

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

California Independent System Operator)
Corporation)

Docket No. ER08-1113-04
Docket No. ER08-1113-05

**MOTION OF THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR
CORPORATION FOR LEAVE TO FILE ANSWER AND ANSWER TO PROTESTS
AND COMMENTS**

I. INTRODUCTION

The California Independent System Operator Corporation (“the ISO”)¹ submitted additional tariff language on September 28, 2009 in compliance with the Commission’s Order on Rehearing and Clarification issued on July 29, 2009.² The *Order on Rehearing and Clarification* requires the ISO to clarify proposed tariff language to address the potential for duplicative losses charges for certain import and export transactions between the ISO and the Sacramento Municipal Utility District and Turlock Irrigation District Integrated Balancing Authority Area (“IBAA”). The ISO’s proposed tariff language provides a marginal cost of losses adjustment for customers that use the California Oregon Transmission Path (“COTP”) to accept exports from the ISO and that can demonstrate that they face duplicative charges for losses from the Transmission Agency of Northern California (“TANC”) or Western Area Power Administration (“Western”) for service over the COTP. The ISO also proposed a marginal cost of

¹ The ISO is also sometimes referred to as the CAISO. Capitalized terms not otherwise defined herein have the meanings set forth in the Master Definitions Supplement, Appendix A to the CAISO Tariff.

² *California Indep. Sys. Operator Corp.*, 128 FERC ¶ 61,103 (2009) (“*Order on Rehearing and Clarification*”).

losses adjustment for customers that use Western's transmission system within the IBAA to deliver imports to the ISO at the Tracy intertie scheduling point and that demonstrate that they face duplicative charges for losses from Western. Western, the Northern California Power Agency ("NCPA"), and the Cities of Santa Clara and Palo Alto filed comments. The Sacramento Municipal Utility District ("SMUD"), TANC, and Modesto Irrigation District ("Modesto") filed protests. Pursuant to Rules 212 and 213 of the Commission's Rules of Practice and Procedure,³ the ISO files this motion for leave to file an answer to the protests filed by SMUD, TANC, and Modesto⁴ and files an answer to these protests and the comments filed by Western, NCPA and Santa Clara and Palo Alto.

II. ANSWER

A. The Commission limited the losses adjustment to import schedules at the Tracy intertie scheduling point for imports to the ISO that use non-COTP Western transmission facilities within the IBAA

In its comments, Western argues that the ISO's proposed tariff language inappropriately limits a losses adjustment to the Tracy intertie scheduling point for imports to the ISO that use non-COTP Western transmission facilities within the IBAA.⁵ Western argues that the ISO's proposed tariff language is inconsistent with the

³ 18 C.F.R. §§ 385.212, 385.213 (2009).

⁴ Answers to protests are generally not permitted. See 18 C.F.R. § 385.213(a)(2). The ISO respectfully requests waiver of the Commission's Rules of Practice and Procedure prohibiting answers to protests pursuant to 18 C.F.R. § 385.101(e). Good cause exists for the waiver. As discussed in the ISO's answer, the ISO is willing to modify its proposed tariff language in order to address some of the concerns raised by parties, including concerns set forth in the protests of TANC, Modesto and SMUD. The ISO's answer also assists the Commission in resolving the remaining compliance issues in this proceeding. Accordingly, the Commission should permit the ISO to file this answer and, if appropriate, approve the proposed tariff amendments with the modifications the ISO agrees to make on further compliance.

⁵ SMUD and NCPA support Western's arguments.

Commission's *Order on Rehearing and Clarification*. TANC makes a similar argument in its protest.⁶

Santa Clara and Palo Alto and NCPA argued in this proceeding that certain Western contracts provide for deliveries at the Tracy intertie scheduling point and require the payment of losses to Western for the use of transmission within the IBAA to Tracy. Santa Clara and Palo Alto and NCPA argued that these schedules for which Western is paid losses should receive an adjustment to reflect the marginal cost of losses at Tracy. Modesto also argued that it pays Western for losses incurred over Western's non-COTP facilities to import power to the ISO.

