



California Independent
System Operator Corporation

February 21, 2008

Via Electronic Filing

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Motion For Leave To Answer And Answer To Protests Of The California
Independent System Operator Corporation
Docket No. OA08-62-000**

Dear Secretary Bose:

Attached please find the Motion for Leave to Answer and Answer to Protests of the California Independent System Operator Corporation for filing in the above-referenced docket.

Thank you for your attention to this matter.

Respectfully Submitted,

/s/ Grant Rosenblum

Grant Rosenblum
Senior Counsel
Counsel for the California Independent
System Operator Corporation

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

**California Independent System
Operator Corporation**

Docket No. OA08-62-000

**MOTION FOR LEAVE TO ANSWER PROTEST AND
ANSWER TO PROTEST OF
THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.213 (2006), the California Independent System Operator Corporation (“CAISO”) respectfully moves for leave to answer and answers the protest of the California Department of Water Resources State Water Project (“SWP”) filed out-of-time on February 4, 2008.

I. MOTION FOR LEAVE TO ANSWER PROTESTS

The CAISO recognizes that, unless authorized by the Commission, the Commission’s Rules of Practice and Procedures preclude an answer to protests. However, the Commission has accepted answers that are otherwise prohibited if such answers clarify the issues in dispute¹ or to assist the Commission.² The CAISO does not object to SWP’s request to file its protest out-of-time. If the Commission accepts SWP’s protest, however, the CAISO believes that the Commission must also have the benefit of the CAISO’s response to the assertions in SWP’s protest. The CAISO submits that this answer will both clarify the issues and assist the Commission’s deliberation, and therefore respectfully requests that the Commission accept this answer.

¹ *Southwest Power Pool, Inc.*, 89 FERC ¶61,284 at 61,888 (2000); *Eagan Hub Partners, L.P.*, 73 FERC ¶ 61,334 at 61,929 (1995).

² *El Paso Electric Co.*, 72 FERC ¶ 61,292 at 62,256 (1995),

II. BACKGROUND

On December 21, 2007, the CAISO filed tariff amendments documenting its revised Transmission Planning Process to demonstrate compliance with Order No. 890.³ Protest and comments were due on January 25, 2008. On February 14, 2008, the CAISO filed a motion to answer and an answer to comments and protests. On February 4, SWP filed a motion to protest out-of-time. The CAISO did not respond to SWP's motion and protest in its initial answer.

The CAISO understands that the events that led up to SWP's protest, most of which did not involve the CAISO, are set forth in the Joint Answer of Pacific Gas and Electric Company ("PG&E"), Southern California Edison Company, and San Diego Gas and Electric Company. Because those facts do not take place under the CAISO's Order No. 890 Transmission Planning Process, and do not speak to the development of that process, the CAISO will not reiterate those details here.

The important background for the purpose of this answer is that SWP and PG&E are parties to a Comprehensive Agreement, PG&E Rate Schedule FERC No. 77, which is an Existing Transmission Contract under the CAISO Tariff and an Encumbrance listed in the Transmission Control Agreement ("TCA") among the CAISO and its Participating Transmission Owners ("PTOs"). Under the Comprehensive Agreement, SWP is entitled to 157 MW of firm transmission service to its Harvey O. Banks pumps. It is also entitled to an additional 118 MW of interruptible service.

³ *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 Fed Reg. 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007) ("Order No. 890").

SWP desires an additional entitlement to firm transmission service. SWP has sought a commitment from the CAISO and/or PG&E to perform a technical study to determine any necessary upgrades and to build such upgrades.

III. ANSWER

Although SWP protests the CAISO's compliance filing, SWP's does not identify as deficient any specific provisions of the CAISO's Transmission Planning Process. SWP's primary complaint appears to be that it has been unable to date to obtain expanded firm service from PG&E under the Comprehensive Agreement on terms it finds acceptable. Contrary to SWP's contention, its inability at this time to obtain such service does not reveal a substantive deficiency in the CAISO's Transmission Planning Process. For example, SWP states that "the CAISO's 2008 Transmission Plan contains no clear reference to a study of transmission reinforcements necessary to provide SWP the same quality of firm transmission service available to other grid users."⁴ The CAISO's 2008 Transmission Plan, however, was not prepared under the Order No. 890 Transmission Planning Process, and therefore is irrelevant to compliance with Order No. 890 principles. The CAISO's initial implementation of its Order No. 890 Transmission Planning Process is currently in the Unified Planning Assumptions and Study Plan development stage. As a result, SWP's claim of alleged injury is premature and lacks any empirical basis for the contention that its needs will not be met. Nonetheless, the CAISO does acknowledge that certain portions of the Order No. 890 language in Section 24 of the CAISO Tariff could be clarified to better describe the process by which wholesale Loads, including those of SWP and other Load Serving Entities ("LSEs"), may ensure that their needs are considered under the new Transmission Planning Process.

