

100 FERC ¶ 61, 209  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
And Nora Mead Brownell.

California Independent System Operator Corporation      Docket No. ER02-2192-000

ORDER ON TARIFF FILING

(Issued August 27, 2002)

1. On June 28, 2002, the California Independent System Operator Corporation (ISO) filed Amendment No. 45 to its Tariff. This amendment, among other things, proposes to change the process by which the ISO revises its transmission Access Charge<sup>1</sup> to reflect changes to the Transmission Revenue Requirements (TRRs)<sup>2</sup> of Participating Transmission Owners (PTO).<sup>3</sup> In this order, we accept for filing, subject to modification, the proposed Amendment No. 45 effective July 1, 2002, as requested. We also direct the ISO to submit a compliance filing, as discussed in the body of this order, within fifteen days of the date of issuance of this order. In order to permit a July 1, 2002 effective date, we grant waiver of the 60-day prior notice requirement.

2. Our decision in this order is in the public interest because it provides more precision to ISO charges and refund calculations, which will benefit all market participants.

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<sup>1</sup> The Access Charge is a charge paid for use of the ISO Controlled Grid that is collected by the ISO to allow Participating Transmission Owners to recover their Transmission Revenue Requirements of ISO Controlled Grid Facilities. These are the operating and carrying costs associated with Participating Transmission Owners' transmission facilities and Entitlements.

<sup>2</sup> Transmission Revenue Requirement is the total annual authorized requirements associated with transmission facilities turned over to the Operational Control of the ISO by a Participating Transmission Owner that has transmission customers.

<sup>3</sup> PTO is a party to the Transmission Control Agreement (TCA) whose application under the provision of the TCA has been accepted and who has placed its transmission assets and Entitlements under the ISO's Operational Control in accordance with the TCA. A PTO can be an original transmission owner or a new PTO.

## **Background**

3. The original ISO Access Charge methodology consisted of three separate zonal rates based on the revenue requirement of the individual PTOs. On March 31, 2000, in Docket No. ER00-2019-000, the ISO filed Amendment No. 27 under which the original zonal rates would, over a ten-year transition period, be converted to a single-system grid-wide rate. The original Access Charge methodology continued in effect until the City of Vernon, California (Vernon) became a new PTO on January 1, 2001. Accordingly, since January 1, 2001, the Access Charge for High Voltage (HV)<sup>4</sup> Transmission Facilities has been assessed based on the combination of the TRRs of each PTO in each TAC area,<sup>5</sup> and a specified percentage (10 percent each year) of the combined TRRs of all PTOs. The Low Voltage (LV) transmission Access Charge continues to be a license plate or zonal rate based on the LV TRRS of the individual PTO's.

4. By order issued May 31, 2000, the Commission accepted for filing Amendment No. 27, suspended it, and set for hearing the proposed Access Charge methodology and related tariff revisions. The Commission also held the hearing in abeyance pending settlement efforts and established settlement judge procedures,<sup>6</sup> which are presently ongoing in Docket No. ER00-2019-000.

5. On December 28, 2000, the ISO filed with the Commission Amendment No. 34 to clarify certain issues associated with implementation of the transmission Access Charge methodology contained in Amendment No. 27 and to provide information as to the new transmission Access Charge rates to reflect that Vernon would be joining the ISO as a new PTO effective January 1, 2001. By order issued on February 21, 2001, the Commission accepted for filing Amendment No. 34, subject to refund, suspended it, and

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<sup>4</sup> HV is defined as 200 kV and above.

<sup>5</sup> TAC area is a portion of the ISO Controlled Grid with respect to which PTOs' HV TRRs are recovered through a High Voltage Access Charge.

<sup>6</sup> See California Independent System Operator Corporation, 91 FERC ¶ 61, 205 (2000).

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consolidated it with the proceeding in Docket No. ER00-2019-000 for purposes of hearing and decision.<sup>7</sup>

6. Amendment Nos. 27 and 34 were designed to promote rate stabilization by providing for revision of the Access Charges semi-annually on January 1 and July 1 of each year. Specifically, this rate stabilization plan provides that if new rates implementing changes to the TRRs of the individual PTOs were made effective or approved by the Commission during the interim six-month period, these revised TRRs would be reflected by the ISO in the following six-month period.

