

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

**California Independent System            )       Docket No. ER03-407-003  
Operator Corporation                    )**

**MOTION FOR LEAVE TO FILE ANSWER AND ANSWER OF  
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION TO  
COMMENTS, PROTESTS, AND CONDITIONAL MOTION TO CONSOLIDATE**

**I.       INTRODUCTION AND SUMMARY**

On April 11, 2003, as corrected on April 16, 2003, the California Independent System Operator Corporation (“ISO”)<sup>1</sup> submitted a filing (“Amendment No. 48 Compliance Filing”) in compliance with the Commission’s March 12, 2003 “Order Conditionally Accepting Tariff Amendment for Filing, as Modified, Granting Waiver of Notice, and Directing Compliance Filing,” 102 FERC ¶ 61,278 (“Amendment No. 48 Order”) in the above-referenced docket. In response to the Amendment No. 48 Compliance Filing, several parties submitted comments and/or protests.<sup>2</sup>

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385, 212, 385.213, the ISO hereby requests leave to file an answer, and files its answer, to the comments, protests, and motion for

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meaning set forth in the Master Definitions Supplement, Appendix A to the ISO Tariff.

<sup>2</sup> Comments and/or protests were submitted by The Metropolitan Water District of Southern California (“MWD”); Pacific Gas and Electric Company (“PG&E”); and the Transmission Agency of Northern California (“TANC”). In its filing, PG&E also included a conditional motion to consolidate.

reconsideration submitted in the above-referenced dockets.<sup>3</sup> For the reasons described below, the issues raised by the intervenors are without merit and the Amendment No. 48 Compliance Filing should be accepted as filed.

## II. ANSWER

### A. The Amendment No. 48 Compliance Filing Was Not Protested by the Entities Most Likely to Be Affected by It

Amendment No. 48 was filed to address an unusual situation in which FPL Energy, LLC (“FP&L”) paid for a recent upgrade to a transmission line owned by Southern California Edison Company (“SCE”), and, rather than seeking to recover a credit for the expenditures, sought an allocation of Wheeling, Congestion, and Firm Transmission Right (“FTR”) auction revenues. In its Order, the Commission rejected the allocation methodology proposed<sup>3</sup> by the ISO and directed the ISO to use instead an allocation methodology based on the incremental amount of capacity added to the system. Amendment No. 48 Order at P 21.

As explained in the Amendment No. 48 Compliance Filing, while the Order spoke only of applying the incremental addition allocation methodology to FTRs themselves, the purpose of Amendment No. 48 was in fact to allocate

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<sup>3</sup> PG&E provides its comments and protest in portions of its pleading without differentiating between them. Parties also request affirmative relief in pleadings styled as comments and protests. There is no prohibition on the ISO’s responding to the assertions in these pleadings. The ISO is entitled to respond to these pleadings and requests notwithstanding the labels applied to them. *Florida Power & Light Co.*, 67 FERC ¶ 61,315 (1994). Additionally, to the extent that this Answer is deemed an answer to protests, the ISO request waiver of Rule 213 (18 C.F.R § 385.213) to permit it to make this Answer. Good cause for this waiver exists here because the Answer will aid the Commission in understanding the issues in the proceeding, provide additional information to assist the Commission in the decision-making process, and help to ensure a complete and accurate record in this case. See, e.g., *Entergy Services, Inc.*, 101 FERC ¶ 61,289, at 62,163 (2002); *Duke Energy Corporation*, 100 FERC ¶ 61,251, at 61,886 (2002); *Delmarva Power & Light Company*, 93 FERC ¶ 61,098, at 61,259 (2000).

revenues to entities other than Participating TOs that fund transmission facility upgrades on the ISO Controlled Grid. Transmittal Letter for Amendment No. 48 Compliance Filing at 1-2. Accordingly, in the Amendment No. 48 Compliance Filing, the ISO proposed to apply the Commission's allocation methodology to the Wheeling, Congestion, and FTR auction revenues covered by Amendment No. 48.

Significantly, neither FL&L nor SCE – the entities directly affected by Amendment No. 48 – protested the Amendment No. 48 Compliance Filing. While the ISO recognizes that the amendment has generic implications that could potentially affect other parties, this situation is atypical of the general grid upgrade process. The ISO is not aware of any similar upgrades currently in its queue.

More significantly, the allocation methodology for all Wheeling and Congestion revenues and FTR auction proceeds proposed in the Amendment No. 48 Compliance Filing is completely consistent with the Commission's direction and represents a reasonable approach.

**B. Modifying Section 3.2.7.3(d) of the ISO Tariff, as Proposed by MWD and TANC, Is Unnecessary**

MWD and TANC assert that Section 3.2.7.3(d) of the ISO Tariff should be modified to specify that FTRs should be allocated based on the rating process established by the regional reliability council for the ISO Controlled Grid, i.e., the Western Electricity Coordinating Council ("WECC"). MWD at 3; TANC at 2. These parties appear to believe that the Amendment No. 48 Compliance Filing should provide for an allocation of FTRs; as explained in the Amendment No. 48

Compliance Filing, however, the ISO did not propose to allocate FTRs in Amendment No. 48, but proposed instead to allocate FTR auction, Wheeling, and Congestion revenues. Transmittal Letter for Amendment No. 48 Compliance Filing at 1-2. Thus, any allocation of FTRs in this proceeding would be inappropriate.

