

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

California Independent System Operator Corporation)	Docket No. EL08-52-000
)	
)	
In Re Transmission Control Agreement)	
)	

**MOTION FOR LEAVE TO FILE ANSWER ONE DAY OUT OF TIME AND
ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO MOTIONS TO INTERVENE AND COMMENTS**

On April 1, 2008, the California Independent System Operator Corporation (“CAISO”) submitted in the above-referenced proceeding a filing (“April 1 Filing”) setting forth a complaint to modify the Transmission Control Agreement (“TCA”), under which the CAISO assumes Operational Control of the transmission facilities that constitute the ISO Controlled Grid.¹ In the April 1 Filing, the CAISO explained that the TCA would be unjust and unreasonable and unduly discriminatory if Startrans IO, L.L.C. (“Startrans IO”) is precluded from becoming a party to the TCA and a Participating Transmission Owner (“Participating TO”) for the transmission rights that it has acquired from the City of Vernon (“Vernon”) that are currently under the CAISO’s Operational Control. The Commission established an April 21, 2008 comment date regarding the April 1 Filing. In response, a number of parties submitted motions to intervene and comments.²

¹ Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix D to the TCA.

² Motions to intervene were submitted by the following parties: the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California; M-S-R Public Power Agency;

The CAISO does not object to any party's motion to intervene. However, pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure, 18 C.F.R. §§ 385.212, 385.213, the CAISO files a motion for leave to file its answer to the comments one day out of time, and pursuant to Rule 213 of the Commission's Rules, the CAISO files its answer to the comments. For the reasons explained below, the Commission should accept the April 1 Filing without modification or the imposition of other requirements on the CAISO.

I. MOTION FOR LEAVE TO FILE ANSWER ONE DAY OUT OF TIME

The CAISO respectfully moves for leave to file this answer one day out of time, *i.e.*, sixteen days after comments were filed in the proceeding. The CAISO is submitting the answer now because the answer required the final review of CAISO personnel who were unavailable yesterday but became available today. Therefore, filing the answer one day out of time was necessary to ensure that it includes the information required to assist the Commission in its decision-making process. The Commission routinely accepts answers filed out of time in similar circumstances.³

Northern California Power Agency; Pacific Gas and Electric Company ("PG&E"); Sacramento Municipal Utility District; San Diego Gas & Electric Company; Southern California Edison Company ("SCE"); Startrans IO; and Western Area Power Administration. In addition, PG&E, SCE, and Startrans IO filed comments.

³ See, e.g., *H.Q. Energy Services (U.S.), Inc. v. New York Independent System Operator, Inc.*, 107 FERC ¶ 61,291, at P 9 (2004) (accepting answer filed one day out of time); *California Independent System Operator Corp.*, 110 FERC 61,082, at P 16 (2005) (accepting answer filed two days out of time).

II. ANSWER

A. In the Absence of Any Objections to the CAISO's Proposed TCA Revisions, the Commission Should Accept Those TCA Revisions as Set Forth in the April 1 Filing.

In the April 1 Filing, the CAISO included proposed amendments to the current TCA to reflect the acquisition by Startrans IO of Vernon's transmission interests in the Mead-Adelanto Project and the Mead-Phoenix Project (collectively, the "Mead Transmission Interests," acquired by Startrans IO from Vernon pursuant to the "Transaction").⁴ Although other issues have been raised in the comments on the April 1 Filing, none of the parties to this proceeding raise any objections to the CAISO's proposed TCA revisions. Moreover, Startrans IO and PG&E express support for the CAISO's proposed TCA revisions.⁵ Consequently, for the reasons explained in the April 1 Filing and in this Answer, the Commission should accept those revisions as filed.

B. In the Absence of Any Objections to the Waivers Requested by the CAISO, the Commission Should Grant Those Waivers.

As a precaution to ensure that it has all necessary authorizations from the Commission, the CAISO requested in the April 1 Filing any waiver determined to be necessary by the Commission of the provisions of Section 4.3.1.1 and the related provisions of ISO Tariff Appendix F, Schedule 3, Section 8.1 in order to implement the effective date of the CAISO's requested TCA amendments that is ordered by the Commission. In response to the CAISO's request for waiver, SCE asserts that the CAISO's interpretation of the rationale for the subject tariff

⁴ April 1 Filing, Transmittal Letter at 3-4, 23-24, and Attachment A.

⁵ Startrans IO at 1, 5-6; PG&E at 1, 2.

provisions has no basis.⁶ However, SCE goes on to state that it does not oppose the CAISO's request for waiver of the subject tariff provisions in this case.⁷ As no other party expressed opposition to the CAISO's requested waiver, the Commission should grant any necessary waiver in conjunction with its order establishing the effective date of the proposed TCA amendments.

