

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

City of Vernon, California)
) Docket No. EL00-105-001
)

**PROTEST OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
TO THE COMPLIANCE FILING OF
THE CITY OF VERNON, CALIFORNIA**

Pursuant to Rule 206 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.206 (2000) and the notice of filing issued November 20, 2000, the California Independent System Operator Corporation (“ISO”) submits this Protest to the Compliance filing submitted by the City of Vernon, California (“Vernon”) in this proceeding.

INTRODUCTION

On August 30, 2000 as amended on August 31, 2000, Vernon tendered for filing a Petition for a Declaratory Order determining that Vernon’s proffered High Voltage Transmission Revenue Requirement (“TRR”) is appropriate under the ISO Tariff for purposes of Vernon’s become a Participating Transmission Owner (“Participating TO”). Vernon also filed its proposed Transmission Owner Tariff (“TO Tariff”).¹

¹ Capitalized terms not otherwise defined herein are defined in the Master Definitions Supplement, ISO Tariff Appendix A, as filed August 15, 1997, and subsequently revised.

On September 29, 2000, the ISO filed comments on Vernon's submission.² While applauding Vernon's decision to join the ISO, the ISO questioned certain aspects of Vernon's proposed TRR. The ISO also noted that, while Vernon might not be required to submit a TO Tariff that was identical in all respects to the TO Tariffs of the Original Participating TOs (PG&E, SCE, and San Diego Gas & Electric Company ("SDG&E")), the one-page tariff contained in Vernon's petition was deficient.³

In its October 27, 2000 Order the Commission conditionally accepted Vernon's proposed Transmission Revenue Requirement. *City of Vernon, California*, 93 FERC ¶ 61,103, 61,283-86 (2000). With respect to Vernon's TO Tariff, the Commission directed "Vernon and the ISO to work together on the appropriate tariff necessary to become a viable Participating TO as of January 1, 2000" *Id.* at 61,286. Vernon was also required to submit the results of such negotiations with the Commission to ensure that the tariff provisions are consistent with those of the Original Participating TOs and, to the extent differences exist to support the need for such differences. *Id.*

² Additional comments were filed by the California Public Utilities Commission, Southern California Edison Company ("SCE"), Pacific Gas and Electric Company ("PG&E"), Transmission Agency of Northern California, Modesto Irrigation District, the California Electricity Oversight Board, and jointly by the Cities of Redding, Santa Clara and Palo Alto and the M-S-R Public Power Agency.

³ Examples of problems with Vernon's TO Tariff cited by the ISO included the following: (1) the TO Tariff should specifically note that the rates and charges for transmission access over the ISO Controlled Grid and the terms and conditions for transmission expansion and interconnection are set forth in the TO Tariff and the ISO Tariff (including, but not limited to, the requirement to have a Transmission Revenue Balancing Account); (2) the TO Tariff should require that transmission service over the Participating TO's system shall be provided to Eligible Customers; (3) the TO Tariff should state that transmission Access Charges and Wheeling Access Charges shall be as provided for in the ISO Tariff; and (4) the TO Tariff should identify the procedures for resolving disputes between parties which arise under the TO Tariff.

Unfortunately, Vernon has failed to implement the Commission's explicit direction. Vernon did not engage in the required negotiations with the ISO. Most significantly, as a result of these failures, Vernon has tended a TO Tariff that, while an improvement, is still deficient in critical respects. The provisions of Vernon's TO Tariff that require additional modification are described below.

ANSWER

A. VERNON FAILED TO ENGAGE IN THE NEGOTIATIONS REQUIRED BY THE COMMISSION

In response to the Commission's directive to "work together" with the ISO, Vernon provided a single individual at the ISO a copy of its proposed TO Tariff revisions on Saturday November 4, 2000. As that individual was involved in series of meetings on Monday November 6, 2000 involving Vernon's application, it wasn't until late that afternoon that Vernon notified the ISO that it had sent the proposed TO Tariff on Saturday and it was then that the ISO first became aware of Vernon's proposed changes. The ISO informed Vernon orally of certain preliminary concerns with the revised TO Tariff on November 7, 2000 and was in the process of preparing written comments further detailing the concerns the ISO had with Vernon's proposed TO Tariff when Vernon not only filed its compliant in Docket No. EL01-14-000, but also its compliance filing of the TO Tariff in this docket.

Accordingly, there were no negotiations and Vernon's filing does not address even the preliminary concerns raised by the ISO. While the ISO recognizes the need to make submissions in a timely manner, Vernon's failure to

"work with" the ISO has resulted in the need to pursue these issues through litigation, resulting in additional delay and expense.

B. VERNON'S TO TARIFF WHILE IMPROVED FROM THE ORIGINAL DRAFT IS STILL DEFICIENT IN SIGNIFICANT RESPECTS.

In its Answer to Vernon's complaint in Docket No. EL01-14-000, the ISO identified three areas in which Vernon's proposed TO Tariff required further modification: (1) consistency with the ISO Tariff, (2) eligibility, and (3) Interconnection. The ISO recognizes that the Vernon's proposed provision on eligibility is consistent with the TO Tariffs of the Original Participating TOs, and, accordingly, the ISO does not take issue with it. Our remaining concerns are discussed below.

