

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

California Independent System)	Docket No. OA08-62-003
Operator Corporation)	Docket No. OA08-62-004

**MOTION FOR LEAVE TO ANSWER AND ANSWER
OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO PROTEST OF BAY AREA MUNICIPAL TRANSMISSION GROUP**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, the California Independent System Operator Corporation (“ISO”) hereby submits its motion for leave to answer and answer to the protest submitted by the Bay Area Municipal Transmission Group (“BAMx”) in response to the ISO’s July 20, 2009 compliance filing in this proceeding. BAMx takes issue with the ISO’s proposed tariff modifications that incorporate transmission planning milestones and minimum time periods between these milestones, as directed by the Commission’s May 21, 2009 Order Denying Rehearing and On Compliance (“May 21 Order”).¹

I. INTRODUCTION AND BACKGROUND

The ISO has submitted three compliance filings in this proceeding. The first compliance filing was on December 21, 2007 in response to Order No. 890.² On November 3, 2008, the ISO filed a second compliance filing addressing the directives of the order issued on June 19, 2008.³ In response to that filing, the

¹ *Cal. Indep. Sys. Operator Corp.*, 127 FERC ¶ 61,172 (2009).

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed. Reg. 12,266 (Mar. 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007), *order on reh’g and clarification*, Order No. 890-A, 73 Fed. Reg. 2,984 (Jan. 16, 2008), FERC Stats. & Regs., Regs. Preambles ¶ 31,261 (2007); *order on reh’g and clarification*, Order No. 890-B, 73 Fed. Reg. 39,092 (July 8, 2008), 123 FERC ¶ 61,299 (2008), *order on reh’g and clarification*, Order No. 890-C, 126 FERC ¶ 61,228 (2009), *reh’g pending*.

³ *Cal. Indep. Sys. Operator Corp.*, 123 FERC ¶ 61,283 (2008).

Commission issued the May 21 Order, which denied rehearing requests filed by California State Water Project and Imperial Irrigation District, and accepted the November 3 compliance filing subject to an additional compliance filing to address certain discrete issues: 1) modification to Section 20.4(e); 2) clarification to Section 24.2.3; 3) correction of typographical errors identified by the cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside (“Six Cities”); and 4) clarification as to the minimum time periods between transmission planning process milestones (an issue raised by BAMx).

The ISO’s third compliance filing, submitted on July 20, 2009, contained proposed tariff language covering all four of these topics. On August 10, 2009, BAMx filed a protest (hereinafter “BAMx Protest”) taking issue with item number four above.

II. MOTION FOR LEAVE TO ANSWER

The ISO moves for a waiver of Section 385.212(a)(2) and submits that good cause exists to accept the ISO’s answer to the BAMx protest. The Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute, *Southwest Power Pool, Inc.*, 89 ¶¶ 61,284 at 61,888 (2000). Answers have also been accepted where the information assists the Commission in making a decision, *El Paso Electric Co.*, 72 FERC ¶¶ 61,292 at 62,256 (1995). The instant answer will serve both purposes and is intended to provide clarification of the issues and assistance to the Commission in reaching its ultimate determination in this docket regarding the transmission planning milestones and time frames that are appropriate for inclusion in the ISO tariff.

III. ANSWER

The request that the ISO add specific elapsed times between transmission planning milestones to the tariff was first raised by BAMx in comments submitted on November 24, 2008 in response to the ISO's November 3, 2008 compliance filing. However, these comments did not propose specific time periods or identify major milestones in the planning process, but rather focused on specific instances during 2007 and 2008 where transmission planning participants were provided compressed time periods within which to review materials, particularly with respect to the second stakeholder meeting.⁴ The Commission disagreed with the BAMx recommendation, noting that codifying the specific amount of time between transmission planning milestones in the tariff would deprive the ISO and the transmission planning participants of needed flexibility, and that such details could be described in the Business Practice Manual for Transmission Planning (BPM). Instead, the ISO was directed to incorporate *the minimum amount of time* that will elapse between milestones.⁵

To develop the proposed tariff language, the ISO first identified major milestones, and then determined that the approximate time periods between these milestones set forth in the BPM should be incorporated into the tariff as the minimum time periods. The ISO reasoned that these time periods would provide sufficient opportunity for stakeholder participation while, at the same time, preserving the general framework of the transmission planning process.

⁴ For example, at page 7 of its November 24 comments, BAMx notes that during the 2009 transmission planning cycle, the results of studies conducted by the PTOs and mitigation solutions were not provided to participants until November 18, 2008, 25 days before the closing of the Request Window.

⁵ May 21 Order at P 59.