### **ISO's Proposal**

7. The ISO states that with eighteen months of experience, it has concluded that the existing rate stabilization plan is impractical. In support of this conclusion, the ISO explains that the current implementation procedures have led to complications in its attempt to reflect changes resulting from eleven rate filings made by the PTOs to change their TRRs.<sup>8</sup> The ISO has specifically noted that the current implementation procedures have led to difficulties in reflecting PG&E's TO5 Settlement with Wheeling Access customers.<sup>9</sup>

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<sup>7</sup> See California Independent System Operator Corporation, 94 FERC ¶ 61,147, clarified 95 FERC ¶ 61,090 (2001).

<sup>8</sup> E.g., on December 29, 2000, San Diego Gas & Electric Company in Docket No. ER01-831-000, Southern California Edison Company in Docket No. ER02-832-000, and Pacific Gas and Electric Company (PG&E) in Docket No. ER02-839-000, each submitted for filing modifications to their respective Transmission Owner Tariffs. On February 27, 2002, the Commission approved a settlement that reduced the proposed TRRs of each PTO. See Southern California Edison Company, et al., 98 FERC ¶ 61,199 (2002).

<sup>9</sup> On October 6, 2000, PG&E filed a revised Transmission Owner Tariff (TO5) revising its TRR. The Commission accepted for filing TO5, subject to refund, suspended it, and set it for hearing. The parties in that proceeding reached an agreement, which the Commission approved on July 26, 2001. The TO5 settlement requires that refunds be made to wholesale HV and LV Wheeling customers with interest pursuant to 18 C.F.R. § 35.19(a) (2002). See Pacific Gas and Electric Co., 96 FERC ¶ 61,122 (2001).

8. In order to eliminate these complications in the future, the ISO has proposed to revise its Tariff to permit its Access Charges to be changed effective on the same date the Commission makes effective changes in the TRRs of a PTO. In addition, the ISO will retain the current tariff provision that permits the Access Charges to be changed January 1 and/or July 1 of each year to reflect the addition of a new PTO.

9. Additionally, the ISO proposes a tariff modification requiring PTOs to make annual revisions of their Transmission Revenue Balancing Account (TRBAs)<sup>10</sup> effective January 1, utilizing the principal balance in the TRBA as of September 30 and a forecast of Transmission Revenue Credits for the next year. This requirement will also result in revised ISO Access Charges.

10. Furthermore, Amendment No. 45 clarifies that a Utility Distribution Company (UDC)<sup>11</sup> or a Metered Subsystem (MSS)<sup>12</sup> located in the Service Area<sup>13</sup> of a PTO pays the HVAC as opposed to the Wheeling Access Charge. All other wholesale entities pay the Wheeling Access Charge for transmission service taken under the ISO Tariff.

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<sup>10</sup> TRBA is a mechanism to be established by each PTO that has transmission customers, which will ensure that all Transmission Revenue Credits and other credits specified in the ISO Tariff flow through to transmission customers.

<sup>11</sup> UDC is an entity that owns a Distribution System for the delivery of energy to and from the ISO Controlled Grid, and that provides regulated retail electric service to eligible customers, as well as regulated procurement service to those end-use customers who are not yet eligible for direct access, or who choose not to arrange services through another retailer.

<sup>12</sup> MSS has been defined as a geographically contiguous system of a new PTO located within a single Zone, which has been operating for a number of years prior to the ISO operations initiation date and is later subsumed within the ISO Control Area and encompassed by ISO certified revenue quality meters at each interface point with the ISO Controlled Grid and ISO certified revenue quality meters on all generating units internal to the system. The proposed changes to the definition of an MSS are pending before the Commission as part of proposed Amendment No. 46 in Docket Nos. ER02-2321-000 and ER02-2321-001.

<sup>13</sup> Service Area is defined as the area in which a utility was obligated to serve end-use customers as of December 20, 1995.

