

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

California Independent System)
Operator Corporation) Docket No. ER10-1401-000

**ANSWER OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION TO THE MOTION TO INTERVENE AND FOR EXTENSION OF
TIME OF THE BAY AREA MUNICIPAL TRANSMISSION GROUP**

On June 18, 2010, the Bay Area Municipal Transmission Group (“BAMx”) filed a Motion to Intervene and for Extension of Time in the above-identified proceeding. BAMx asks that the deadline for comments on the June 4 transmission planning filing of the California Independent System Operator Corporation (“ISO”) be extended from June 25, 2010, to July 9, 2010. BAMx states that its request for an extension of time is supported by the City and County of San Francisco, California; Modesto Irrigation District; California Municipal Utilities Association; and the Northern California Power Agency. Pursuant to Rule 213 of the Commission’s Rules of Practice and Procedure,¹ the ISO respectfully submits its answer to the Motion. The ISO does not oppose the intervention of BAMx, but urges the Commission to reject the request for an extension of time. The requested extension of time serves no valid purpose and will only unnecessarily and inappropriately delay Commission action on the ISO’s proposed revised transmission planning process. That in turn will interfere with the ISO’s ability to timely implement its revised transmission planning process and approve the transmission upgrades and expansions necessary if utilities are

¹ 18 C.F.R. § 385.313 (2010).

to be able to comply with California's 33 percent Renewable Portfolio Standard ("RPS").

This proceeding concerns the ISO's June 4, 2010, filing of proposed amendments to its approved tariff to implement a revised transmission planning process. As explained in the transmittal letter accompanying the filing, the proposed revisions are necessary and appropriate to enable California to meet its ambitious RPS and environmental goals. The revised process creates a new category of transmission facilities to be approved in the ISO planning process – facilities that are needed to facilitate achievement of state and federal policy requirements and directives – and provides for an assessment on a statewide basis, in collaboration with other California transmission providers, of the transmission infrastructure needed to achieve the ambitious renewable energy targets adopted by the state for California load serving entities. Under the revised process, the ISO will prepare a comprehensive transmission plan for its balancing authority area and conduct a competitive solicitation that will provide an opportunity for both independent transmission developers and incumbent utilities to submit proposals to build and own transmission elements identified in the plan.

BAMx offers two reasons for its request for an extension. First, BAMx notes that the ISO has not yet proposed revisions to its Business Practice Manuals ("BPMs") that are necessitated by the modified tariff provisions proposed in this docket and plans to issue draft BPM revisions the day before comments are due. BAMx argues that without understanding the BPM revisions,

it is not possible for interested parties to appreciate the full scope and extent of the ISO's proposed tariff provisions.

The BPM revisions, however, are irrelevant to the issue before the Commission in this proceeding – whether the proposed *tariff provisions* are just and reasonable. The ISO's tariff revisions must stand or fall on their own. A BPM cannot make an unjust or unreasonable tariff provision just and reasonable and it cannot make a just and reasonable tariff provision unjust and unreasonable.

In Order No. 890,² the Commission re-affirmed its long-standing practice that the Commission will apply its “rule of reason” in a manner that does not require all of a transmission provider's business practices to be included in its tariff:

The Commission disagrees with parties arguing that all of a transmission provider's rules, standards, and practices should be incorporated into its OATT. We believe that requiring transmission providers to file all of their rules, standards and practices in their OATTs would be impractical and potentially administratively burdensome.

Order No. 890 at P 1651. The administrative burden referenced in Order No. 890, however, would surely exist if a transmission provider was required to publish drafts of all related rules, standards, and practices before public comments would be due on a tariff amendment.

The Commission has recognized that one reason why certain rules, standards, and practices need not be included in a transmission provider's tariff

² *Preventing Undue Discrimination and Preference in Transmission Service*, Order No. 890, 72 FR 12266 (March 15, 2007), FERC Stats. & Regs. ¶ 31,241 (2007) (“Order No. 890”).

is that some details in a provider's manuals may need to be updated frequently.³ This justification is inconsistent with the argument that commenters should be afforded the opportunity to review related BPMs before commenting on a proposed tariff amendment.