1) Consistency with the ISO Tariff

Vernon's proposed TO Tariff should not limit definitions to the current version of the ISO Tariff. The Commission and all parties recognize the need for significant changes in the California electric market. It is unreasonable to attempt to freeze the existing definitions and require the ISO to work with potentially different market structures. Moreover, Vernon's proposal has an inherent inconsistency. One of the defined terms in the ISO Tariff is "ISO Tariff." The definition includes subsequent modifications:

The California Independent System Operator Corporation
Operating Agreement and Tariff, dated March 31, 1997, as it may
be modified from time to time.

ISO Tariff Appendix A Master Definitions Supplement. Accordingly, the ISO proposes that Section 3 of Vernon's TO Tariff be modified as follows:

TO Definitions. Certain capitalized terms used in this TO Tariff that are set out immediately below shall have the meanings set out immediately below. Capitalized terms used in this tariff and not defined below shall have the meanings set out in the ISO Tariff, as it may be modified from time to time, ~~as currently effective as of the~~

~~issuance date of this tariff sheet, including changes authorized in FERC Docket No. ER00-2019.~~

Any outcome of Docket No. ER00-2019-000 concerning the ISO's proposed transmission Access Charge will be reflected in future modifications to the ISO Tariff.

In addition, Sections 7.1 and 7.2 of Vernon's proposed TO Tariff are unnecessary and potentially inappropriate. They attempt to impose payment obligations on the ISO, which will not be taking service under Vernon's TO Tariff. The ISO's payment obligations are set forth in the ISO Tariff not Vernon's TO Tariff.

2) Interconnection

In Section 8, Vernon's revised TO Tariff expands the discussion of interconnection to the Mead-Adelanto project, Mead-Phoenix project, California-Oregon Transmission Project, and Marketplace Substation but does not provide procedures for Eligible Customers, such as new generators, to interconnect with Vernon's local facilities.⁴

3) Other Concerns

In addition to the issues raised previously, there is one additional issue that the ISO believes requires clarification. Sections 5.1 and 5.2 of Vernon's proposed TO Tariff read as follows:

5.1 Transmission Revenue Requirement. The Transmission Revenue Requirement approved by the Vernon City Council and authorized to be filed with the FERC as a compliance filing in the FERC No. EL00-105-000 is set forth in Appendix I. Vernon's Transmission Revenue Requirement is set forth in Appendix I.

5.2 Transmission Revenue Balancing Account ("TRBA"). The

⁴ The ISO recognizes that in accordance with the Commission's November 1, 2000 Order Proposing Remedies for California Wholesale Electric Markets, *San Diego Gas & Electric Company, et al.*, 93 FERC 61,121, the ISO expects to be filing revisions to the interconnection procedures outlined in the ISO Tariff. The ISO seeks a commitment from Vernon to abide by the outcome of that process.

Vernon TRBA adjustment, calculated in accordance with the ISO Tariff and approved by the City Council, is as stated in Appendix I.

In its initial Order on Amendment No. 27 to the ISO Tariff, that the Commission held that its,

review of the TRR of non-public utility entities is to determine whether their proposed methodology, in the context of participation in a Commission jurisdictional public utility ISO, will result in a just and reasonable rate.

California Independent System Operator Corporation, 93 FERC ¶ 61,104, 61,289 (2000). The ISO believes that it is important to clarify that Vernon will be responsible for making any adjustments to its TRR and TRBA necessary to comply with Commission orders and the requirements of the ISO Tariff. For example, if the Commission accepts a filing by an Original Participating TO of an increase to its TRR subject to refund and subsequently determines that the as-filed rates were overstated, all the Participating TOs (not just that Original Participating TO) will be required, in accordance with the ISO Tariff, to make a prospective adjustment to their TRBA. This is because the Access Charge blends the transmission rates of all Participating TOs and it is conceivable that Vernon will receive more revenue than their transmission revenue requirement and thus Vernon's TRBA will need to be adjusted.

The ISO appreciates Vernon's efforts to provide a more complete TO Tariff. We would request that the Commission conditionally accept Vernon's Tariff and to require as a condition of Vernon's status as a Participating TO and its eligibility to receive the benefits of the revised transmission Access Charge that Vernon make the additional modifications described in this pleading.

CONCLUSION

Wherefore, for the reasons stated herein, the ISO respectfully requests that the Commission conditionally accept Vernon's compliance filing and require that Vernon make the additional changes consistent with this pleading.

Respectfully submitted,

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Dated: December 8, 2000

CERTIFICATE OF SERVICE

I hereby certify I have this day served this document upon each person designated on the official service list compiled by the Secretary in this docket 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. on this 8th day of December, 2000.

David B. Rubin

December 8, 2000

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: City of Vernon California; Docket No. EL00-105-001

Dear Secretary Boergers:

Enclosed is an original and fourteen copies of the Protest of the California Independent System Operator Corporation To the Compliance Filing of the City of Vernon, California in the above-captioned docket.

Also enclosed is an extra copy of the filing to be time/date stamped and returned to us by the messenger. Thank you for your assistance.

Respectfully submitted,

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Counsel for the California Independent
System Operator Corporation

Enclosures

cc: Service List