In its *Order on Rehearing and Clarification*, the Commission directed that the ISO apply a losses adjustment at the Western-ISO intertie point:

We clarify that imports from Western, delivered at the Western–CAISO intertie scheduling point, should receive the same losses treatment as imports over the COTP receive under the IBAA system.⁷

In their comments and protest, Western and TANC and others read this directive to apply to all intertie scheduling points between Western's IBAA facilities and the ISO. This argument fails for at least two reasons: (1) the record does not sustain such a reading; (2) the Commission specified that the losses adjustment should apply to a single intertie scheduling point. To the extent parties believe a losses adjustment should apply to *all* intertie scheduling points between Western's transmission facilities and the ISO under the IBAA structure, they had the opportunity to request rehearing of

⁶ Protest of TANC at pp. 6-7. Modesto adopts the arguments set forth in TANC's protests.

⁷ *Order on Rehearing and Clarification* at P 89.

the Commission's *Order on Rehearing and Clarification*.⁸ They did not do so and the arguments in comments and protests are now a collateral attack on the Commission's prior order.

The record reflects that Santa Clara and Palo Alto and NCPA requested an adjustment for the marginal cost of losses for Western Base Resource schedules delivered at the Tracy intertie scheduling point.⁹ As stated in Santa Clara's testimony in this proceeding "SVP takes delivery of the Western Base Resource at the Tracy substation. . . . SVP's imports of the Western Base Resource should be priced at the Tracy bus."¹⁰ Modesto asserted it is interconnected with Western's facilities at Western's Tracy substation and wants to avoid duplicative losses for its use of non-COTP Western facilities for imports to the ISO.¹¹ As reflected in the testimony of Santa Clara and Modesto (*i.e.*, transmission customers over Western's transmission facilities), the Tracy substation is the intertie scheduling point that is used by these customers for interchange transactions between the IBAA and the ISO. The Commission's directive to provide an adjustment for the marginal cost of losses for imports that use non-COTP

⁸ 18 C.F.R. § 385.713 (b) (2009).

⁹ *Order on Rehearing and Clarification* at PP 85 and 86. See also, Exhibit SVP-2, Panel Affidavit of Doug Boccignone, Kevin Wright and Dr. Pushkar Wagle supporting Santa Clara's Amended Protest dated July 16, 2008 at pp. 38-39.

¹⁰ Exhibit SVP-2, Panel Affidavit of Doug Boccignone, Kevin Wright and Dr. Pushkar Wagle at pp. 38-39. .

¹¹ See, Motion of Modesto to intervene, motion to reject, and in the alternative, protest, request for maximum suspension, and request for conferences and hearing dated July 8, 2008 at p. 8, in which Modesto asserts it jointly owns "the Westley-Tracy Transmission Project, a 27-mile, double circuit, 230 kV transmission line which interconnects their systems with Western's transmission facilities at *Western's Tracy Station*." (Emphasis added.)

See also, Declaration of Jeff Harris on behalf of Modesto Irrigation District dated July 1, 2008 at pp. 3-4, paragraphs 4, 5 and 6, which contains a description of Modesto's electric system and its interconnection with Western's Tracy substation.

See also, Modesto Request for Rehearing dated October 20, 2008 at p. 29-29.

Western facilities at the Western-ISO intertie scheduling point is responsive to these arguments.¹² Western asserts that while the Tracy intertie scheduling point may satisfy COTP schedules it is not accurate for transactions that use Western's non-COTP transmission facilities.¹³ But the record arguments of Santa Clara, Palo Alto, NCPA and Modesto undermine Western's assertion. Accordingly, it is appropriate to limit any such adjustment to the Tracy intertie scheduling point.

In its *Order on Rehearing and Clarification*, the Commission did not specify that the ISO should provide an adjustment for losses at *the applicable* Western-ISO intertie scheduling point or *all* Western-ISO intertie scheduling points. The language of the Commission's directive specifies that the ISO provide a losses adjustment at the Western-ISO intertie scheduling point that Western's transmission customers use to schedule interchange transactions with the ISO. Based on the record of this proceeding and the language of the Commission's *Order on Rehearing and Clarification*, an adjustment for losses should only apply to Tracy intertie scheduling point.

B. The ISO complied with the Commission's specific requirement but does not object to the extension of the losses adjustments for exports at the Tracy intertie scheduling point for schedules that use non-COTP Western transmission facilities within the IBAA

In its comments, Western argues that the ISO's proposed tariff language fails to apply the marginal cost of losses at Tracy to export schedules from the ISO to the IBAA that use non-COTP Western facilities. TANC, Santa Clara and Palo Alto also argue that the Commission's *Order on Rehearing and Clarification* requires similar losses adjustments for exports to Western's non-COTP facilities within the IBAA and exports to

¹² *Order on Rehearing and Clarification* at PP 83-89.

