

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

**Western Area Power Administration    )**  
**Pacific Gas and Electric Company    )**     **Docket No. ER02-1672-000**  
**Trans-Elect, Inc.                        )**

**MOTION TO INTERVENE AND COMMENTS OF THE  
CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**

Pursuant to Rule 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. § 385.214, and the Commission’s May 7, 2002 Notice of Filing, the California Independent System Operator Corporation (“ISO”) hereby moves to intervene in the above-captioned proceeding. In support thereof, the ISO states as follows<sup>1</sup>:

**I.     COMMUNICATIONS**

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<sup>1</sup> Unless expressly stated otherwise, capitalized terms herein have the meaning set forth in Appendix A to the ISO Tariff, the Master Definitions Supplement.

## **II. BACKGROUND**

On April 30, 2002, Western Area Power Administration-Sierra Nevada Region ("Western"), Pacific Gas and Electric Company ("PG&E"), and Trans-Elect, Inc. ("Trans-Elect") (hereinafter referred to as the "Project Participants") tendered for filing with the Commission an agreement titled the "Path 15 Upgrade Project Participant's [sic] Letter Agreement," (hereinafter referred to as the "Letter Agreement"). The Letter Agreement sets forth the Project Participants' obligations, expected rate methodologies, and a blueprint for continued progress on the Path 15 Upgrade Project.

The Path 15 Upgrade Project is a project designed to alleviate the transmission constraints that exist on Path 15, a major north-south transmission pathway in California. Specifically, the Project will involve the construction of a new 84-mile 500-kV transmission line between PG&E's Los Banos and Gates substations in central California.

As part of the Letter Agreement, PG&E and Trans-Elect will turn over the Operational Control of their transmission capacity entitlements in the project to the ISO. Western will turn the Operational Control of its entitlement to the ISO provided that the ISO makes the necessary changes to its Tariff to allow Western to turn over Operational Control of the Path 15 upgrade without turning over control of all of its existing Central Valley Project ("CVP") system. In addition, the Letter Agreement outlines the parties' proposed rate treatment for their respective shares of the transmission project, certain of which may require

modifications to the ISO Tariff and the process for transmission approval, and an amendment to the multi-party Transmission Control Agreement ("TCA").

### **III. BASIS FOR MOTION TO INTERVENE**

The ISO is a non-profit public benefit corporation organized under the laws of the State of California and responsible for the reliable operation of the transmission grid and for the coordination of the competitive electricity market in California. The ISO operates a grid comprising the transmission systems of PG&E, Southern California Edison Company ("SCE"), San Diego Gas and Electric Company ("SDG&E"), and the City of Vernon, California ("Vernon"). In this capacity, the ISO believes that it has a unique interest in any Commission proceeding concerning the Letter Agreement described above. Specifically, (1) the ISO will be the operator of the Path 15 project upgrade upon its completion; (2) Path 15 is a key transmission facility within the ISO Controlled Grid; (3) it has been proposed that the costs of the project are to be recovered in the ISO Access Charge; and (4) the project as described in the Letter Agreement requires modification of the TCA between PG&E, SCE, SDG&E and Vernon to include Western and Trans-Elect, and an amendment to PG&E's transmission rights to include this upgrade; and (5) the project as described in the Letter Agreement may require modifications to the ISO Tariff related to cost recovery.

### **IV. COMMENTS**

In concept, the ISO fully supports upgrading Path 15. In September of 2001, the ISO completed an economic assessment of the market power mitigation benefits of upgrading Path 15. These benefits were shown to be

considerable. In addition, the ISO considers that there are ancillary benefits to system reliability from a Path 15 upgrade. Thus, the ISO generally supports proposals to upgrade Path 15.

Nonetheless, the Project Participants' proposal raises important issues and potential concerns, the resolution of which may substantially impact the ISO. The ISO has met with the Project Participants during the past months to provide information regarding the Participating TO application process, the TCA, and the ISO Tariff requirements including settlements. Nonetheless, as of this date, the Project Participants have not provided the ISO with the detail of their proposals, including proposed changes to the ISO Tariff. Once the ISO receives this information, the ISO is committed to working with the Project Participants and all interested parties to fully understand and, if possible, resolve any outstanding issues. However, without all the information necessary to fully substantively assess the impact (or import) of the Project Participant's proposals, the ISO has concerns about some of the concepts set forth in the Letter Agreement.

