

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

**California Independent System) Docket No. ER01-819-000
Operator Corporation)**

**ANSWER OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
MOTIONS TO INTERVENE, COMMENTS, PROTESTS, AND
MOTIONS TO CONSOLIDATE**

I. INTRODUCTION AND SUMMARY

On December 28, 2000, the California Independent System Operator Corporation (“ISO”)¹ filed Amendment No. 34 to the ISO Tariff in the above-referenced docket.² Amendment No. 34 was intended to clarify certain issues associated with implementation of the new transmission Access Charge methodology proposed in Amendment No. 27.³ In addition, the ISO provided information as to the new Access Charge rates that would be in effect if the Commission were to permit the City of Vernon, California (“Vernon”) to join the ISO as a Participating Transmission Owner effective January 1, 2001, and the amount of Firm Transmission Rights (“FTRs”) that would be given to Vernon in accordance with the ISO Tariff.

¹ Capitalized terms not otherwise defined herein shall have the meaning as defined in the Master Definitions Supplement, Appendix A to the ISO Tariff.

² On January 12, 2001, the ISO also filed a supplement to Amendment No. 35 to the ISO Tariff in Docket Nos. ER01-313-000, *et al.* The supplement included, among other things, revised tariff sheets to supersede tariff sheets submitted as part of Amendment No. 34. The ISO proposed no substantive changes in the supplement.

³ Amendment No. 27 was filed in Docket No. ER00-2019-000. The Commission has issued an order accepting Amendment No. 27 for filing, suspended for a nominal period, subject to refund, and setting it for hearing. The hearing is held in abeyance pending efforts at

A number of parties have moved to intervene in the present proceeding. Some of the motions to intervene include comments on or protests of Amendment No. 34, as well as requests for specific relief.⁴ Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2000), the ISO now submits its Answer to the motions to intervene, comments, protests, and motions to consolidate submitted in the above-referenced docket. The ISO does not oppose the intervention of the parties that have sought leave to intervene in this proceeding.

Some of the parties note their qualified or unqualified support for Amendment No. 34. Other parties request substantial modification or rejection of that filing. These requests are unsupported. As explained below, Amendment No. 34 should be approved as filed and already contains sufficient detail. However, Amendment No. 34 should not be consolidated with the ongoing proceeding concerning Amendment No. 27, though the ISO does not oppose making the acceptance of Amendment No. 34 subject to the outcome of that proceeding. Moreover, this instant proceeding will not "prejudge" any aspect of the Amendment No. 27 proceeding. The ISO also notes that some parties

settlement. *California Independent System Operator Corporation*, 91 FERC ¶ 61,205 (2000), *reh'g pending* ("Amendment No. 27 Order").

⁴ Motions to intervene and consolidate, comments, and/or protests were filed by the California Department of Water Resources ("DWR"); California Electricity Oversight Board; California Power Exchange Corporation; Cities of Redding and Santa Clara, California, and the M-S-R Public Power Agency ("Cities/M-S-R"); City and County of San Francisco; Cogeneration Association of California and the Energy Producers and Users Coalition; The Metropolitan Water District of Southern California ("MWD"); Modesto Irrigation District ("MID"); Northern California Power Agency; Pacific Gas and Electric Company ("PG&E"); Sacramento Municipal Utility District ("SMUD"); San Diego Gas & Electric Company ("SDG&E"); Southern California Edison Company ("SCE"); Southern Energy California, L.L.C., Southern Energy Potrero, L.L.C., and Southern Energy Delta, L.L.C.; Transmission Agency of Northern California ("TANC"); Turlock Irrigation District; Vernon; Western Area Power Administration ("WAPA"); and Williams Energy Marketing & Trading Company. A notice of intervention was filed by the Public Utilities Commission of the

erroneously raise issues that are unrelated to the instant proceeding or that are pending on rehearing in the Amendment No. 27 proceeding. Additionally, the ISO notes that it intends to provide Vernon with transmission rights concerning the facilities that Vernon describes in its pleading.

II. ANSWER⁵

A. Vernon Will Be Able to Join the ISO Once the Commission Grants Approval Concerning All Relevant Issues

MWD states that it is unclear whether the Commission order authorizing disposition of Vernon's jurisdictional facilities is yet effective and, therefore, whether it is appropriate for the Commission to render the proposed changes to become effective January 1, 2001.⁶

The ISO recognizes that there are two additional, ongoing proceedings in which the Commission must approve filings to permit Vernon to join the ISO: the Docket No. EL00-105 proceeding, which concerns Vernon's Transmission Owner Tariff, and the Docket No. ER01-724 proceeding, which concerns an amendment to the Transmission Control Agreement among the ISO and Participating Transmission Owners. The ISO requested waiver of the Commission's notice requirement as to Amendment No. 34 so that the proposed changes would be

State of California.

