

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Atlantic Path 15, LLC

Docket Nos. ER07-129-000  
ER07-129-001  
ER07-129-002

ORDER ACCEPTING REVISED TRANSMISSION REVENUE BALANCING  
ACCOUNT ADJUSTMENT

(Issued April 13, 2007)

1. On October 31, 2006, as amended on December 6, 2006 and February 13, 2007, Atlantic Path 15, LLC (Path 15) submitted its 2007 Transmission Revenue Balancing Account Adjustment (TRBAA), which is recalculated annually and made effective by contract on January 1 of each year, pursuant to Appendix F, Schedule 3, section 8.1 of the California Independent System Operator Corporation (CAISO) tariff and section 5.2 of the Path 15 Transmission Owner (TO) tariff.<sup>1</sup> The Commission accepts Path 15's revised 2007 TRBAA update, as included in its February 13, 2007 supplemental filing, effective January 1, 2007, as discussed herein. We also direct Path 15 to file a revised tariff sheet reflecting the revised TRBAA amount.

**Background**

2. The TRBAA is a mechanism that each Participating Transmission Owner (Participating TO) utilizes, as part of the CAISO's Transmission Access Charge (TAC) rate design, to flow-through Transmission Revenue Credits (TRC) received from Wheeling service, Usage (Congestion) Charges and Firm Transmission Right (FTR) auction revenues. Each TRBAA is computed as a negative amount and is deducted from each Participating TO's Transmission Revenue Requirements (TRR). In general, Path 15's TRBAA reflects the actual principal balance in the Transmission Revenue Balancing Account (TRBA) as of September 1, 2006, a forecast of TRCs for 2007 and

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<sup>1</sup> The Commission, by delegated order, approved Path 15's first TRBAA filing in Docket No. ER06-364-000, *et al.*

the interest balance in the TRBA.<sup>2</sup> In addition, for non-load serving transmission owners, such as Path 15, the TRBA is also used to reconcile differences between the Participating TO's authorized TRR and its collected revenues to ensure that there are no over or under-collections in any year. Specifically, pursuant to the CAISO Tariff, revenues are allocated to load-serving entities in proportion to their actual Gross Load. Because no-load Participating TOs do not have Gross Load, the CAISO allows no-load Participating TOs to recover their TRR based on the ratio of no-load Participating TOs TRR to the sum of all Participating TOs' TRRs.<sup>3</sup>

3. On October 31, 2006, Path 15 submitted its 2007 TRBAA update, which indicated a revenue credit of approximately \$4,958,409. Path 15 explained that, in deriving this amount, it imputed an adjusted 2006 TRBAA principal balance.<sup>4</sup> Specifically, Path 15 stated that, "after several discussions with the CAISO," it was determined that "the data used for Path 15's 2006 TRBAA calculation should have been based on Trade Month data rather than Calendar Month data."<sup>5</sup> Path 15 explained that the 2006 TRBAA was calculated based on the Calendar Month in which the billing was provided by the CAISO, which Path 15 refers to as Calendar Month data. However, each Calendar Month billing reflects the trade data from the three months preceding the Calendar Month, which Path 15 refers to as Trade Month data. According to Path 15, the CAISO's preference is for a Participating TO to use final Trade Month data in computing its TRBAA update, notwithstanding the lack of specificity in the CAISO tariff and the Path 15 TO tariff. Thus, Path 15 explains that the 2007 TRBAA calculation was prepared "in consultation with CAISO staff."<sup>6</sup> For purposes of determining the 2007 TRBAA only, Path 15

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<sup>2</sup> According to section 5.2 of the Path 15 TO Tariff, the TRBAA shall be equal to the sum of (1) the balance representing the prior period difference between the projected Transmission Revenue Credits (TRC) and actual credits, (2) forecast of TRC for the following calendar year, and (3) the interest balance for the Transmission Revenue Balancing Account (TRBA). Interest shall be calculated using the interest rate prescribed in section 35.19(a) of the Commission's regulations under the Federal Power Act, and interest shall be calculated based on the average TRBA principal balance each month, compounded quarterly.

<sup>3</sup> This provision was accepted for filing in Docket No. ER03-1222-000, *et al.* *See* 105 FERC ¶ 61,071 (2003).

<sup>4</sup> Path 15 states that it is not proposing to modify the 2006 TRBAA that was filed with and accepted by the Commission in Docket No. ER06-364. (*See* Exhibit ATL-1 at 2.)

<sup>5</sup> Exhibit No. ATL-1 at 4.