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11. Finally, the ISO proposes to eliminate language in Section 8.2 of Schedule 3 of Appendix F that explicitly states that refunds of Access Charges are to be made through a prospective reduction to a PTO's TRBA. The ISO now proposes that overcollections be treated as reductions of future charges.

12. The ISO also requests that the Commission grant waiver of the 60-day prior notice requirement to permit Amendment No. 45 to become effective on July 1, 2002. In support of this request, the ISO states that this effective date will allow it to properly reflect past refunds due.

### **Notice, Interventions, Comments and Protests**

13. Notice of the ISO's filing in Docket No. ER02-2192-000 was published in the Federal Register, 67 Fed. Reg. 45,974 (2002), with comments, protests, or interventions due on or before July 19, 2002.

14. Timely motions to intervene were filed by entities listed in the Appendix to this order. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the filing of a timely motion to intervene that has not been opposed makes the movant a party to the proceeding.

15. The ISO filed an answer to protests and the State Water Project of the California Department of Water Resources (CDWR) filed an answer to the ISO's answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure does not permit answers to a protest or an answer.<sup>14</sup> We, however, will allow the ISO's answer, as the Commission permits parties to respond to a protest when doing so, as here, will assist the Commission's understanding of the issues raised.<sup>15</sup>

16. Several intervenors in this proceeding have filed comments and/or protests regarding various aspects of the ISO's proposed tariff changes. The Original Participating Transmission Owners filed comments generally supporting the ISO's proposed Amendment No. 45 as filed.

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<sup>14</sup> 18 C.F.R. § 385.213(a)(2) (2002).

<sup>15</sup> See, e.g., Atlantic City Electric Co., 90 FERC ¶61,268, at 61,898 (2000) and New York Independent System Operator, Inc., 91 FERC ¶ 61,128 (2000).

17. Transmission Agency of Northern California (TANC) and Vernon assert that the ISO's proposal for future changes to the Access Charge does not include a filing requirement pursuant to section 205 of the Federal Power Act (FPA)<sup>16</sup> and, thus, market participants will not receive notice prior to the ISO implementing Access Charge changes. Metropolitan Water District of Southern California (Metropolitan) argues that the ISO's proposal to implement TRRs changes as soon as the Commission approves an addition of a new PTO would add further uncertainty and complexity to market participant transactions with the ISO. Finally, Metropolitan requests that proposed tariff language in Section 7.1 of the ISO Tariff Amendment be changed to clarify who pays the ISO Access Charges.

18. Vernon argues that the ISO misstates the governing provisions of its tariff related to the timing of TRBA adjustments made by PTOs, ignores Vernon's June 28, 2002 TRBA Adjustment filing in Docket No. EL02-103-000, and does not propose changes to all of its tariff provisions necessary to implement its proposal.

19. CDWR argues that Amendment No. 45 is procedurally flawed, since it addresses rate matters that are subject to the ongoing settlement judge procedures in Docket No. ER00-2019-000. CDWR also asserts that the proposed Amendment No. 45 fails to meet recommendations contained in the Commission's audit report of the ISO; specifically, that Amendment No. 45 was developed with no opportunity for stakeholder discussions, and will complicate the ISO settlement and billing process. CDWR asks the Commission to reject the filing because it constitutes undue discrimination against CDWR, since it would have no service area if it becomes a PTO through contract conversion, and thus would not be treated as all other PTOs for ratemaking purposes. Finally, CDWR argues that Amendment No. 45 contemplates a retroactive change in settled rates, which would be contrary to the filed rate doctrine.<sup>17</sup>

20. In its answer, the ISO has responded to the intervenors' arguments. Specifically, the ISO disagrees that a filing pursuant to section 205 of the FPA is required because the ISO's transmission Access Charges and Wheeling Access Charges are formula rates that adjust automatically. In response to CDWR's assertions, the ISO states that a stakeholder process is not required for each and every tariff amendment and that the proposed

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<sup>16</sup> 16 U.S.C. § 824d (1994).