⁵ Some of the parties commenting on Amendment No. 34 do so in portions of their pleadings that are variously styled, without differentiation. 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). In the event that any portion of this Answer is deemed an Answer to protests, the ISO requests waiver of Rule 213 (18 C.F.R. § 385.213) to permit it to make this Answer. Good cause for this waiver exists here given the nature and complexity of this proceeding and the usefulness of this Answer in ensuring the development of a complete record. *See, e.g., Enron Corp.*, 78 FERC ¶ 61,179, at 61,733, 61,741 (1997); *El Paso Electric Co.*, 68 FERC ¶ 61,181, at 61,899 & n.57 (1994).

made coincident with the start of the new Access Charge, assuming that the Commission acted favorably on the filings in Docket Nos. EL00-105 and ER01-724. If the Commission were to not approve Vernon's becoming a Participating Transmission Owner as of January 1, 2001, the ISO would still request approval of Amendment No. 34 but the waiver would be unnecessary.

B. The Amendment No. 34 Filing Already Contains Sufficient Detail

Vernon contends that the ISO provides insufficient detail in supporting certain of its proposed changes to the ISO Tariff, especially the changes to Appendix F, Schedule 3, Sections 7.1.3, 8.1, 8.2, and 10. Vernon suggests a technical conference with regard to the above-noted sections. However, as detailed in the transmittal letter for the Amendment No. 34 filing, the proposed Tariff changes are clarifications and revisions that will serve to implement the new Access Charge methodology, for which the ISO has provided the Commission with sufficient information to render a decision concerning them.⁷ Therefore, a technical conference is unnecessary.⁸

C. The ISO Does Not Object to Making the Acceptance of Amendment No. 34 Subject to the Outcome of the Amendment No. 27 Proceeding

Cities/M-S-R, MID, and TANC assert that the instant docket and Docket No. ER00-2019-000 should be consolidated with one another or, in the alternative, that the present docket should be made subject to the outcome of

⁶ MWD at 4.

⁷ See Transmittal Letter for Amendment No. 34 Filing at 4-6.

⁸ Cf., e.g., *Atlantic City Electric Company, et al.*, 86 FERC ¶ 61,248, at 61,895 (1999); *Texas Eastern Transmission Corporation*, 84 FERC ¶ 61,044, at 61,189 (1998).

Docket No. ER00-2019-000.⁹ Additionally, NCPA asserts that the two dockets should be consolidated.¹⁰ The ISO believes that consolidation is unnecessary, but also does not oppose making the Commission's acceptance of Amendment No. 34 subject to the outcome of the proceeding concerning Amendment No. 27.

In the transmittal letter for the Amendment No. 34 filing, the ISO explained as follows with regard to the information it was providing:

The information pertaining to the new transmission Access Charge rates and FTRs is based on the presumption that the Commission will accept the ISO's Section 203 application, the TCA amendments, and Vernon's TO Tariff such that Vernon will become a Participating TO as of January 1, 2001, thereby initiating the new transmission Access Charge methodology proposed in Amendment No. 27. The proposed tariff changes address disbursement of Access Charge revenue and would facilitate implementation of Amendment No. 27, whether or not Vernon joins.¹¹

Thus, Amendment No. 34 would help to put parts of Amendment No. 27 into action, but it concerns issues that differ somewhat from those addressed in Amendment No. 27. It is not necessary for the Commission to consolidate merely related proceedings,¹² such as those concerning Amendment Nos. 27 and 34. However, as stated above, the ISO does not object to conditioning the acceptance of Amendment No. 34 upon the outcome of the Amendment No. 27 proceeding.

⁹ See Cities/M-S-R at 10-11; MID at 6-7; TANC at 7.

¹⁰ NCPA at 3-4. Further, Vernon questions whether some of the proposed Tariff changes in Amendment No. 34 should be relegated to the Amendment No. 27 settlement process. Vernon at 3-4.

¹¹ Transmittal Letter for Amendment No. 34 Filing at 4.

¹² See, e.g., *El Paso Natural Gas Company, et al.*, 90 FERC ¶ 61,354, at 62,169 (2000); *Panhandle Eastern Pipe Line Company*, 88 FERC ¶ 61,262, at 61,818 (1999); *Texas Gas*

D. The Amendment No. 34 Proceeding Will Not Result In Any Part of the Access Charge Proceeding Being “Prejudged”

Cities/M-S-R, MID, and TANC assert that, in addressing Amendment No. 34, the Commission should refrain from taking any action “which would prejudice the resolution of the issues which are part of the settlement process in Docket No. ER00-2019-000,” such as the proposed “hold harmless” methodology (particularly with respect to municipal utilities that are non-jurisdictional), and the proposed treatment of FTRs. These parties state that they take no position on these issues with regard to Vernon.¹³

As explained above in Section II.C, the issues in Amendment No. 34 are distinct from, though related to, those in Amendment No. 27. Moreover, the ISO has no problem with making the Commission’s determination as to Amendment No. 34 contingent upon the resolution of the Amendment No. 27 proceeding. Therefore, there is no danger present that the instant proceeding might prejudice the issues concerning Amendment No. 27.