Accordingly, the ISO concluded that the major milestones were 1) the development and posting of the Unified Planning Assumptions and the Study Plan; 2) the posting of the ISO's technical study results; and 3) the development and posting of the draft Transmission Plan. Referring to the transmission planning process general calendar at BPM Section 2.1.3, the approximate time between finalization of the Study Plan and posting the ISO's study results is 120 days, as is the time period between the posting of the study results and the posting of the draft Transmission Plan. These 120-day periods were proposed for incorporation into tariff Sections 24.2.2.1 and 24.2.4(a). To provide additional stakeholder safeguards, the ISO proposed minimum periods of time for participants to review the documents associated with each major milestone and to provide comments on the documents (see proposed Section 24.2(f) and (g)).

In response to the ISO's July 20 compliance filing, and in stark contrast to BAMx's brief initial comments about the elapsed time period issue, the lengthy BAMx protest offers specific dates and proposed minimum time periods between major milestones BAMx has identified. As discussed below, the ISO is willing to clarify tariff language, if necessary.

For the most part, however, the BAMx recommendations are out of sync with the transmission planning process and reflect an unrealistic timeframe. The ISO recognizes that these are minimum periods, but believes that the BAMx proposal would cause confusion by creating expectations that the ISO could comply with an unrealistic posting date. Such expectations could limit the

flexibility required for the ISO to successfully carry out its transmission planning obligations.

A. Posting Base Cases Is Not a Major Milestone That Should Be Included in the Tariff.

BAMx agrees that the first major milestone in the transmission planning process is publishing the Unified Planning Assumptions and final Study Plan. However, BAMx also recommends that this milestone should include publishing the base cases used for the ISO's technical studies, and that the minimum elapsed time between the first milestone and the second, publishing the ISO's technical study results, need only be 12 weeks instead of the approximately 17 weeks (120 days) suggested by the ISO.⁶ The ISO disagrees with this recommendation.

First, while the ISO will make every effort to post the base cases as soon as possible after the final Study Plan is published, base case development is dependent upon inputs from other parties and thus is not entirely under the control of the ISO. Indeed, BAMx acknowledges this aspect of the base cases.⁷ The BPM general calendar indicates that the base cases will be published at approximately the same time as the final Study Plan (which is in April, the end of the first stage of the planning process), but it is entirely possible that this date could slip into the next stage of the cycle. The time periods required to post base cases are likely to be inconsistent from cycle to cycle. Creating expectations that the ISO would be able to post the base cases simultaneously with the Unified

⁶ BAMx Protest at 8-10.

⁷ *Id.* at 8.

Planning Assumptions and Study Plan could wreak havoc on the entire planning process.

Second, BAMx has acknowledged that less than 120 days is necessary to analyze the base cases and prepare studies. Thus, the 120-day period currently proposed by the ISO allows plenty of flexibility should the base cases be delayed by a few weeks. In contrast, the BAMx recommendation would lock participants into a shorter time period for evaluation once the base cases are posted.

Finally, a 12-week minimum elapsed time period between the posting of the final Study Plan and posting the ISO technical studies is completely out of sync with the transmission planning time frame. 12 weeks after the Study Plan is posted at the end of April would be approximately the end of July. There are no circumstances under which the ISO would be able to complete its technical studies by that time, and the current BPM calendar provides that these study results will be posted on September 15. The BAMx 12-week proposal would simply cause confusion and not provide any meaningful information to the planning process participants. Under the circumstances, the ISO's proposed 120-day minimum elapsed time period between the first and second milestones is reasonable and should not be changed.

B. The Submission of Technical Studies Performed by PTOs or Third Parties at the Direction of the ISO One Month After the ISO Posts Its Technical Study Results Is a Critical Element of the Transmission Planning Process.

BAMx suggests that the language of Sections 24.2.2.1(a) and 24.2.4(a) is ambiguous and that third-party study results (including PTO studies) should be posted at the same time as the ISO results (approximately mid-September), so

that the second major milestone should be expanded to include posting of all technical study results.⁸ BAMx then goes on to propose an overall minimum elapsed time period between posting the ISO study results and publishing the draft Transmission Plan that, once again, is *shorter* than the minimum time period proposed by the ISO.⁹

At the outset, the ISO does not agree with BAMx that the use of the terms “technical studies” and “technical assessments” interchangeably in Sections 24.2.2.1 and 24.2.4 is ambiguous or confusing. Nonetheless, the ISO is willing to substitute “study” for “assessment” in a further compliance filing if the Commission believes this change would provide clarification.

However, the ISO is not amenable to modifying the sequence for posting technical study results, because this sequence is critical to the entire planning process. Indeed, BAMx has missed the point that the PTO and third-party technical studies, as well as the mitigation solutions that are provided at the same time, are intended to respond to the ISO’s posted technical study results.¹⁰ Posting all of these study results at the same time would completely defeat the purpose of the one-month lag between the ISO study results and the responsive study results of the PTOs and third parties and would deprive these parties of the opportunity to review the ISO results before submitting mitigation solutions. The tariff and the BPM are perfectly clear on this point.

