend that any such requests for information be referred to the Participating TO whose facilities are the subject of the information request to the Commission on a case-by-case basis for release of such information. This approach would be consistent with, and an interim solution until, the Commission's approach to accessing critical energy infrastructure information in the CEII NOPR is implemented where the Commission's designated CEII Coordinator would consider an information requester's particular need for and intended use of the information in determining whether to release the CEII to the requester. This approach also would address MWD's concern regarding the availability of information concerning the transmission system to potential developers of generation. See MWD at 5.

Moreover, the time and cost involved in creating a mechanism to screen "legitimate" Market Participants from entities and individuals requesting on-line access to the ISO Register that might pose security risks would be substantial. It is an expensive proposition to design software systems that provide secure access only to verified users. In addition, it could be quite costly and time-consuming for the ISO to institute a system of background checks to determine whether a purported Market

Participant actually posed a security risk. Without any business justification for the need for such on-line information access, those efforts and expenses cannot be justified.

4. Legitimacy of Security Concerns

Finally, CDWR raises a question regarding the legitimacy of the security concerns that have motivated the proposed removal of the description of the transmission facilities from public access, stating that "the ISO should be required to make a showing *why* it is concerned that public disclosure of the contents of the ISO Register could result in impairment of system operations, unnecessarily reveals sensitive information, and pose significant security problems as to the facilities referenced therein." CDWR at 6. MWD raises a similar concern. MWD at 5. Cities/M -S-R, while stating that they are "empathetic to the security concerns of the ISO," also raise questions whether the removal of the ISO Register from public on-line access will resolve those security concerns. Cities/M -S-R at 9.

By its very nature, the information in the ISO Register can provide a terrorist a guide to targeting critical system elements for destruction that could have the maximum impact on the entire grid. The ISO has been briefed by Lieutenant Colonel William Flynt, Director, Threats to Critical Infrastructures, with the Foreign Military Studies Office, US Army TRADOC Deputy Chief of Staff for Intelligence on this very matter, including the identification of the on-line availability of the transmission system information on the ISO's internet website as a potential security risk. The U.S. Department of Energy has also identified the on-line availability of transmission information as a potential security risk in a confidential security assessment that it performed for the ISO. The Commission itself is very much aware of the heightened

need for security of the nation's electric infrastructure in the wake of recent terrorist attacks and has initiated the CEII NOPR to address the potential removal of such information from public accessibility through the Commission's records. Among other actions that the ISO has taken to address these security concerns has been to request confidential filing with the Commission under seal of electric system information in its operating agreements. See, e.g., *Utility Distribution Company Operating Agreement*, Docket No. ER02-887-000 (March 26, 2002) (Letter Order).

Although it is true, as Cities/M -S-R point out, that the information in the ISO Register already has been available to the public for several years, that is not a justification for continuing to perpetuate that security risk for the future. And, while the information required to be provided in a filing under FPA Section 203 currently must be part of a public document, that information only describes a limited part of the electric system. Moreover, the Commission may well determine that it should no longer be made public as a routine matter as a result of its CEII NOPR. Thus, the security concerns dictating withdrawal of the ISO Register from on -line public access are legitimate and the Commission, in order to ensure greater security of the California transmission grid, should accept amended TCA Section 4.2.4 as proposed.

B. Availability of New Entitlements for Market Participant Use

SCE and CDWR express concern that the new transmission Entitlements that the Southern Cities are proposing to turn over to ISO Operational Control will not be made available by the ISO for use by Market Participants. SCE at 2 -4; CDWR at 15 -18. The ISO acknowledges that delays occurred in its implementation of systems changes necessary to make all of the transmission Entitlements of the City of Vernon, the first

utility to become a New Participating TO, available for use by Market Participants. The ISO has engaged in an intensive effort, however, to reconfigure its system to make all new Entitlements of the Southern Cities available for Market Participant use as of January 1, 2003, the date that the ISO has requested the revised TCA be made effective.