E. Arguments That Are Unrelated to the Amendment No. 34 Filing or That Are Pending on Rehearing in the Amendment No. 27 Proceeding Should Not Be Addressed in the Present Proceeding

Several parties make arguments in the present proceeding concerning issues that are unrelated to the instant proceeding or that are currently pending in other dockets. All of these arguments should be rejected.

DWR asserts that there is an urgent need to shift California usage to off-peak periods, which in turn indicates a need for the implementation of time-of-

Transmission Corporation, 45 FERC ¶ 61,192, at 61,542 (1988).

¹³ See Cities/M-S-R at 8-10; MID at 5-6; TANC at 5-7.

use rates.¹⁴ Similarly, MWD asserts that the ISO Tariff should provide for time-differentiated transmission rates.¹⁵ DWR also contends that the Commission should ensure that unbundled transmission rates do not include generation-related costs, and that step down facilities are properly classified among high or low voltage transmission or distribution.¹⁶

The requests which DWR and MWD have made are outside the scope of the instant proceeding. DWR and MWD make arguments of a broad and general nature, but are unable to point to any part of Amendment No. 34 that concerns the issues they describe. The issue of off-peak, time-of-use rates is pending in Docket No. ER00-2019; likewise, the issues of the costs to be included in unbundled transmission rates and the classification of step down facilities are not raised in Amendment No. 34 and are pending in Docket No. ER00-2019. Therefore, the Commission should reject the requests of DWR and MWD.

PG&E asserts that the ISO's proposed High Voltage Access Charge ("HVAC") rates have not been shown to be lawful under Section 205 of the FPA. PG&E requests that the Commission reject the HVAC rates as deficient and find that the ISO has an obligation to show that the Vernon-related portion of its transmission rates is just and reasonable.¹⁷ These issues are currently pending on rehearing in Docket No. EL00-105 and the outcome of that proceeding will automatically adjust the HVAC rates, as Vernon's current rates are effective subject to refund. Therefore, they need not and should not be addressed in the

¹⁴ DWR at 1-3.
¹⁵ MWD at 6.
¹⁶ DWR at 4-7.
¹⁷ PG&E at 4-6.

instant proceeding.

SDG&E states that it protests Amendment No. 34's implementation of the Access Charge methodology for the same reasons outlined in SDG&E's protest of Amendment No. 27 (though it does not protest the implementation language submitted in Amendment No. 34).¹⁸ However, the Commission has already rejected, in the Amendment No. 27 Order, the protest which SDG&E references.¹⁹ Additionally, the issues which SDG&E raises are pending on rehearing in the Amendment No. 27 docket, and thus should not be addressed here.

SMUD, too, raises arguments that are also pending on rehearing in the Amendment No. 27 docket, concerning the TRR provisions and the use of gross load rather than net load as a billing determinant for the Access Charge.²⁰ For the same reasons as described above, these arguments should not be addressed in the instant proceeding.

F. The ISO Intends to Provide Vernon With Transmission Rights Concerning the Facilities That Vernon Describes

Vernon states that its entitlements in the Mead-Phoenix Project and the Mead-Adelanto Project have not yet been assigned FTRs as these are not yet in the ISO computer system, but that Vernon understands that it will receive FTRs once that can be accomplished. Vernon also states that it and the ISO are still reviewing the appropriate allocation of FTRs across the Sylmar transformer.²¹

Vernon has not received FTRs for the paths it references in accordance

¹⁸ SDG&E at 2-3.

¹⁹ See Amendment No. 27 Order, 91 FERC at 61,722 n.9.

²⁰ SMUD at 1-2, 4-5.

with Section 9.4.3 of the ISO Tariff because these paths are outside the ISO Controlled Grid and even outside the ISO Control Area. The Mead-Phoenix Project is in the WAPA – Desert Southwest Region Control Area, and the Mead-Adelanto Project is in the Los Angeles Department of Water and Power’s Control Area. Thus, the ISO is still trying to determine how to effect Operational Control over these transmission facilities.

The Sylmar transformer presents a different issue. This transformer is a path on which the ISO currently has FTRs. However, Vernon’s rights across this transformer are based on an Existing Contract with SCE. Vernon, SCE, and the ISO have not reached agreement on the amount of contract rights that the Existing Contract entitles Vernon to, and agreement has not been reached on how to convert such entitlements to FTRs.

With the ongoing energy crisis in California, staff members have had to operate under changed priorities, and the implementation of FTRs for these facilities has been delayed. The ISO appreciates all of Vernon’s efforts during these trying times and hopes to resolve the outstanding issues as soon as possible.

²¹ Vernon at 3.

III. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission accept Amendment No. 34 without further procedures.

Respectfully submitted,

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