<sup>6</sup> Path 15 December 6, 2006 Answer at 2.

recalculated its baseline 2006 TRBAA principal data using Trade Month data and, in doing so, realized that the 2006 TRBAA that had been previously filed and accepted by the Commission was overstated, resulting in an under-collection of last year's TRBA of \$2,145,427.<sup>7</sup>

4. Additionally, in its proposed 2007 TRBAA update, Path 15 included a forecast of \$0 for TRCs, as it projected that no revenues will be received from Wheeling service, Usage Charges or the FTR auction in 2007. Path 15's justification for not providing a forecast of revenues for Wheeling service or Usage Charges is based on historical usage data (i.e., Path 15 did not receive any revenues for these two services for any Trade Month in 2006). With respect to FTR auction revenue, Path 15 explains that it anticipates only a nominal amount in 2007 (in the range of \$65,000). Path 15 explains further that, due to the then-projected implementation of the Market Redesign and Technology Upgrade (MRTU) tariff, the CAISO's 2007 FTR auction will not cover a full year. This imminent change to the CAISO's market design, in Path 15's estimation, makes it difficult to develop an accurate FTR auction revenue forecast.

### **Notice of Filing and Responsive Pleadings**

5. Notice of Path 15's initial filing was published in the *Federal Register*, 71 Fed. Reg. 66,323 (2006), with interventions and protests due on or before November 21, 2006. Notice of the Path 15's amendment to its initial filing was published in the *Federal Register*, 71 Fed. Reg. 75,748 (2006), with interventions and protests due on or before December 27, 2006. Notice of Path 15's Response to Staff Request for Additional Information and Request for Expedited Treatment was published in the *Federal Register*, 72 Fed. Reg. 8,374 (2007), with interventions and protests due on or before March 6, 2007. A Motion to Intervene was filed by Trans Bay Cable LLC. Motions to intervene with protests were filed by Southern California Edison Company (SoCal Edison) and Pacific Gas and Electric Company (PG&E). Path 15 filed answers on December 6, 2006, and March 16, 2007.

### **Discussion**

#### **Procedural Matters**

6. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2007), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the

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<sup>7</sup> Path 15 prorates this amount over the "trade" months when this error occurred (October 2006 through March 2007) and deducts the prorated amount (\$1,061,530) from the proposed 2007 TRBAA.

Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the Path 15's answers because they have provided information that assisted us in our decision-making process.

### **Position of the Parties**

7. In its initial protest, SoCal Edison questioned why Path 15 "inexplicably [chose] not to include any interest on the portion of its TRBA associated with [monthly] over-collected amounts," as revealed in Path 15 Exhibits NTD-3 and NTD-4. SCE noted that "section 5.2 of Path 15's TO tariff requires that interest shall be calculated based on the average TRBA principal balance each month, compounded quarterly, and such interest should be applicable to all components of the TRBA calculation."<sup>8</sup> Moreover, SoCal Edison argued that "Line 6 of Exhibit 2 to Path 15 Response shows that in the first six months of the TRBAA record period (October 2005 through September 2006), Path 15 had accrued over \$2.4 million in CAISO over-payments in excess of its base [high voltage transmission revenue requirement (HVTRR)]. During the last six months of the record period, however, Path 15 incurred significant under-collections. At the end of the TRBAA record period, Path 15 only retained \$318,707 of CAISO over-payments in excess of its base TRR."<sup>9</sup> According to SoCal Edison, Path 15's failure to calculate interest on the over-payment amounts on a monthly basis when over-collections were most significant effectively allowed Path 15 "an interest-free loan" to the detriment of CAISO ratepayers.<sup>10</sup> SoCal Edison estimated the interest which Path 15 improperly failed to credit to the CAISO ratepayers amounts to \$162,792.<sup>11</sup>

8. PG&E's protest raised a number of issues including an argument that there is a two-month payment lag in CAISO billing data instead of the three-month lag proffered by Path 15 and, therefore, Path 15's TRBAA calculations should be adjusted accordingly. PG&E also objected to Path 15 reducing the overall 2007 TRBA, which resulted from the under-collected adjusted 2006 TRBA, as a result of Path 15's use of Calendar Month data instead of Trade Month data. PG&E argues that, "by recalculating the 2004 and 2005 balances of its TRBA in the 2006 filing, Atlantic Path 15 has accounted for any TRBA calculation in error from its previous TRBA filing. Thus, PG&E argues that Path 15's

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<sup>8</sup> SCE also discovered a minor mathematical error made by Path 15 in summing the interest accrual appearing on Line 19 of Exhibit No. NTD-4.

<sup>9</sup> SCE March 6, 2007 Protest at 2 - 3.

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.*

\$1,081,530 adjustment from calendar month to trade data month amounts to double-counting.<sup>12</sup> Finally, PG&E protested the lack of justification provided by Path 15 for not including a forecast of revenues in 2007 from FTR auction revenue, when “in each of the past two years, Atlantic Path 15 received more than \$2 million in FTR revenues.”<sup>13</sup>

9. On January 30, 2007, the Commission issued a Request for Additional Information that directed Path 15 to: (1) confirm the dates and amounts of FTR auction revenue received by Trans-Elect NTD Path 15, LLC since its commercial operation; (2) provide the derivation of the \$65,000 FTR estimate referenced in the December 6, 2006 supplement; (3) provide additional information to explain why the historical amounts of FTR revenues received by Path 15 should not be used as a reference point for projecting 2007 FTR auction revenue; and (4) explain why Path 15 has not included interest on the portion of its TRBA associated with over-collected amounts.