On December 16, 2002, the ISO issued a Market Notice to all ISO Market Participants announcing the availability of scheduling rights on the new Entitlements of the Southern Cities as of January 1, 2003 and the modifications to the ISO system network model to create five new branch groups, tie points, and Congestion Zones for Market Participant use in that scheduling. The ISO subsequently held a "market simulation" for scheduling at the new scheduling points on December 26 and 27, 2002. The ISO is optimistic that all systems issues have been resolved sufficiently to permit Market Participant use of the Southern Cities' Entitlements as of January 1, 2003. On that basis, the ISO urges the Commission to reject the objections of SCE and CDWR in this regard.

C. Filing of Procedures to Relinquish Operational Control

Cities/M-S-R assert that the ISO should be required to file with the Commission the "Procedures to Relinquish Operational Control" to be developed jointly by the ISO and the Participating TOs pursuant to TCA Section 3.4.6. Cities/M-S-R at 7-8. To the contrary, the ISO submits that these anticipated procedures do not meet the "rule of reason" test of documents that need to be filed with the Commission. These are procedures that the ISO and Participating TOs agreed should be developed to spell out the accommodations that the ISO will make in the event of the early withdrawal from

ISO Operational Control of transmission facilities or Entitlements by Tax Exempt Participating TOs due to an Actual Adverse Tax Action. Because these are ISO administrative procedures that simply will implement the substantive provisions of new Section 3.4 of the TCA, they should be handled on the same basis as the ISO Operating Procedures, which are posted on the ISO Home Page with notice to the ISO's Market Participants .

Cities/M-S-R also suggest that TCA Section 3.4.6 be revised to refer to "Participating TOs" instead of "Parties." Cities/M -S-R at 8. To the contrary, the term "Parties" is the appropriate term to be used in that provision, as that term is defined on page one of the TCA as including the ISO, while the term "Participating Transmission Owners" does not include the ISO, and the intention of the Parties to the TCA is that the ISO be involved directly in developing the subject procedures.

D. Objection to Revisions to Listing of Encumbrances

TANC, Cities/M -S-R, and MID raise objection to three modifications proposed to the listing of applicable Encumbrances on the ISO Controlled Grid in PG&E TCA Appendix B. In accordance with the provisions of Section 2. 4.4.4.1.1 of the ISO Tariff, the ISO has no role in interpreting Existing Contracts and implements the relevant Participating TO's operating instructions regarding those Existing Contracts absent agreed operating instructions provided by the parties to the Existing Contract. Moreover, it is the ISO's view that the summary listings of Existing Contracts in TCA Appendix B cannot serve to alter the terms of those Existing Contracts. The ISO has deferred to PG&E in its proposed revisions to its listing of Encumbrances in its TCA

Appendix B and has consulted with PG&E in providing the following response to the objections of TANC, Cities/M -S-R, and MID.

First, TANC correctly points out that there is an inconsistency in the listing of the termination date for the ePath 15 Operating Instructions. TANC at 5 -7. The listing in the summary table of PG&E's Encumbrances includes a typographical error. PG&E indicates that the termination date listed as "3/13/03" for Encumbrance #12 should actually be listed as "3/31/03 ." The ISO proposes to make that correction in a compliance filing with the Commission.

Second, TANC takes exception to the revision to the summary description of the termination date for the South of Tesla Principles, listed as Encumbrance #27 in the proposed new version of PG&E TCA Appendix B. TANC at 7 -8. PG&E provided that revised description to the ISO, and the ISO is not in a position to second -guess PG&E's description of its own contract's terms. In response to the ISO's inquiries regarding this matter, PG&E provided the ISO with the following discussion of TANC's objection:

Claiming the proposed revision is inaccurate, Transmission Agency of Northern California ("TANC") proposes changing the termination date shown for the South of Tesla Principles, PG&E Rate Schedule FERC No. 143 ("SOTP"), to "Evergreen, subject to exception."⁵ However, based on discussions with PG&E (whose Appendix B is at issue in this instance), the ISO understands TANC's proposal does not correctly characterize the SOTP termination date and the ISO's proposed change is more accurate than the present language. The term "Evergreen" implies the underlying agreement has perpetual life, usually subject to one party or another exercising a right to terminate. However, the termination provisions of this rate schedule do not make it evergreen. The SOTP terminates upon the occurrence of alternate conditions, unless terminated earlier by TANC: termination of the COTP Participation Agreement, the change proposed

⁵ TANC Comments at 8.

by the ISO for great accuracy (with which TANC does not take issue); or “early” termination in accordance with SOTP Section 8.2.3.⁶

Also, the second condition for termination in SOTP Section 8.1 cited by TANC (a paraphrase of SOTP Section 8.2.3 as “the later of January 1, 2010 or 10 years after completion of the South of Tesla Reinforcements if TANC contributes in accordance with Section 5.3”) does not create an evergreen situation. Since the COTP Interim Participation Agreement appears likely to continue beyond the second condition for termination cited by TANC, the ISO revised the SOTP reference in Appendix B to state the termination of the COTP Interim Participation Agreement to be the termination event for this Encumbrance more likely to occur because it will be later.

Third, Cities/M -S-R and MID Object to the deletion of former PG&E Encumbrance #43, the Scheduling Services Contract between PG&E and M -S-R, from PG&E TCA Appendix B. That agreement was deleted on the basis of PG&E’s indication that the agreement initially was listed out of an abundance of caution but does not provide for any transmission service and therefore does not truly constitute an Encumbrance affecting the ISO’s Operational Control of the ISO Controlled Grid. The ISO has consulted with PG&E, and PG&E has indicated that it continues to propose deleting the reference to the Scheduling Services Contract between PG&E and M -S-R as an Encumbrance in PG&E TCA Appendix B. In response to the ISO’s inquiries regarding this matter, PG&E provided the ISO with the following discussion of TANC’s objection:

Modesto Irrigation District (“MID”) claims the ISO erroneously proposed to delete the reference to its Scheduling Services Agreement with PG&E, PG&E Rate Schedule FERC No. 187, from Appendix B of the TCA. MID explains it may be unable to schedule power to its load without this agreement and notes, as an Existing Contract (presumably referring to that definition in the ISO Tariff), it should continue to be honored.⁷ However, this contract does not create an Encumbrance and was

⁶ SOTP Section 8.1, Original Sheet No. 40, PG&E Rate Schedule FERC No. 143.

⁷ MID Protest at 8 and n.3.

mistakenly included in Appendix B at the time the TCA was first entered into. This agreement does not provide for transmission service. As MID describes it, the contract requires PG&E to schedule power for the M -S-R Public Power Agency, of which MID is a member. Its scheduling service is premised on the M -S-R members having obtained transmission service *outside* that agreement.⁸ Therefore, there is no transmission service over the ISO Controlled Grid to be reserved for use by PG&E to meet its obligations under this contract. MID's Protest is consistent with this understanding, since it does not specify any transmission service provided under this agreement. The result is that the Scheduling Services Agreement can be removed from the list of Encumbrances in Appendix B without affecting service to MID.

The ISO has no basis for disagreeing with PG&E's characterization of the agreement, recognizing that its listing in TCA Appendix B will have no effect on the substantive terms of the agreement.

Finally, TANC proposes that the ISO be required to consult with Existing Rights holders prior to implementing any further changes to the TCA. TANC at 8 -9. The ISO would oppose that proposal on the basis that the interpretation of Existing Contracts is a matter to be addressed between the Participating TO and the Existing Rights holder. As Section 2.4.4.4.1.1 of the ISO Tariff precludes the ISO from becoming involved in matters of interpretation of Existing Contracts, the ISO proposes to continue to follow the mandate of Section 2.4.4.4.1.1 that it implement the relevant Participating TO's operating instructions regarding an Existing Contract absent agreed operating instructions provided by the parties to the Existing Contract.