C. The Commission Should Establish an Effective Date of April 23, 2008 for the TCA Amendments.

In the April 1 Filing, the CAISO requested the Commission to permit the proposed changes to the TCA to become effective on April 14, 2008 or any earlier date on which the CAISO might be able to implement revisions to its Master File and other systems to accommodate the simultaneous closing of the Transaction. This requested effective date was intended to ensure that the CAISO would have time to re-program its systems to recognize the results of the Transaction in anticipation that Startrans IO and Vernon were prepared to close the Transaction immediately as of the time of the April 1 Filing.

However, as Startrans IO points out in its comments, the Transaction did not close even as soon as the CAISO's latest requested effective date of April 14, 2008, and Startrans IO requests that the Commission allow the changes to the TCA to become effective on the same date that the Transaction closes.⁸ The CAISO strongly supports this request by Startrans IO. In fact, since Startrans IO filed its comments, Startrans IO and Vernon have advised the CAISO that the

⁶ SCE at 3.

⁷ *Id.* at 4.

⁸ Startrans IO at 6.

effective date of the closing of the Transaction was April 23, 2008, and Vernon formally notified the Commission of this date in an April 22, 2008 filing in the Commission proceeding on Vernon's proposed reduction to its Transmission Revenue Requirement ("TRR") to reflect the Transaction in Docket No. EL08-54. The CAISO requests that the Commission order the CAISO to submit a compliance filing substituting revised TCA sheets with the actual effective date of April 23, 2008 for the TCA sheets submitted with the April 1 Filing showing an effective date of April 1, 2008.

In addition to establishing April 23, 2008 as the effective date for the TCA amendments, the CAISO also urges the Commission to confirm this to be the effective date both for the reduction in Vernon's TRR, as requested by Vernon in its April 22 filing in Docket No. EL08-54, and for the implementation of Startrans IO's TRR and the CAISO's obligation to begin collecting that TRR through the CAISO's transmission Access Charge ("TAC"). While the Commission's order on Startrans IO's TRR in Docket No. ER08-413 makes reference to a March 31, 2008 effective date for that order, the Commission's approval of a TRR is only one of the prerequisites for the inclusion of the a TRR in the TAC. Under Section 26.1 of the CAISO Tariff, the TAC recovers the TRR of Participating TOs only. The CAISO can therefore only collect a TRR for Startrans IO subsequent to the effective date of the amendments to the TCA, which, if the Commission grants the CAISO's request as discussed above, would be the date that Startrans IO actually took ownership of the Mead Transmission Interests, April 23, 2008.

D. SCE's Proposed Amendments to the ISO Tariff Are Unnecessary for the Continued Assignment of the Mead Transmission Interests to the East Central TAC Area and Exclusion from the Transition Charge.

SCE contends that the ISO Tariff does not include clear provisions regarding the treatment of the TRR of a Non-Load-Serving Participating TO that is acquiring only existing transmission rights and facilities that are already under the CAISO's Operational Control. SCE requests that Section 3.4 of Schedule 3 of Appendix F of the ISO Tariff ("Section 3.4") be amended to specify that Startrans IO has been assigned to the East Central TAC Area and that Section 5.7 of Schedule 3 of Appendix F ("Section 5.7") be amended to state that Startrans IO's TRR will not be included in the calculation of the Transition Charge.⁹ The CAISO believes that the ISO Tariff need not be amended to address SCE's issues.

As the CAISO pointed out in the April 1 Filing, the Mead Transmission Interests have been incorporated in the TRR of Vernon since January 2001 and thus have been treated as part of the East Central TAC Area for many years.¹⁰ This assignment of Vernon's TRR is specified in Section 3.4, which provides that Vernon's PTO Service Territory is to become part of the East Central TAC Area upon Vernon becoming a Participating TO. However, the ISO Tariff does not clearly indicate the TAC Area to which the Mead Transmission Interests should be assigned once they are transferred to Startrans IO, as Startrans IO is not among the entities listed in any of the provisions of ISO Tariff Appendix F,

⁹ SCE at 2-3.

¹⁰ April 1 Filing, Transmittal Letter at 15.

Schedule 3, Section 3 (“Section 3”) as specifically assigned to a TAC Area. This would not matter if Startrans IO were turning over to the CAISO Operational Control of New High Voltage Facilities, because ISO Tariff Appendix F, Schedule 3, Section 1.1(d) specifies that New High Voltage Facility additions will be immediately included in the “Grid-wide” component of the CAISO’s High Voltage Access Charge (“HVAC”), and these facilities are not subject to the Transition Charge. However, for Existing High Voltage Facilities (into which category the Mead Transmission Interests fall), the TRR for such facilities is subject to the transition from a TAC Area-specific HVAC to the CAISO “Grid-wide” HVAC. As this transition has only reached a point where the allocation is 80% to the “Grid-wide” HVAC and 20% to the TAC Area-specific HVAC, and there are two years remaining prior to its completion, there is a portion of the TRR for the Mead Transmission Interests that must continue to be allocated to the TAC Area-specific HVAC under the current terms of the ISO Tariff.

