

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

PacifiCorp

)

Docket No. ER08-143-000

**MOTION FOR LEAVE TO INTERVENE OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214, the Combined Notice of Filing issued on November 18, 2007, and the Notice of Extension of Time issued on November 27, 2007, the California Independent System Operator Corporation ("CAISO")¹ submits this motion to intervene concerning PacifiCorp's November 1, 2007, filing of two unexecuted agreements, an Operating Agreement between the CAISO and PacifiCorp and a restated version of an existing agreement to which the CAISO is already a party, the California-Oregon Intertie Path Operating Agreement ("COI Path Operating Agreement").

As explained below, the Commission need not act on the versions of the Operating Agreement and COI Path Operating Agreement submitted in PacifiCorp's November 1 filing because all issues involving the appropriate terms and conditions of the Operating Agreement and the COI Path Operating Agreement will be resolved by a comprehensive offer of settlement filed in Docket Nos. ER07-882 *et al.* on November 21, 2007 and certified to the Commission as an uncontested settlement by the Honorable Carmen A. Cintron

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

on December 4, 2007.² This settlement (the “November 21 Offer of Settlement”) will resolve all issues in the instant proceeding and a number of open dockets before the Commission. The CAISO is party to this settlement and urges the Commission to approve the November 21 Offer of Settlement without modification. The CAISO moves to intervene solely to preserve its rights in this proceeding.

II. BACKGROUND

This proceeding is one of a number of dockets involving issues related to the rates, terms and conditions for service over the 47 mile segment of the Pacific AC Intertie (“PACI”) that is owned by PacifiCorp but that has been leased to California utilities for the past 40 years. The PACI comprises two parallel 500 kV AC lines that run from the Malin substation in Oregon to northern California. Together with the California Oregon Transmission Project (“COTP”), a third 500 kV line that runs from the Captain Jack substation in Oregon to an interconnection in central California with the Pacific AC Intertie near PG&E’s Tesla Substation, these lines constitute the California-Oregon Intertie (“COI”). The eastern segment of the PACI is the “PACI No. 2” transmission line. The 47 miles of the PACI No. 2 transmission line from Malin to Indian Springs were built by and are owned by PacifiCorp. The remainder of PACI No. 2 is owned by Pacific Gas & Electric Company (“PG&E”).

² *PacifiCorp et al.*, 121 FERC ¶ 63,016 (2007).

On August 1, 1967 Pacific Power & Light,³ PG&E, Southern California Edison Company (“SCE”) and San Diego Gas & Electric (“SDG&E”) entered into an Agreement for Use of Transmission Capacity (“Capacity Agreement”). By the terms of the Capacity Agreement, PG&E, SCE and SDG&E leased, for a period of 40 years ending on July 31, 2007, the entire capacity of PacifiCorp’s portion of the PACI No. 2, and PG&E operated and maintained the line. In 1998, PG&E, SCE and SDG&E turned over operational control of the network transmission facilities (including their rights under the Capacity Agreement) to the CAISO.

Prior to the formation of the CAISO, the operation of the COI was coordinated by PG&E pursuant to the Coordinated Operations Agreement. The CAISO assumed that coordination role when the CAISO commenced operations in 1998. On January 1, 2005, because of the expiration of various contracts and the transfer of the COTP to a different control area, the Coordinated Operations Agreement was replaced by the Owners Coordinated Operation Agreement (“OCOA”) and the COI Path Operator Agreement. The CAISO is a party to the COI Path Operator Agreement, but not a party to the OCOA.⁴ The CAISO coordinates operations of the COI consistent with the terms of both of these agreements.

On May 10, 2007, PacifiCorp filed a notice of termination of the Capacity Agreement, in Docket No. ER07-882-000, to become effective August 1, 2007. On May 31, the CAISO filed a protest of this notice, opposing the termination of

³ PacifiCorp is the corporate successor to Pacific Power & Light.

the Capacity Agreement until certain issues related to the impact of the termination on the operation of the COI are addressed.

On July 30, 2007, the Commission concluded that neither the proposed termination nor the amendments to the OCOA proposed by PG&E had been shown to be just and reasonable. *PacifiCorp*, 120 FERC ¶ 61,113 (2007) (“July 30 Order”). The Commission suspended each for five months and initiated a paper hearing on operational, maintenance, and planning issues related to the proposed termination of the Capacity Agreement. July 30 Order at P 35. The issues set for paper hearing were clarified by the Commission in a subsequent Order. *Order on Requests for Clarification and Denying Request for Rehearing*, 120 FERC ¶ 61,231 (2007). Initial and reply briefs in the paper hearing were filed by the Parties on September 13, 2007 and September 28, 2007, respectively.

In its September 13, 2007 initial brief in Docket Nos. ER07-882 *et al.*, the CAISO explained, *inter alia*, that if the Capacity Agreement is permitted to terminate and if PacifiCorp becomes a party to the OCOA and the COI Path Operating Agreement, the CAISO will need an operating agreement with PacifiCorp to establish the legal relationships and procedures by which the CAISO performs its obligations as Balancing Authority for the PACI and COI path operator.

⁴ The other parties to the COI Path Operator Agreement are PG&E, Southern California Edison Company, San Diego Gas & Electric Company, participants in the COTP, and Western. These entities are also the parties to the OCOA.