⁴ SWP Protest at 3-4.

Only two of SWP's contentions directly relate to the CAISO's Order No. 890 Transmission Planning Process. First, SWP complains that PG&E has not itself filed a revised Transmission Planning Process.⁵ That complaint is similar to that made by the Northern California Power Association in its protest, which has been addressed in the Joint Answer of PG&E, Southern California Edison Company, and San Diego Gas & Electric Company filed on February 17, 2008.

Second, SWP asserts that "it now is clear that Order 890 protections requiring 'a transmission system plan that (1) meets the specific service requests of its transmission customers and (2) otherwise treats similarly situated customers . . . comparably' are not available." SWP misunderstands the CAISO service model and the CAISO's Order No. 890 Transmission Planning Process.⁶

To the extent that SWP is complaining about service under the Comprehensive Agreement, the issues are strictly between it and PG&E. Presumably, the rates under the Comprehensive Agreement reflect the interruptible nature of service to SWP over 157 MW. Changes in that contract must be negotiated by the parties. The CAISO simply honors Existing Transmission Contracts; it does not have a role in their interpretation, enforcement, or modification. Further, unless SWP has a right under the Comprehensive Agreement to expanded firm service, such expansion would constitute a new Encumbrance on PG&E's facilities. A new Encumbrance requires the CAISO's written consent under Section 4.4.3 of the TCA. The CAISO would need to evaluate carefully such a new Encumbrance, because new Encumbrances restrict the CAISO's ability to

⁵ *Id.* at 5-6.

⁶ *Id.* at 5.

provide nondiscriminatory service on the Transmission Facilities under its Operational Control.

To the extent the SWP is instead complaining about service under the CAISO Tariff and about the CAISO's Order No. 890 Transmission Planning Process, its assertions prove misplaced when examined in the context of the CAISO's service model and the provisions of the new Transmission Planning Process. However, as discussed below, following an examination of those assertions, the CAISO understands how a lack of specificity in certain portions of the CAISO Tariff, which should be ameliorated, might give rise to such misunderstandings.

As an initial matter, with respect to transmission service, the CAISO's model, which the Commission has previously found to be consistent with the non-discrimination goals of Order No. 888, does not operate according to "service requests." The CAISO does not offer traditional Order No. 888 network and point-to-point transmission services. Rather, the CAISO offers only a single "daily" transmission service that is available to all eligible customers. There are no firm, long-term transmission reservations of capacity under the CAISO's service model that SWP can "request." Likewise, there is no formal application process for transmission service in that transmission service is scheduled on a daily basis.

Every transmission customer, including SWP, has equal access to transmission service under the CAISO Tariff. With the exception of the limited preference provided by Firm Transmission Rights (which anyone can purchase) under the current congestion management model, all service is equally firm. Thus, SWP's complaint that "the CAISO's 2008 Transmission Plan contains no clear reference to a study of transmission

reinforcements necessary to provide SWP the same quality of firm transmission service available to other grid users”⁷ is based on a faulty premise. If SWP takes new firm use service under the CAISO Tariff, rather than service under the Comprehensive Agreement, it inherently receives “the same quality of firm transmission service available to other grid users.” Thus, there is no issue of comparability with respect to the quality of the transmission service provided by the CAISO to SWP.

Of course, SWP’s new firm use, like the new firm use of all CAISO customers, relies on the CAISO Controlled Grid to transmit Energy. The CAISO Controlled Grid must comply with applicable NERC/WECC transmission system performance standards as well as CAISO Planning Standards (together Reliability Criteria). In other words, the CAISO must plan the CAISO Controlled Grid in such a manner that wholesale Loads can be served under specified system conditions or, alternatively, curtailed where appropriate to mitigate other specified conditions all in accordance with the Reliability Criteria. Here, SWP appears incorrectly to assert that the CAISO’s Transmission Planning Process has no means of ensuring LSEs, including SWP, that transmission upgrades or additions will be planned to address any current or potential Reliability Criteria violations that may affect the probability of curtailing Load served by a particular LSE.