Under the TCA, Participating TOs are to transfer to the ISO's Operational Control "transmission lines and associated facilities forming part of the transmission network that it owns or to which it has Entitlements."<sup>2</sup> The purpose of this provision was to prevent new Participating TOs from "cherry picking" -- turning over to the ISO Operational Control of less desirable or more expensive projects while maintaining sole control over valuable or less expensive transmission assets. This concern arises because the ISO's Access Charge is in

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<sup>2</sup> TCA Section 4.1.1.

the second year of a ten-year transition period that will result in one rate for the use of the High Voltage Transmission Facilities that make up the ISO Control Grid. Western seeks a special provision that would allow Western to turn over Operational Control of only its entitlement to the Path 15 Project Upgrade, not all of its CVP facilities. Filing letter at 13.

The ISO recognizes the importance of the Path 15 upgrade and has expressed its willingness to accept control only of this upgrade and not the remaining portions of Western's system. For example, the ISO made a settlement offer in the pending Docket No. ER00-2019-000 that would allow such a partial turnover of Western's facilities. If those settlement negotiations are not concluded in a way that would allow the treatment that Western seeks, however, the ISO is committed to work with the Project Participants to reach an acceptable resolution to this issue. The ISO notes, however, that the TCA is a multi-party agreement between the ISO and the four current Participating TO's, PG&E, SCE, SDG&E and Vernon. Any modification to the TCA would require that all signatories agree to the change. In addition, while it does not appear from the Letter Agreement that Trans-Elect presents issues which would require modification of the TCA, there is nonetheless a process that must be undertaken to amend the TCA to include Trans-Elect. Further, there is a process under the ISO Tariff for Trans-Elect to join the ISO and have its Transmission Revenue Requirement recovered through the ISO's Access Charge. These processes have not yet occurred.

Similarly, as proposed in section 9.4.4 of the Letter Agreement, the Project Participants seek changes to the ISO Tariff "requested by Trans-Elect for the revenue recovery mechanism for the Project". The Transmittal Letter explains that "Trans-Elect seeks to bar the CA ISO from commingling transmission revenues with generation related revenues". The ISO has requested that Trans-Elect convey to it a written explanation of the proposal and the specific tariff amendments sought. Any type of change to the ISO Tariff along these lines would impact all Market Participants in the California market. While it has not yet received this information, the ISO is generally concerned about any proposal that would change the assessment of charges and disbursement of funds pursuant to the ISO Tariff.

The ISO is cognizant that all Participating TOs (as well as all Market Participants) must be treated on a fair and non-discriminatory basis. This is particularly important because under the proposed ISO Tariff provisions, the Transmission Revenue Requirements associated with new High Voltage Transmission Facilities rated at or above 200 Kv are paid by all customers taking service over the ISO Controlled Grid on an ISO grid-wide basis. Thus, since it appears from the Letter Agreement that customers of PG&E, SDG&E, SCE, and Vernon as well as all wheeling customers will pay a portion of the Transmission Revenue Requirement associated with a Path 15 upgrade, it would likely prove difficult to justify a proposal for special treatment of the costs and revenues associated with the Path 15 upgrade. Indeed, since Trans-Elect does not have Load of its own, its Path 15 costs will be entirely born by others, further

emphasizing the need for careful consideration of this issue.. Moreover, the ISO's Access Charge is the subject of an ongoing settlement proceeding in Docket No. ER00-2019 pending before Chief Administrative Law Judge Curtis Wagner.

Also, as noted above, it appears from the Letter Agreement that Trans-Elect's proposal would by necessity require changes to the ISO Tariff. These changes are appropriately discussed in a larger forum and will require ISO Governing Board approval.

Finally, the ISO notes that while its September 2001 economic assessment identified substantial market power mitigation benefits from a Path 15 upgrade, the ISO has not yet performed an assessment to determine whether the costs of upgrading Path 15 in accordance with the Project Participants' proposal are offset by the market power mitigation benefits. Since the Project Participants have requested the ISO to seek Governing Board approval for the project, the ISO is working with the Project Participants to undertake a benefit-cost assessment but has not yet concluded the assessment.

In sum, the ISO supports an upgrade to Path 15. However, as noted above, there are a number of issues associated with the Project Participants' proposal that require careful consideration and that should not be summarily accepted by the Commission. Once all the requisite information is in hand, the ISO is committed to working with all interested parties to ensure timely and appropriate resolution of these issues.

**V. CONCLUSION**

For the foregoing reasons, the ISO respectfully requests that the Commission permit it to intervene, and that it be accorded full party status in this proceeding.

Respectfully submitted,

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Date: May 21, 2002



## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 21<sup>st</sup> day of May, 2002.

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