ISO proposed tariff amendments typically are proposed in advance of BPM revisions or, in many cases, the development of a BPM. This is also the case for other independent system operators and regional transmission organizations. To the ISO's knowledge, however, the Commission has never based a determination of whether a tariff provision is just and reasonable on the contents of a BPM.⁴

The ISO has implemented a robust BPM change management process which the Commission has found to be just and reasonable and consistent with prior Commission directives.⁵ This BPM change management process will be triggered once the Commission has ruled on the proposed tariff amendments that will implement the ISO's revised transmission planning process.⁶ The BPM review process that the ISO recently initiated provides stakeholders with two

³ See, e.g., *California Independent System Operator*, 119 FERC ¶ 61,053 at P 15 (2007) (rejecting calls that the ISO include the ISO's Credit Policy Guide in the ISO Tariff).

⁴ See, e.g., *Midwest Independent Transmission System Operator, Inc.*, 125 FERC ¶ 61,060, at PP 45, 50 (2008) (accepting a tariff amendment while acknowledging the statement of the Midwest ISO that it is still "in the process of developing appropriate Business Practice Manuals to address how it can determine the deliverability of load modifying resources").

⁵ *California Independent System Operator*, 122 FERC ¶ 61,271 at P 83 (2008).

⁶ The ISO notes that the transmission planning BPM was submitted with the initial Order 890 compliance filing and also with the October 31, 2008 compliance filing (errata filed on November 3, 2008). These submissions were in advance of the effective date of the ISO's change management process and therefore were developed with stakeholders as part of the Order 890 stakeholder processes.

extra opportunities to review and provide comments on proposed changes to the transmission planning BPM well in advance of the BPM change management process. This additional stakeholder process will assist the ISO in implementing the revised transmission planning process during the 2010/2011 cycle once the Commission has ruled on the proposed tariff amendments. Additionally, because the ISO intends to propose non-substantive reformatting changes to the current BPM, stakeholders will have an opportunity to become familiar with the revised format. Under no circumstances should this advance opportunity for BPM review that the ISO has offered its stakeholders be viewed as a reason to delay approval of the proposed tariff language.⁷

Indeed, review of the proposed BPM is unlikely to give BAMx any additional information regarding the tariff language filed in this proceeding. The revisions to the BPM themselves are straightforward and cannot be inconsistent with the tariff language. In addition, the ISO provided an 85 page explanation of the need for the amendments and their operation in its tariff filing. This should provide more than enough information for BAMx to formulate its comments.

BAMx's second argument is that additional time is warranted because "there are considerable complex renewable and transmission issues in California and nationally that must be considered in the context of the CAISO proposal, including proposed legislation and regulation on renewable portfolio standards that have varying delivery requirements." As described in the transmittal letter,

⁷ The Commission has recognized that, to the extent any party believes a BPM-related action or inaction on the part of the ISO renders rates unjust or unreasonable, the proper remedy is to file a complaint under Section 206 of the Federal Power Act. 122 FERC ¶ 61,271 at P 84.

the proposed tariff revisions are the product of an eight month stakeholder process in which BAMx *et al.* were actively engaged. Further, the ISO posted two separate drafts of proposed tariff language, and BAMx submitted two sets of written comments on that tariff language. The renewable and transmission issues have been a matter of public debate for a much longer time, as have the various legislative and regulatory proposals. It is extremely unlikely that BAMx (or the Commission) will gain any additional insights on these issues through a two-week extension of the comment period.

On the other hand, delay may well interfere with achievement of the goals of the revised transmission planning process. As the ISO explained in the transmittal letter, it must commence planning efforts immediately if the California utilities using the ISO controlled grid are to meet 33 percent RPS by 2020. Considerable time is necessary to complete the siting and project approval process, obtain all necessary permits, and construct the unprecedented number of new high voltage transmission facilities that will be needed. The 33 percent RPS will be achieved incrementally over the next decade, going from the current 20 percent RPS level to 33 percent RPS by 2020. Accordingly, transmission will need to be built incrementally between now and 2020 to keep pace with new renewable generation coming on-line. The ISO must begin to address these matters in the current 2010/2011 planning cycle in order to timely identify the initial set of transmission improvements by next Spring, identify the entities that will finance, construct and own those facilities, and then send those projects off to the authorized siting authorities to be permitted. The Commission should

reject unnecessary time extensions that serve no legitimate purpose and that will delay action on the ISO's proposal.

Accordingly, the ISO respectfully requests that the Commission deny BAMx's request for an extension.

Respectfully submitted,

/s/ Sean A. Atkins

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CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service lists for the above-referenced proceedings, 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, DC this 21st day of June, 2010.

/s/ Daniel Klein

Daniel Klein