As explained in the CAISO’s initial answer in response to the Bay Area Municipal Transmission Group and others, Section 24.1.2 relating to reliability driven projects imposes particular obligations on PTOs with PTO Service Territories.⁸ Each PTO is

⁷ *Id.* at 3-4. The CAISO has explained above that this observation concerns a plan that was not developed under the Order No. 890 Transmission Planning Process.

⁸ PTO Service Territory is defined as “[t]he area in which an IOU, a Local Publicly Owned Electric Utility, or federal power marketing administration that has turned over its transmission facilities and/or Entitlements to ISO Operational Control is obligated to provide electric service to Load. A PTO Service Territory may be comprised of the

required on an annual basis, at the CAISO's direction and using the Unified Planning Assumptions adopted by the CAISO, to assess the need for transmission additions or upgrades required to satisfy System Reliability consistent with Reliability Criteria. In light of its responsibility, each PTO with a PTO Service Territory is required to identify anticipated Reliability Criteria violations. Where a violation is detected, the PTO must propose solutions for potential integration into the CAISO's Transmission Plan reliability driven projects to eliminate the Reliability Criteria violation for the uniform benefit of all Load served by the path. The CAISO will approve the transmission upgrade or addition, if appropriate, after assessing other alternative means of resolving the Reliability Criteria violation, e.g., Demand-side management or Remedial Action Schemes. Thus, the CAISO's Transmission Planning Process does proactively address the need for additional transmission infrastructure necessary to avoid a Reliability Criteria violation that could degrade the ability of the CAISO Control Grid to provide a uniform level of reliability to all LSEs. However, if the CAISO selects a transmission upgrade or addition to address the reliability concern, the new capacity resulting from the upgrade or addition must be equally available to all customers, not, for example, simply to serve SWP's pumping load. Just as SWP's current new firm use service under the CAISO Tariff is already comparable to that of other customers, its access to new capacity would be comparable to other customers.

Further, contrary to the SWP's contentions, the CAISO's Transmission Planning Process explicitly allows entities to submit information intended to ensure consideration of their unique needs. Section 24.2.3.3 requires that the CAISO solicit from LSEs through

Service Areas of more than one Local Publicly Owned Electric Utility, if they are operating under an agreement with the ISO for aggregation of their MSS and their MSS Operator is designated as the Participating TO." (CAISO Tariff, Appendix A.)

their Scheduling Coordinators information required by, or anticipated to be useful to, the Transmission Planning Process, including Demand and resource information. The inclusion of Section 24.2.3.3 was specifically designed to allow LSEs to provide information that will guide development of the objectives and assumptions utilized in performing technical studies. Accordingly, it is contemplated that LSEs, including SWP, will submit to the CAISO during the Request Window information that will assist in the development of the technical studies performed to identify potential Reliability Criteria violations and the need for transmission upgrades or additions.⁹

Under the foregoing structure, the CAISO believes the Transmission Planning Process provides sufficient comparability with respect to developing transmission to satisfy System Reliability needs for all Load within the CAISO Balancing Authority Area, including that served by SWP. The CAISO agrees, however, that the clarity of the CAISO Tariff or BPM could be improved. In particular, if LSEs, such as SWP, have specific and identifiable changes in the characteristics of their Load, not otherwise captured in planning level Demand forecasts, it should be clarified that they can request that technical studies take such changes into consideration when evaluating the reliability and economic efficiency of the CAISO Controlled Grid.

⁹ The CAISO would normally “solicit” information during the Request Window. However, given that the Order No. 890 Transmission Planning Process was filed after what would have been the close of the Request Window for the 2008 planning cycle, the CAISO recognizes that entities must be able to provide information for the 2008 technical studies during the pending development of the Unified Planning Assumptions and Study Plan, rather than through the Request Window, the first of which will open in August 2008 for the 2009 planning cycle. The CAISO will include such a solicitation in its Market Notice announcing the stakeholder meeting on the Unified Planning Assumptions and Study Plan.

IV. CONCLUSION

For the reasons discussed above, the CAISO respectfully request that the Commission grant this Motion for Leave to File Answer to SWP's Protest and reject SWP's contentions except as discussed above.

Respectfully submitted,

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Dated: February 21, 2008

CERTIFICATE OF SERVICE

I hereby certify that I have, this 21st day of February 2008, caused to be served a copy of the foregoing document upon all parties listed on the official service list compiled by the Secretary of the Federal Energy Regulatory Commission in this proceeding.

/s/ Grant Rosenblum
Grant Rosenblum