<sup>17</sup> See Arkansas Louisiana Gas Co. v. Hall, 453 U.S. 571, 577 (1981) (explaining that the filed rate doctrine forbids a regulated entity from charging rates for its services other than those properly filed with the appropriate regulatory authority).

Amendment No. 45 received broad support from market participants. Furthermore, the ISO disagrees that this filing is intended to disrupt the ongoing negotiations in Docket No. ER00-2019-000 but rather is to more closely match its Access Charges to changes in PTOs' TRRs.

## **Commission Determination**

### **A. Changes to the Level of the Access Charges**

21. With respect to the ISO's proposal to change its Access Charges concurrently with the effective date of changes to PTO's TRRs, we find that this proposal is reasonable. While the ISO's proposal will result in the level of the Access Charge being modified more frequently than semi-annually under the current tariff provisions, we believe that the matching of changes to the ISO's Access Charges concurrent with changes to the PTO's TRRs is appropriate and consistent with the ISO's reflection of changes to PTO's TRRs on a pass-through basis. Thus, our finding in no way diminishes the Commission's suspension powers but rather merely removes the regulatory lag that presently exists under the ISO's current method. We also believe that this proposal will simplify the refund calculations inherent in the operations of the ISO regarding the reflection of individual PTOs' TRRs in its Access Charges.

22. We disagree with CDWR that our acceptance of the proposed Amendment No. 45 will disrupt the settlement judge procedures in Docket No. ER00-2019-000. We agree with the ISO that it is free to file amendments to its tariff,<sup>18</sup> notwithstanding that the present Access Charge methodology is subject to the ongoing negotiations in Docket No. ER00-2019-000. We note that the settlement procedures in Docket No. ER00-2019-000 have been going on for over two years and the ISO's experience over the last eighteen months indicates that this proposed change is necessary and appropriate. With respect to CDWR's concerns about a retrospective change in settled rates, we find that the proposed changes in Access Charges would be prospective only, except where the Commission has ordered refunds as part of its order.

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<sup>18</sup> See *Atlantic City Electric Co. v. FERC*, 295 F.3d 1 (2002) (holding that utility petitioners cannot be denied the right to initiate rate design changes under section 205 of the FPA).

23. We disagree with TANC and Vernon that the ISO should be required to make a section 205 filing in order to give proper notice of changes to the Access Charges. The ISO has committed to make informational filings to demonstrate that it has properly calculated the charges based on the inputs to the formula received from the PTOs.<sup>19</sup> We find that this commitment should provide adequate notice and also protection regarding the ISO's implementation of the formula inputs.

**B. Timing of TRBA Adjustments**

24. As previously noted, the ISO has proposed a tariff revision that will require all PTOs to make an annual adjustment to their TRBA to be effective January 1. We find this proposal reasonable. However, we agree with Vernon that Appendix F, Schedule 3, Section 6.1(b) should be amended to reflect the fact that the annual TRBA adjustment would no longer be based upon actual data for the prior calendar year but for a different period. Accordingly, we will require the ISO to make a compliance filing to reflect this modification. With respect to Vernon's argument that the ISO has failed to reflect its TRBA adjustment as filed in Docket No. EL02-103-000, we find Vernon's concerns are outside the scope of this proceeding because the ISO is not proposing any changes to the level of its Access Charges in this proceeding, and these concerns will be addressed in a separate order in Docket No. EL02-103-000.

**C. Assessment of High Voltage Access Charge**

25. The ISO has filed tariff revisions, which it states are intended to differentiate between UDCs in the service areas of PTOs and UDCs outside of the ISO Control Area. The former will be charged a transmission Access Charge and the latter will be charged a Wheeling Access Charge. Metropolitan has suggested a modification to the ISO-proposed tariff language.<sup>20</sup> Our review indicates that the ISO's tariff language is

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<sup>19</sup> In addition, the ISO has committed to provide advance notice to market participants by posting on the website all changes to the Access Charge.