⁸ BAMx Protest at 10-12.

⁹ *Id.* at 13.

¹⁰ The tariff reference to “third parties” in Section 24.2.2.1 includes PTOs and also provides the ISO with flexibility to direct third-party studies to be conducted by non-PTOs, if such a situation should arise.

Indeed, contrary to the notion that the ISO would hold a public participation meeting *prior to* the submission of the PTO and third-party study results and mitigation solutions (a theory described by the BAMx protest at page 11), Section 24.2.2.1(a) very clearly states that the public conference will be held *subsequent* to this second posing date. According to the BPM calendar, the PTO and third-party study results will be posted on approximately October 15. This date provides the exact period of elapsed minimum time—six weeks—requested by BAMx for the period between the PTO study results and the closing of the Request Window on November 30.¹¹ Although the tariff provides flexibility with respect to the exact date of the public conference, interested parties have ample opportunity to review the study results and make decisions about possible projects to be submitted through the Request Window.

Expansion of the second major milestone to include simultaneous posting of study results would cause a fundamental change in the entire transmission planning process that has previously been subject to stakeholder review and comment, and it should not be considered at this point in the proceeding.

C. The BAMx Proposal to Add Major Milestones and Elapsed Minimum Time Periods to the Tariff Is Confusing and Unnecessary.

BAMx has recommended that the PTO posting of mitigation solutions (reliability projects) be identified as the third major milestone, and that the closing

¹¹ See BAMx Protest, attachment 1. The ISO notes that there have been changes proposed to the BPM, through the ISO BPM change management process, such that all projects submitted through the Request Window, including mitigation solutions submitted by PTOs, will be posted publicly on a bi-weekly basis. This will provide greater transparency and allow participants to include these proposals in their own studies.

of the Request Window be a fourth major milestone.¹² BAMx agrees with the ISO that the final major milestone is the draft Transmission Plan.

Based on these five major milestones, BAMx steps through an elaborate series of “necessary intervals” between each one.¹³ It is interesting, however, that overall the BAMx proposal again *shrinks* the “necessary interval” between posting the ISO technical study results and posting the draft Transmission Plan (14 weeks versus the ISO proposed 17 weeks). Once again, this minimum elapsed time proposal is out of sync with the overall planning time frame. According to the BAMx proposal, the draft Transmission Plan would be posted at the end of December. The BPM calendar provides that the draft Transmission Plan will be posted in January, consistent with the ISO’s proposal (17 weeks would be mid-January). Given the Request Window closing date of November 30, it is highly unlikely that the draft Transmission Plan could possibly be posted prior to the end of December. Thus, the BAMx proposal would cause confusion by creating expectations that the ISO could comply with an unrealistic posting date. In addition, the overall time frame contemplates that the public conference to review the draft Transmission Plan be held in January or February and that the plan be submitted to the ISO in February or March. The ISO sees no purpose in collapsing the minimum time period between posting study results and posting the draft Transmission Plan and is perplexed as to why a planning process participant would make this suggestion.

¹² BAMx Protest at 13-15.

¹³ *Id.*, attachment 1.

Similarly, the ISO sees little value in expanding the number of major milestones and adding more elapsed time periods to its tariff. While the mid-October PTO results posting is important, the tariff already provides a schedule for this step in the process (one month after the ISO posts its studies). The date upon which the Request Window closes is likely to remain constant, but including it as a major milestone would deprive the ISO of the flexibility that allowed the project submission period to be extended during the 2009 cycle. This flexibility provides benefits to participants and does not deprive them of study and participation opportunities.

IV. CONCLUSION

The ISO's proposed timeline of three major milestones and 120-day minimum period between each one is simple, easy to understand and in alignment with the transmission planning framework. The BAMx proposals are confusing and out of step with the existing process. Furthermore, BAMx has been unable to show that the ISO's July 20 submission does not comply with the directives of the May 21 Order. For these reasons, the proposed additional major milestones and minimum elapsed time periods should be rejected.

Respectfully submitted,

/s/ Michael E. Ward

Nancy Saracino
General Counsel, Corporate Secretary
and Vice-President of Legal Affairs
Anthony J. Ivancovich
Assistant General Counsel –
Regulatory
Judith Sanders, Senior Counsel
California Independent System
Operator Corporation
151 Blue Ravine Road
Folsom, CA 95630
Tel: (916) 351-4400
Fax: (916) 608-7296

Sean A. Atkins
Michael E. Ward
Alston & Bird LLP
The Atlantic Building
950 F Street, NW
Washington, DC 20004
Tel: (202) 756-3300
Fax: (202) 654-4875

Counsel for the
California Independent System
Operator Corporation

Dated: August 25, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the above-referenced proceeding, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 385.2010).

Dated at Washington, D.C. this 25th day of August, 2009.

/s/ Michael E. Ward
Michael E. Ward