

187 FERC ¶ 61,134
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Willie L. Phillips, Chairman;
Allison Clements and Mark C. Christie.

California Independent System Operator Corporation

Docket No. ER24-1701-000

ORDER ACCEPTING PROPOSED REVISIONS AND GRANTING WAIVER
REQUEST

(Issued June 4, 2024)

1. On April 4, 2024, pursuant to section 205 of the Federal Power Act¹ and Part 35 of the Commission's regulations,² the California Independent System Operator Corporation (CAISO) submitted proposed revisions to the Transmission Control Agreement (TCA) among CAISO and its participating transmission owners to add DCR Transmission, L.L.C. (DCR) as a new participating transmission owner. CAISO also requests waiver of its Open Access Transmission Tariff (Tariff) section 4.3.1.1 and Appendix F, Schedule 3, section 8.1, which prescribe the effective date for new participating transmission owners to join CAISO, as well as the implementation date for CAISO's transmission access charge. As discussed below, we accept CAISO's proposed TCA revisions, effective June 5, 2024, as requested, and grant CAISO's waiver request.

I. Background

2. The TCA is the agreement among CAISO and participating transmission owners that establishes the terms and conditions pursuant to which transmission owners place certain transmission facilities and entitlements under CAISO's operational control.³ The TCA describes how CAISO and each participating transmission owner will discharge their respective duties and responsibilities with respect to the operation of those facilities and entitlements.⁴

¹ 16 U.S.C. § 824d.

² 18 C.F.R. pt. 35 (2023).

³ Transmittal at 2.

⁴ *Id.*

3. Tariff section 4.3.1.1 and Appendix F, Schedule 3, section 8.1, prescribe either January 1 or July 1 of the relevant year as the effective date for new participating transmission owners to join CAISO as well as the implementation date for CAISO's transmission access charge.⁵ CAISO states DCR will become a new participating transmission owner when the Ten West Link transmission line project (Ten West Link Project) goes into service.

II. Filing

4. CAISO proposes to revise the TCA to include DCR as a participating transmission owner, as well as to include updates to the TCA table of contents, signature pages, and appendices for DCR. CAISO states that proposed new TCA section 4.4.13 addresses concerns that DCR might recover all or a portion of the revenue requirement for its high voltage transmission assets and then subsequently seek to withdraw those interests from CAISO's operational control in order to operate them as transmission rights not subject to the Commission's jurisdiction. CAISO explains that this provision is consistent with similar TCA provisions related to other participating transmission owners.⁶

5. CAISO requests that the proposed revisions to the TCA become effective on June 5, 2024, which is close to the projected in-service date for the Ten West Link Project.⁷ CAISO also states that, although June 5, 2024 is close to the estimated in-service date, the actual effective date of the proposed changes to include DCR as a new participating transmission owner should coincide with the actual in-service date of the Ten West Link Project.⁸ For this reason, CAISO requests that the Commission direct CAISO to submit a compliance filing to revise the effective date of the TCA revisions that add DCR as a new participating transmission owner, in the event that the Ten West Link Project goes into service on a date other than the requested effective date of June 5, 2024.⁹

6. To accommodate the requested June 5, 2024 effective date for the proposed revisions to the TCA, CAISO requests waiver of Tariff section 4.3.1.1 and Appendix F,

⁵ *Id.* at 4.

⁶ *Id.* at 3 (citing *Cal. Indep. Sys. Operator Corp.*, 139 FERC ¶ 61,198, at PP 5, 17 (2012); *Cal. Indep. Sys. Operator Corp.*, 164 FERC ¶ 61,148, at PP 4, 8 (2018); *Cal. Indep. Sys. Operator Corp.*, 175 FERC ¶ 61,102, at P 7 (2021); *Cal. Indep. Sys. Operator Corp.*, 183 FERC ¶ 61,019 (2023)).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

Schedule 3, section 8.1, which prescribe either January 1 or July 1 of the relevant year as the effective date for new participating transmission owners to join CAISO as well as the implementation date for CAISO's transmission access charge.¹⁰

7. CAISO asserts that its waiver request satisfies the Commission's criteria for granting waiver. First, CAISO argues that it is acting in good faith to address the effective date issue and accommodate the addition of DCR as a party to the TCA. CAISO states that the actual effective date of the proposed changes should coincide with the actual in-service date.¹¹ Second, CAISO asserts that the requested waiver is of limited scope because it applies only to two provisions in the Tariff in order to permit the requested effective date for certain provisions in the TCA. Third, CAISO contends that the requested waiver addresses the concrete problem that the Tariff provisions for which CAISO requests waiver would otherwise be at variance with the requested effective date. Fourth, CAISO states that the waiver does not have undesirable consequences and, instead, will resolve any concerns that other participating transmission owners may express.¹²

III. Notice and Responsive Pleadings

8. Notice of CAISO's filing was published in the *Federal Register*, 89 Fed. Reg. 25,259 (Apr. 10, 2024), with interventions and protests due on or before April 25, 2024. Timely motions to intervene were filed by: DCR; Pacific Gas and Electric Company; Southern California Edison Company; California Department of Water Resources State Water Project; Northern California Power Agency; and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2023), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 4.

B. Substantive Matters

10. We accept CAISO's proposed revisions to the TCA, effective June 5, 2024, as requested. We find that CAISO's proposed revisions are just and reasonable and consistent with previous modifications made to the TCA for the purpose of including new participating transmission owners.¹³

11. We also grant CAISO's request for waiver of Tariff section 4.3.1.1, and the related provisions of Tariff Appendix F, Schedule 3, section 8.1, to allow the proposed revisions to the TCA to become effective June 5, 2024. The Commission has granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.¹⁴ We find that the circumstances of CAISO's waiver request satisfy these criteria.

12. First, we find that CAISO has acted in good faith. CAISO explains that its request is intended to accommodate the addition of a new participating transmission owner to the TCA as soon as the Ten West Link Project goes into service; that is, the effective date of the proposed revisions to the TCA should coincide with the in-service date. Second, we find that CAISO's request is limited in scope because the waiver only applies to limited Tariff provisions and is limited to permitting the requested effective date for discrete provisions in the TCA. Third, we find that granting CAISO's request addresses a concrete problem. Absent waiver, certain provisions of the TCA that prescribe dates for new participating transmission owners to join CAISO will conflict with the anticipated in-service date of the Ten West Link Project and when DCR will become a participating transmission owner in CAISO. Fourth, we find that granting the waiver request will not have any undesirable consequences, such as harming third parties. CAISO asserts that the waiver request will resolve any concerns that other participating transmission owners may express.¹⁵ We note that no party opposes the waiver request.

13. Finally, as CAISO requests, we remind CAISO to submit a compliance filing revising the effective date of the proposed revisions to the TCA in the event that the Ten West Link Project goes into service on a date other than June 5, 2024. The compliance filing is due within 30 days of the in-service date of the Ten West Link Project.

¹³ See, e.g., *Cal. Indep. Sys. Operator Corp.*, 183 FERC ¶ 61,019 at P 12.

¹⁴ See, e.g., *Citizens Sunrise Transmission LLC*, 171 FERC ¶ 61,106, at P 10 (2020); *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

¹⁵ Transmittal at 4.

The Commission orders:

(A) CAISO's proposed revisions to the TCA are hereby accepted, effective June 5, 2024, as requested, as discussed in the body of this order.

(B) CAISO's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Debbie-Anne A. Reese,
Acting Secretary.