<sup>20</sup> In particular, Metropolitan proposes to change the phrase "Gross Load by the UDC, MSS, and Scheduling Coordinator in the Participating TO Service Area" in Section 7.1 to "Gross Load of End-Use Customers served in the Participating TO Service Area by the UDC, MSS, and Scheduling Coordinator not directly connected to the facilities of a UDC or MSS." See Motion to Intervene and Protest of the Metropolitan Water District of Southern California on California ISO Amendment No. 45, Docket No.

(continued...)

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appropriate. Therefore, we reject Metropolitan's proposed alternative language. We also disagree with CDWR that the insertion of the phrase "Participating TO Service Area" will result in discrimination to CDWR if it elects to become a PTO.

#### **D. Miscellaneous Tariff Issues**

26. With respect to the ISO's proposed change to Section 8.2 of its tariff that provides treatment of overcollections as reductions to future charges, we note that this proposal is uncontested and reasonable.

#### **E. Conclusion**

27. We will therefore accept the proposed Amendment No. 45 for filing, subject to the above modification, effective July 1, 2002, as requested. To permit a July 1 effective date, we will grant the ISO waiver of the 60-day prior notice requirement.<sup>21</sup> Also, we agree with the ISO that this waiver will better effectuate the cash refund requirement under PG&E's TO5 Settlement.

The Commission orders:

(A) The ISO's proposed Amendment No. 45 is hereby accepted for filing, subject to modification, effective July 1, 2002, as requested.

(B) The ISO is hereby directed to submit a compliance filing, as discussed in the body of this order, within fifteen (15) days of the date of this order.

(C) The waiver of the 60-day prior notice requirement is hereby granted.

(D) Rate Schedule designations are shown in the Attachment.

By the Commission.

( S E A L )

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<sup>20</sup>(...continued)

ER02-2192-000, at 9 (July 18, 2002).

<sup>21</sup> Central Hudson Gas & Electric Corporation, 60 FERC ¶ 61, 106, reh'g denied, 61 FERC ¶ 61,089 (1992).

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Linwood A. Watson, Jr.,  
Deputy Secretary.

Attachment

California Independent System Operator Corporation  
Rate Schedule Designations  
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<u>Designation</u>	<u>Description/Effective Date</u>
(1) First Revised Sheet Nos. 190, 192 & Adjustments/ 383 under FERC Electric Tariff, First Revised Volume No. 1 (Supersedes Original Sheet Nos. 190, 192 & 383)	Amendment No. 45 Effective July 1, 2002
(2) Second Revised Sheet Nos. 380, 386, Adjustments/ 386A under FERC Electric Tariff, First Revised Volume No. 1 (Supersedes First Revised Sheet Nos. 380, 386, & 386A)	Amendment No. 45 Effective July 1, 2002
(3) Original Sheet No. 383A under FERC Electric Tariff, First Revised Volume No. 1	Amendment No. 45 Adjustments/ Effective July 1, 2002
(4) Second Revised Sheet No. 387 under FERC Electric Tariff, First Revised Volume No. 1 (Supersedes Substitute First Revised Sheet No. 387)	Amendment No. 45 Adjustments/ Effective July 1, 2002
(5) First Revised Sheet No. 387A under FERC Electric Tariff, First Revised Volume No. 1 (Supersedes Substitute Original Sheet No. 387A)	Amendment No. 45 Adjustments/ Effective July 1, 2002

Appendix

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California Electricity Oversight Board  
City and County of San Francisco  
City of Redding, California, the City of Santa Clara, California, the City of Palo Alto,  
California, and the M-S-R Public Power

Agency

City of Vernon, California\*

Cogeneration Association of California and the Energy Producers and Users  
Coalition

Metropolitan Water District of Southern California\*

Modesto Irrigation District

Northern California Power Agency

Public Utilities Commission of the State of California

Sacramento Municipal Utility District

Southern California Edison Company, Pacific Gas and Electric Company and San Diego  
Gas & Electric Company (collectively, Original Participating Transmission  
Owners)\*

State Water Project of the California Department of Water Resources\*

Transmission Agency of Northern California\*

Turlock Irrigation District\*

Williams Energy Marketing & Trading Company

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\* comments and/or protests