

UNITED STATES OF AMERICA 94 FERC ¶ 61,145
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

California Independent System Operator
Corporation

Docket No. ER01-871-000

ORDER ACCEPTING, WITH MODIFICATION,
PROPOSED OPERATING AGREEMENT

(Issued February 21, 2001)

This order accepts for filing, subject to modification, a proposed Utility Distribution Company Operating Agreement (UDC Operating Agreement) between the California Independent System Operator Corporation (ISO) and the City of Vernon, California (Vernon).

I. Background

On January 3, 2001, the ISO filed an executed UDC Operating Agreement with Vernon to facilitate Vernon's becoming a Participating Transmission Owner in the ISO as of January 1, 2001. The UDC Operating Agreement generally sets forth specifications and procedures to govern the operation of the facilities that form the interface between the utility distribution company's system and the ISO grid, and addresses operational matters such as facility maintenance and coordination of outages.

The specific UDC Operating Agreement with Vernon is based on the pro forma UDC Operating Agreement submitted in a settlement agreement approved in California Independent System Operator Corporation, 87 FERC ¶ 61,232 (1999). The ISO requests waiver of the Commission's notice requirements to permit the proposed UDC Operating Agreement to be made effective January 1, 2001, the date that Vernon joins the ISO as a Participating Transmission Owner.

II. Notice and Interventions

Notice of the filing was published in the Federal Register,¹ with comments, protests, and motions to intervene due on or before January 24, 2001.

Motions to intervene were filed by the Northern California Power Agency (NCPA) and the California Electricity Oversight Board (Oversight Board). A motion to intervene in support of the filing was filed by Vernon.

Protests and motions to intervene were filed by the Modesto Irrigation District (Modesto), the Cities of Redding and Santa Clara, California (Cities), and the Transmission Agency of Northern California (TANC).

The ISO filed an answer on February 8, 2001.

III. Discussion

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,² the timely, unopposed motions to intervene of NCPA, the Oversight Board, Modesto, Cities, TANC, and Vernon serve to make them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure³ generally prohibits an answer to a protest. We are not persuaded to allow ISO's proposed answer, and accordingly will reject the answer.

¹66 Fed. Reg. 4014 (2001).

²18 C.F.R. § 385.214 (2000).

³18 C.F.R. § 385.213(a)(2) (2000).

B. Proposed UDC Operating Agreement

The ISO's UDC Operating Agreement with Vernon is generally consistent with the pro forma UDC Operating Agreement but does include variations the ISO believes necessary to reflect Vernon's unique circumstances. For example, modifications were made to reflect the fact that Vernon's distribution system is connected to the distribution system of Southern California Edison Company and not directly connected to the ISO grid. The ISO also proposed a new Section 2.4, Termination by UDC as Non-Transmission Control Agreement Party, that provides Vernon with termination rights in the event that Vernon decides to no longer be a Participating Transmission Owner in the ISO, and thus, stops being a party to the Transmission Control Agreement (TCA).⁴

While TANC, Cities, and Modesto state that they do not oppose the Commission's acceptance of the instant UDC Operating Agreement for filing, they protest Section 2.4. They read Section 2.4 as allowing the ISO to terminate the agreement on six months' notice while requiring Vernon to give two years' notice, which they argue is discriminatory. Moreover, these parties express concern that Commission action on the terms under which a non-TCA party can withdraw from the UDC Operating Agreement in this case could prejudice negotiations in Docket No. ER00-2019-000,⁵ in which the termination of a Participating Transmission Owner's participation in the ISO is an issue.

We have stated that variations to the ISO's pro forma agreements are appropriate when needed to reflect the unique circumstances of an individual participant.⁶ All but one provision of the proposed UDC Operating Agreement meet this standard. Our review of the pro forma Operating Agreement and the proposed UDC Operating Agreement

⁴The TCA is a multi-party contract between the ISO and Participating Transmission Owners that establishes the terms and conditions under which the Participating Transmission Owners place certain transmission facilities and entitlements under the ISO's operational control.

⁵Docket No. ER00-2019-000 relates to the ISO's filing of Amendment No. 27 to its tariff, which proposes to revise the rate design for transmission service. The Commission has ordered the parties in that proceeding to attempt to negotiate a resolution of certain issues. See California Independent System Operator Corporation, 91 FERC ¶ 61,205 (2000), reh'g pending.

⁶See Pacific Gas and Electric Company, et al., 81 FERC ¶ 61,320, at 62,471 (1997).

indicates that Section 2.3 already provides termination procedures in the event of a party's withdrawal from the TCA. Section 2.4, then, deals only with parties who never were parties to the TCA. The Commission is issuing an order in Docket Nos. ER01-724-000, et al., contemporaneously with this order, in which we find that Vernon is a party to the TCA. Therefore, Section 2.4 is unnecessary to address Vernon's circumstances. Therefore, we accept for filing the proposed UDC Operating Agreement modified to eliminate Section 2.4. We direct the ISO to make a compliance filing within 30 days of the date of this order to revise the UDC Operating Agreement accordingly. Our rejection of Section 2.4 moots the concerns of the protesting intervenors.

We will grant waiver of our prior notice requirements to permit an effective date of January 1, 2001, as requested.⁷

C. Compliance with Order No. 614

The ISO has not filed the UDC Operating Agreement in the format required by Order No. 614.⁸ The ISO indicates that it has not yet completed a compilation of its previously filed service agreements, and thus cannot provide a list of the existing service agreements and their proper designations in the instant filing. We accept the ISO's representation that it will provide such a list with its similar future filings as soon as possible.

The Commission orders:

(A) The ISO's UDC Operating Agreement with Vernon is hereby accepted for filing, as modified, to become effective January 1, 2001, as discussed in the body of this order.

(B) The ISO is directed to file, within 30 days of the date of this order, a revised UDC Operating Agreement reflecting the rejection of Section 2.4, as discussed in the body of this order.

By the Commission.

⁷See Central Hudson Gas & Electric Company, 60 FERC ¶ 61,106, reh'g denied, 61 FERC ¶ 61,089 (1992).

⁸65 Fed. Reg. 18,221 (2000), FERC Statutes and Regulations ¶ 31,096 (2000) (to be codified at 18 C.F.R. part 35).

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(S E A L)

David P. Boergers,
Secretary.