10. Path 15 responded to the Commission’s directive on February 13, 2007. Path 15 explained that the forecast it initially provided for FTR auction revenue was based on the most current information available at the time of its initial filing. Path 15, upon further review of FTR auction revenues, updated its estimate to reflect changed circumstances since the submission of its October 31 Filing, for a total revenue credit amount of \$5,858,564.<sup>14</sup> Path 15’s revised calculations, using the most recent information available at the time of filing, resulted in a change in 2007 forecast of FTR auction revenue from \$0 to \$971,088. With respect to monthly interest computations on over-collected TRBA amounts, Path 15 stated that interest was calculated on monthly TRBA balances; however, “Path 15’s 2007 calculation shows the over- and under-collections as an annual adjustment rather than a monthly adjustment,” which is not prohibited by either the CAISO tariff or Path 15 TO tariff. Moreover, Path 15 asserts that it “deferred to the CAISO’s interpretation of the CAISO tariff in completing its calculations.”<sup>15</sup>

### **Commission’s Determination**

11. The Commission has reviewed Path 15’s proposed TRBA update, as amended, and finds that it results in a just and reasonable credit. Thus, we will accept Path 15’s revised 2007 TRBAA amounts, as filed on February 13, 2007, in its Response to Staff Request for Additional Information, which includes the revised estimate of FTR auction

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<sup>12</sup> PG&E Protest at 4.

<sup>13</sup> *Id.*

<sup>14</sup> Path 15 Response to Staff Request for Additional Information at 3.

<sup>15</sup> *Id.*

revenue,<sup>16</sup> to be effective January 1, 2007, as requested.<sup>17</sup> However, we note that Path 15 has failed to submit a revised tariff sheet, designated as Appendix I, to reflect the change in the TRBAA amount from \$4,958,409 to \$5,858,564. Accordingly, we direct Path 15 to submit, within fifteen (15) days of the date of this order, a revised tariff sheet that reflects the adjusted TRBAA amount.

12. With respect to PG&E's concerns regarding the use of a two-month lag rather than a three-month lag, Path 15 stated in its December 6 Answer that the second month is preliminary trade month and the third month data are final trade month data, and that the CAISO had advised it that the use of the final trade month data was more appropriate in the TRBAA calculation. We concur with the use of the three-month lag, i.e., the final trade month data rather than the preliminary trade month data are the appropriate data to use in this particular calculation. With respect to PG&E's concerns regarding the potential double recovery resulting from Path 15's change from calendar month data to trade month data, we note that Path 15, in its December 6 Answer, explained in detail how it had not previously collected these under-recovered amounts, and therefore, no double-recovery was possible. Our review indicates that Path 15 has properly calculated the change from calendar month to trade month and that no double recovery occurs.<sup>18</sup> Accordingly, no adjustment to Path 15's TRBA filing is necessary on this issue.

13. With respect to SoCal Edison's contention that Path 15 should have calculated interest on a monthly basis during the six month period where over-collections totaled \$2.4 million, we agree that Path 15 followed the CAISO tariff and the Path 15 TO tariff guidelines. These tariff provisions require interest to be calculated only on monthly TRBA balances and compounded quarterly and not on the over- or under-collections that occur when actual calendar month revenues are greater or less than the Path 15's pro rated monthly TRR. Additionally, we note that, because over or under collections of revenues compared to a prorated monthly TRR cannot be accurately projected and can occur at any time in the year, it would be unfair to require Path 15 to credit interest on

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<sup>16</sup> These revisions include the mathematical error flagged by SoCal Edison in its November 21, 2006 protest and corrected by Path 15 in its December 6, 2006 answer, which decreased Path 15's proposed revenue credit amount from \$4,958,409 to \$4,887,476.

<sup>17</sup> See *Central Hudson Gas & Electric Corporation*, 60 FERC ¶ 61,106 at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992) (finding that waiver of notice generally will be appropriate when a rate change and its effective date are prescribed by an agreement on file with the Commission).

<sup>18</sup> PG&E raised this concern in its initial protest but did not respond to two subsequent notices of amendments to this filing.

over-collected amounts but to not recognize that there is a cost to Path 15 in months when there is an under-collection of revenues.

The Commission orders:

(A) Path 15's revised 2007 TRBAA update is hereby accepted for filing, effective January 1, 2007, as discussed in the body of this order; and

(B) Path 15 is directed to file, within fifteen (15) days of the date of this order, a revised tariff sheet reflecting the revised TRBAA amount as shown in its February 13, 2007 supplemental filing.

By the Commission.

( S E A L )

Kimberly D. Bose  
Secretary