E. Characterization of New Entitlements as "Gen Ties"

CDWR provides an extensive discussion of the characteristics of "generation tie lines" ("gen ties") and suggests that many of the new Entitlements proposed to be

⁸ See Section 2.4 of the Scheduling Services Agreement.

turned over to ISO Operational Control by the Southern Cities are “genties” that should be rejected by the ISO. CDWR argues certain Southern Cities facilities have “hallmarks” of gentie facilities and that any such facilities that are (1) identified as gentie facilities and thus not appropriate for inclusion in the ISO’s transmission Access Charge rates and (2) are not comparably usable by ISO transmission customers, should not be transferred to the ISO’s Operational Control. CDWR at 7 -10. CDWR maintains that Commission policy defines network facilities as those “ator beyond the point where the customer or generator connects to the grid,” and thus are properly excluded from ISO Operational Control. CDWR at 8. According to CDWR, subsidization of gentie “raises serious policy issues concerning,” among other things, “undue cost shifts” and “unfair competitive advantage to certain favored generators.” CDWR at 7.

CDWR further argues that “not tangible benefit has been identified to support the transfer of facilities proposed in the ISO’s Application,” and that the cost of rolling in Entitlements and facilities that are not usable to ISO customers outweigh the hypothetical benefits. CDWR at 12 -13. According to CDWR, customers of existing Participating TOs would be “subjected to significant increased Transmission Access Charge rates associated with any use of the ISO Grid following the transfer of these facilities to ISO control since these facilities would apparently remain unusable by other than the Southern Cities.” CDWR at 13 -14.

The ISO disagrees and submits that the Commission already has agreed with the ISO’s position in its acceptance of the ISO’s filing under FPA Section 203 of the addition of the Entitlements of the Southern Cities to the ISO Controlled Grid. The ISO

considers the function of the Southern Cities' Entitlements as providing transmission rights, rather than serving as entitlements.

CDWR also asserts that the incorporation of the Southern Cities' Entitlements into the ISO Controlled Grid will be costly to transmission customers. CDWR at 12 -15. Not only does the TCA not give the ISO the ability to refuse to incorporate transmission facilities and Entitlements into the ISO Controlled Grid based on cost considerations, however, but such a policy could preclude Transmission Owners with more costly facilities and Entitlements from ever integrating their facilities into the ISO Controlled Grid, regardless of the benefits to overall system coordination and reliability. Moreover, the ten -year transition process for the ISO's High Voltage Access Charge incorporated into ISO Tariff Appendix F, Schedule 3 is designed in part to alleviate potential cost impacts of the incorporation of more costly transmission facilities and Entitlements into the ISO's transmission Access Charge.

Further, CDWR's objections primarily involve the question of whether or not it is appropriate to include the Transmission Revenue Requirements associated with specific Southern Cities' facilities in the transmission Access Charge rate charged by the ISO. This is a concern best addressed in the settlement proceedings the Commission has recently established in the consolidated dockets involving the Southern Cities' TRRs. *City of Azusa, et al.*, 101 FERC ¶ 61,352 (December 23, 2002). This would be consistent with the prior treatment of the facilities turned over by the investor owned utilities. For example, PG&E turned over certain facilities to the ISO that the Administrative Law Judge found to be generation ties for rate making purposes but still part of the ISO Controlled Grid. *Pacific Gas and Electric Company*, 97 FERC

¶ 63,014 at 65,062 (2001). Keeping such facilities under ISO Operational Control may be important for a variety of reasons including facilitating access of new generation.

III. CONCLUSION

For the reasons described above, the ISO requests that the Commission find that its amended TCA and Tariff Amendment No. 47 are reasonable and approve them with the proposed minor modification regarding Encumbrance #12 discussed above.

Respectfully submitted,

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Dated: December 31, 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, DC, this 31st day of December, 2002.

/s/ Julia Moore
Julia Moore

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