In the absence of a specific assignment of a Participating TO to a particular TAC Area in any of the other provisions of Section 3, ISO Tariff Appendix F, Schedule 3, Section 3.7 (“Section 3.7”), provides that if “an entity outside the State of California should apply to become a Participating TO, the ISO Governing Board will review the reasonableness of integrating the entity into one of the existing TAC Areas. If the entity cannot be integrated without the potential for significant cost shifts, the ISO Governing Board may establish a separate TAC Area.” Startrans IO is a Delaware corporation and has no PTO Service Territory located in California, sufficiently categorizing it as an “entity

outside the State of California” for the purposes of Section 3.7. Therefore, the determination of its assignment to a TAC Area is governed by Section 3.7, contrary to SCE’s assertion. Given the historic allocation of the TRR for the Mead Transmission Interests to the East Central TAC Area, there will essentially be no cost shift if that TRR continues to be allocated as Existing High Voltage Transmission Facilities to the East Central TAC Area once the Mead Transmission Interests are transferred from Vernon to Startrans IO. This fact, in conjunction with the relatively short period of time remaining for the transition and the relatively small amount of the TRR for the Mead Transmission Interests in relation to the aggregate amount of the TRR for the East Central TAC Area, makes such an allocation the simplest and most reasonable approach to resolving this question. Therefore, pursuant to Section 3.7, the CAISO intends to obtain the formal approval of the ISO Governing Board to allocate the TRR for the Mead Transmission Interests to the East Central TAC Area at the next ISO Governing Board meeting, which is scheduled for May 21-22, 2008.

With regard to SCE’s concern about the effect of the categorization of Startrans IO’s Mead Transmission Interests on the calculation of the Transition Charge, it is the CAISO’s view that the current provisions of the ISO Tariff already address this concern. The provisions of Section 26.5 of the ISO Tariff provide that Original Participating TOs shall pay an amount to eligible New Participating TOs (the result of which is recoverable through the Transition Charge) to recover the “amount, if any, by which the New Participating TO’s cost of Existing High Voltage Facilities associated with Gross Loads in the PTO

Service Territory of the New Participating TO is increased by the implementation of the High Voltage Access Charge described in Schedule 3 to Appendix F.” As Startrans IO has no Gross Load or PTO Service Territory, there is no increase in costs charged to such Loads and, thus, no amounts to be recovered through a Transition Charge. The formula for calculating a Transition Charge is therefore inapplicable. Thus, the CAISO does not consider it necessary to amend the provisions of Section 5.7 (or ISO Tariff Section 26.5) to confirm that the result of the currently-specified calculation is that the TRR of Startrans IO will not be included in Transition Charge calculations. To ensure that this calculation is transparent, the CAISO proposes to add additional columns to its “TAC Rate” spreadsheet submitted with each informational filing of revisions to its transmission Access Charge rates filed with the Commission to break out by TAC Area the aggregate TRRs for Existing High Voltage Facilities of Participating TOs associated with Load and the resulting rates for these facilities to be used in calculating the net benefits and burdens and the Transition Charge rates.

E. No Action Is Required in Response to Concerns Regarding Vernon’s Contract with LADWP.

SCE and PG&E express concerns regarding the ability of power to reach the ISO Control Area from the Mead Transmission Interests if a specific transmission service contract between Vernon and the Los Angeles Department of Water and Power (“LADWP”) were to terminate.¹¹ As described in the April 1 Filing, in response to these concerns, the CAISO undertook a review of the CAISO’s systems and the rights under the CAISO’s Operational Control and

¹¹ SCE at 2; PG&E at 3-4.

determined that once the CAISO has implemented its Market Redesign and Technology Upgrade (“MRTU”) and the associated full network modeling, the CAISO’s scheduling systems will provide the ability for scheduling over the Mead Transmission Interests directly to the CAISO Control Area even if the Vernon-LADWP contract were to terminate.¹² Nevertheless, SCE and PG&E suggest that the CAISO should provide further assurances that the Mead Transmission Interests will remain useful in the potential absence of the Vernon-LADWP contract rights at some time in the future. However, neither SCE nor PG&E indicates what action might be necessary at this time, given that the Vernon-LADWP contract is still in effect and the transmission rights subject to that contract are still under the CAISO’s Operational Control. In fact, PG&E concedes that the appropriate forum for the Commission to address this potential issue would be in a future complaint proceeding.¹³ Consequently, the CAISO urges the Commission to reserve action on this matter for some future proceeding in which the expressed concerns may have developed into an issue that is ripe for consideration.

¹² April 1 Filing, Transmittal Letter at 17.

¹³ PG&E at 4.

III. CONCLUSION

For the reasons explained above, the Commission should accept the April 1 Filing without modification and without imposition of any other requirements.

Respectfully submitted,

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Dated: May 7, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon the parties listed on the official service list in the captioned 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 Folsom, California this 7th day of May, 2008.

/s/ Anna Pascuzzo
Anna Pascuzzo