Be that as it may, the change that MWD and TANC request is superfluous. In the Amendment No. 48 Order, the Commission stated that the regional reliability council process should apply, and that the ISO agreed. Amendment No. 48 Order at P 19 n.8 and P 21. Consistent with this direction, the ISO must adhere to the process established by the WECC. However, there is no reason for the ISO also to include additional language to that effect in the ISO Tariff. Amendment No. 48 proposes changes to the allocation of certain revenues as the result of a grid upgrade, but does not deal with how the rating of the upgraded facility is established.

**C. The ISO's Proposed Allocation Methodology Was Required by the Amendment No. 48 Order**

PG&E argues that the ISO should allocate Wheeling revenues differently from Congestion and FTR auction revenues, and that the ISO's proposed methodology for allocating Wheeling, Congestion, and FTR auction revenues does not sufficiently account for the impact of O&M costs. PG&E at 3-4, 5. These arguments ignore the direction the Commission provided in the Amendment No. 48 Order.

As noted above, in the Amendment No. 48 Order the Commission required the ISO to use an allocation methodology based on the incremental

amount of capacity added to the system; the ISO has proposed to apply this methodology to the classes of revenue addressed in Amendment No. 48. To the extent that PG&E seeks a different treatment for one or more of the classes of revenue, the proper course would have been for PG&E to submit a request for rehearing of the Amendment 48 Order, which it declined to do. The fact that PG&E did not seek such a rehearing renders its protest of the Amendment No. 48 Compliance Filing an impermissible collateral attack on the Commission's Order.<sup>4</sup>

**D. Section 3.2.7.3(a) of the ISO Tariff No Longer Provides for a Cost-Based Allocation Methodology**

PG&E also asserts that “the existing allocation method” in Section 3.2.7.3(a) of the ISO Tariff (concerning Wheeling revenues attributable to transmission upgrades) is cost-based, and that the capacity-based proposal in the Amendment No. 48 Compliance Filing is “inconsistent” with that section. PG&E at 4. There is no inconsistency. In Amendment No. 48, the ISO proposed to *delete* the language in Section 3.2.7.3(a) prescribing a cost-based allocation methodology, and to replace it with a reference to the methodology described in Section 3.2.7.3(d) of the ISO Tariff. Amendment No. 48 at Attachment B. The change to Section 3.2.7.3(a) was accepted in the Amendment No. 48 Order, and the ISO was required to submit a compliance filing to provide for a capacity-based allocation methodology. The ISO submitted changes to Section 3.2.7.3(d) to comply with the Commission's directive. Therefore, the current language of

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<sup>4</sup> See, e.g., *Dighton Power Associates Limited Partnership, et al. v. ISO New England Inc.*, 95 FERC ¶ 61,251, at 61,873, *reh'g denied*, 96 FERC ¶ 61,091 (2001); *Transwestern Pipeline Company*, 77 FERC ¶ 61,237, at 61,961 (1996).

Section 3.2.7.3(a) contains no reference to a cost-based allocation methodology, and is entirely consistent with the capacity-based allocation methodology proposed in Section 3.2.7.3(d).

**E. PG&E's Proposed Refinements of the Concept of an Upgraded Transmission Facility Are Unnecessary, Especially in Light of the Difficulties Such Refinements Would Entail**

PG&E proposes a number of refinements of the concept in the ISO Tariff of an upgraded transmission facility. PG&E at 5-6. The ISO estimates that it would take months for the concept to be refined along the lines that PG&E suggests. As the allocation methodology provided for in Amendment No. 48 may only be invoked once, it would not be worth the time and effort to refine the concept of an upgraded transmission facility as PG&E proposes. The ISO believes the best way to resolve any specific concerns a non-Participating TO that contemplates funding a transmission upgrade might have would be through discussions with the ISO and the Participating TO or through the ISO ADR Procedures.

**F. The Amendment No. 48 Compliance Filing Should Be Accepted by the Commission, Not Consolidated With Other Proceedings**

PG&E states that, if the Commission does not reject the ISO's proposed allocation methodology with regard to Wheeling revenues, the entire Amendment No. 48 Compliance Filing should be consolidated with the ongoing proceedings concerning Amendment Nos. 27 and 34 to the ISO Tariff (in Docket Nos. ER00-2019 and ER01-819, respectively). PG&E at 7. The ISO recognizes that the allocation of Wheeling revenues is at issue in Docket No. ER00-2019, regarding

the transmission Access Charge. In lieu of consolidation, the ISO would propose that any treatment of Wheeling revenues in Amendment No. 48 be made subject to the outcome of the Docket No. ER00-2019 proceeding. Moreover, due to the administrative difficulty involved and potential disruption to the affected entities, the ISO would request that any potential change be made prospectively.<sup>5</sup>

### III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept the Amendment No. 48 Compliance Filing as submitted to the Commission.

Respectfully submitted,

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Date: May 22, 2003

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<sup>5</sup> However, if the Commission's deliberations concerning the Amendment No. 48 Compliance Filing were to come down to a choice between either rejecting some or all of the filing or consolidating the filing with the proceedings concerning Amendment Nos. 27 and 34, the ISO would of course prefer consolidation.



May 22, 2003

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

**Re: California Independent System Operator Corporation  
Docket No. ER03-407-003**

Dear Secretary Salas:

Enclosed for electronic filing please find Motion for Leave to File Answer and Answer of the California Independent System Operator Corporation to Comments, Protests, and Conditional Motion to Consolidate in the above-referenced docket.

Thank you for your assistance in this matter.

Respectfully submitted,

Anthony J. Ivancovich  
Counsel for The California Independent  
System Operator Corporation

## **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 the above-captioned docket.

Dated at Folsom, California, on this 22<sup>nd</sup> day of May, 2003.

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Anthony J. Ivancovich