On September 14, 2007, the CAISO filed an unexecuted Operating Agreement with PacifiCorp in Docket No. ER07-1373 to fulfill this need for an operating agreement. A number of parties submitted comments and protests concerning the CAISO's September 14 Operating Agreement filing. On October 22, 2007, the CAISO submitted an Answer to these comments and protests in Docket No. ER07-1373 ("CAISO October 22 Answer"). The version of the Operating Agreement filed by the CAISO in Docket No. ER07-1373 differs in many respects from the version of the Operating Agreement proposed by PacifiCorp in this proceeding on November 1, 2007.

The CAISO was one of several parties that supported settlement procedures in response to PacifiCorp's notice of termination filing. In the July 30 Order, the Commission encouraged parties to negotiate a settlement of the issues related to the proposed termination of the Capacity Agreement. On August 10, 2007, PacifiCorp filed a Motion for Appointment of Settlement Judge, and by Order dated August 16, 2007 the Chief Administrative Law Judge established settlement judge procedures. *See PacifiCorp*, Docket No. ER07-882-000 (August 16, 2007) (Order of Chief Judge Designating Settlement Judge and Scheduling Settlement Conference); *PacifiCorp*, 120 FERC ¶ 61,113 at P 35 (2007). The CAISO was an active participant in these settlement negotiations.

After extensive settlement negotiations between August and November, PacifiCorp, PG&E, the CAISO and numerous other interested parties successfully negotiated the November 21 Offer of Settlement – a settlement agreement and related agreements that resolve all issues in the following

dockets (including the instant proceeding): ER07-882, ER07-967, EL07-84, ER07-1373, ER07-1392, ER08-143, and ER08-225. Among other things, the November 21 Offer of Settlement includes versions of the OCOA, the COI Path Operating Agreement, and an Operating Agreement between the CAISO and PacifiCorp that are supported by all parties in the context of the overall settlement.

II. BASIS FOR MOTION TO INTERVENE

The CAISO is a non-profit public benefit corporation organized under the laws of the State of California. The CAISO is responsible for the reliable operation of a grid comprising the transmission systems of Southern California Edison Company, San Diego Gas & Electric Company, Pacific Gas and Electric Company, and the Cities of Vernon, Pasadena, Anaheim, Azusa, Banning, and Riverside, California, and of Atlantic Path 15, LLC (formerly Trans-Elect NTD Path 15, LLC) and the Western Area Power Administration, Sierra Nevada Region, with regard to the Path 15 transmission lines in California.

As discussed above, the two unexecuted agreements included in PacifiCorp's November 1 filing are agreements to which the CAISO would be a party. The COI Path Operating Agreement and the Operating Agreement govern the operation of major transmission facilities that currently are under the CAISO's Operational Control and are part of the COI, which the CAISO coordinates as the primary transmission path between California and the Pacific Northwest. Accordingly, the CAISO has a unique interest in any Commission proceeding

concerning the issues raised in this proceeding that cannot be adequately represented by any other party.

III. RESERVATION OF RIGHTS

PacifiCorp's November 1 filing has essentially been rendered moot by the November 21 Offer of Settlement. The CAISO strongly supports the November 21 Offer of Settlement, which resolves a wide range of complex issues concerning the operation of the PACI No. 2 transmission line and the terms and conditions for service over that transmission line. As explained in the December 4, 2007 certification of this settlement for Commission approval, this settlement offer has widespread support by affected parties and is not contested by any party. The CAISO notes that the dockets to be resolved by the November 21 Offer of Settlement are on the agenda for the Commission meeting scheduled for December 20, 2007. The CAISO urges the Commission to accept the November 21 Offer of Settlement without modification.

Out of an excess of caution, the CAISO reserves the right to comment on PacifiCorp's November 1 filing.⁵ The CAISO notes that, on December 13, 2007, PacifiCorp filed a motion for an extension of time for interventions and protests in this proceeding until December 28, 2007 in order to allow time for the

⁵ In the extremely unlikely event that the Commission does not approve the November 21 Offer of Settlement, the CAISO notes that it objects to the terms of the Operating Agreement proposed by PacifiCorp to the extent those terms differ from the version of the Operating Agreement submitted for Commission approval in Docket No. ER07-1373. Moreover, for the reasons set forth in the CAISO's October 22, 2007 Answer in Docket No. ER07-1373, the CAISO does not believe PacifiCorp would have the right to file the Operating Agreement without the CAISO's consent because the Operating Agreement is primarily an agreement under which the CAISO provides jurisdictional services to PacifiCorp. One of the many benefits of the November

Commission to approve the November 21 Offer of Settlement. The CAISO supports this request for extension and agrees with PacifiCorp that approval of the November 21 Offer of Settlement will make it unnecessary for the Commission to address the agreements submitted in PacifiCorp's November 1 filing.

IV. COMMUNICATIONS

Please address all communications concerning this proceeding to the following persons:

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21 Offer of Settlement is that it eliminates the need to resolve the issues raised in Docket No. ER07-1373.

V. CONCLUSION

Wherefore, the CAISO respectfully requests that the Commission grant its motion to intervene. The CAISO urges the Commission to approve the uncontested November 21 Offer of Settlement without modification.

Respectfully submitted,

/s/ Sean A. Atkins

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Dated: December 14, 2007

Certificate of Service

I hereby certify that a copy of this document has been served upon all parties listed on the official service list compiled by the Secretary in the above-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 this 14th day of December, 2007 at Washington, D.C.

/s/ Sean A. Atkins

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