¹³ Comments of Western at p. 5.

COTP. In support of this argument, TANC, Santa Clara and Palo Alto excise a quotation from the *Order on Rehearing and Clarification* that directs adjustments to the marginal cost of losses for imports to the ISO from the IBAA at the Tracy intertie scheduling point. In its *Order on Rehearing and Clarification*, the Commission directed that the ISO provide an adjustment to apply the marginal cost of losses from Tracy for export schedules from the ISO to the IBAA that use COTP. The ISO's proposed tariff language implements this directive. The Commission did not order the ISO to apply the marginal cost of losses from the Tracy intertie scheduling point to export schedules from the ISO that use non-COTP Western facilities within the IBAA.

Nevertheless, if directed by the Commission, the ISO is willing to apply the losses adjustment to exports from the ISO at the Tracy scheduling point that use Western's non-COTP facilities within the IBAA. Under this approach, export schedules to the IBAA at the Tracy intertie scheduling point that use non-COTP Western facilities within the IBAA would receive the marginal cost of losses at Tracy as opposed to the SMUD Hub for purposes of IBAA default pricing.

C. The ISO is willing to make suggested changes to Appendix C of its tariff to clarify (1) that TANC is not charging for use of non-COTP Western transmission facilities; (2) that exports to the IBAA utilizing COTP originate from the Tracy intertie scheduling point; and (3) that entities can obtain Resource IDs to demonstrate use of Western's non-COTP transmission facilities.

In its comments, Western expresses concern that the ISO's proposed tariff language suggests that TANC will charge for use of non-COTP Western transmission within the IBAA.¹⁴ TANC raises similar concerns in its protest.¹⁵ Western recommends

¹⁴ Comments of Western at pp. 5-6.

¹⁵ Protest of TANC at pp. 7-8.

changes to the ISO's proposed tariff language to address this issue. In response to Western's concerns, the ISO agrees to modify its proposed language in ISO tariff Appendix C, section G.1.2 on further compliance to remove any ambiguity that TANC may charge for use of non-COTP Western transmission within the IBAA.

Santa Clara and Palo Alto argue that the ISO's proposed tariff language suggests that exports from the ISO to the IBAA will originate on the COTP.¹⁶ TANC raises similar concerns in its protest.¹⁷ Santa Clara and Palo Alto ask that the ISO clarify this language to identify the intertie scheduling point as the origin of these transactions. The ISO agrees to modify its proposed tariff language relating to exports to clarify that any adjustment to the marginal cost of losses will apply to exports from the ISO to the IBAA that originate at the Tracy intertie scheduling point and utilize the COTP or, if directed by the Commission, non-COTP Western transmission facilities within the IBAA.

Santa Clara and Palo Alto also raise concerns with the ISO's proposed tariff language regarding whether a scheduling coordinator may obtain an adjustment for the marginal cost of losses by using a Resource ID to certify that it used non-COTP Western transmission facilities within the IBAA in connection with an import to or export from the ISO.¹⁸ TANC raises similar concerns in its protest.¹⁹ The ISO agrees to clarify its tariff language on further compliance to specify that scheduling coordinators can use a Resource ID to obtain an adjustment for losses for interchange schedules at the Tracy

¹⁶ Comments of Santa Clara and Palo Alto at pp. 5-6.

¹⁷ Protest of TANC at p. 10.

¹⁸ Comments of Santa Clara and Palo Alto at p. 6.

¹⁹ Protest of TANC at p. 8-10.

intertie scheduling point to certify use of non-COTP Western transmission facilities within the IBAA.

III. CONCLUSION

The ISO's proposed tariff amendments relating to adjustments to the marginal cost of losses under the IBAA structure comply with the Commission's directives. But the ISO is willing to extend this adjustment to export schedules that use non-COTP Western transmission facilities within the IBAA. The ISO is also willing to make changes as described above on further compliance to address other concerns raised by parties in their comments and protests. The Commission should approve the proposed tariff amendments with the modifications the ISO agrees to make in this answer.

Respectfully submitted,

/s/ Roger E. Smith

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Dated: November 3, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon all of the parties listed on the official service list for the captioned proceeding, 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 Folsom, California this 3rd day of November 2009.

/s/ Jane Ostapovich
Jane Ostapovich