

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

California Independent System)	
Operator Corporation)	Docket No. ER04-61-001
)	
)	

**JOINT MOTION TO LODGE OF THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION
AND PACIFIC GAS AND ELECTRIC COMPANY**

Pursuant to Rule 212 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. § 385.212 (2003), the California Independent System Operator Corporation (“ISO”) and Pacific Gas and Electric Company (“PG&E”) (collectively, Movants) respectfully move jointly to lodge pertinent information which will assist the Commission in its evaluation of the issues raised on rehearing in the above-referenced proceeding. The information that Movants seek to lodge is the Initial Decision issued by Presiding Administrative Law Judge Bobbie J. McCartney on March 10, 2004 in *California Independent System Operator*, Docket Nos. ER00-2019-006, ER01-819-002, and ER03-608-000.¹ The recently issued Initial Decision directly addresses and resolves an issue raised by the California Department of Water Resources, State Water Project (“SWP”) in its Request for Rehearing. Thus, it is appropriate to lodge the Initial Decision in this proceeding for the Commission’s consideration.

SWP filed its Request for Rehearing in this proceeding on January 20, 2004. In its rehearing request, SWP raised for the first time a claim that PG&E's role as the Path 15 Facilitator "promotes phantom congestion."² SWP based this novel claim on an Initial Post-Hearing Brief submitted by Commission Trial Staff in *California Independent System Operator*, Docket No. ER00-2019, *et al.* (the "Docket No. ER00-2019 proceeding"). The ISO and PG&E addressed SWP's "phantom congestion" claim in their joint answer.³

Recently, the Presiding Judge in the Docket No. ER00-2019 proceeding issued the Initial Decision, which soundly rejected Staff's argument that PG&E's role as the Path 15 Facilitator contributes to phantom congestion. In particular, the Presiding Judge concluded:

The undersigned Presiding Judge also disagrees with Staff's and TANC's arguments in the similar vein that the ISO and the ETC facilitators such as PG&E are the cause of phantom congestion. The ISO and PG&E work together in a Commission-approved manner to administer the existing contracts, which they are obligated to do. PG&E Reply Brief at 6-7, citing Cal. Indep. Sys. Operator Corp., 105 FERC ¶ 61,314 (2003); Tr. 2301:7 – 15 (undersigned's explanation at hearing that PG&E does not have operational control but assists the ISO at the request of the ETC holders). Furthermore, as the ISO points out, closer scrutiny of the path facilitator's activities described by PG&E witness Weingart – cited by TANC in its argument – revealed that PG&E partially mitigates rather than aggravates the phantom congestion when performing in the manner TANC describes.

¹ The citation for the Initial Decision is *California Independent System Operator*, 106 FERC ¶ 63,026 (2004).

² *Request for Rehearing of California Department of Water Resources State Water Project*, filed January 20, 2004 ("SWP Rehearing Request") at 7.

³ *Motion for Leave to Answer and Joint Answer of the California Independent System Operator Corporation and Pacific Gas and Electric Company to requests for Rehearing*, filed February 4, 2004 at 8-10.

TANC Initial Brief at 26–28, citing Tr. at 2325:23 – 2326:21. Thus, the ETC facilitator activities do not cause phantom congestion but rather act to mitigate it.⁴

Given that SWP’s phantom congestion claim in this proceeding is based solely on arguments made by Commission Trial Staff in the Docket No. ER00-2019 proceeding, it is appropriate for the Commission to consider the Initial Decision issued by the Presiding Judge. In the Docket No. ER00-2019 proceeding the Presiding Judge considered the evidence and arguments raised by Trial Staff and subsequently rejected them.

WHEREFORE, in consideration of the foregoing, Movants respectfully request that the Commission grant this Joint Motion to Lodge, and consider the cited Initial Decision in its evaluation of the issues on rehearing in the above-referenced proceeding.

Respectfully submitted,

By: _____/s/_____

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⁴ *California Independent System Operator*, 106 FERC ¶ 63,026 (2004) at P. 84.

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Dated: March 18, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day had served a copy of the foregoing document upon each person designated on the official service lists in these proceedings via U.S. Mail in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Washington, D. C., this 18th day of March, 2004.

_____/s/_____
Charles R. Middlekauff