

170 FERC ¶ 61,155
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick and Bernard L. McNamee.

California Independent System Operator Corporation

Docket No. ER20-692-000

ORDER ACCEPTING PROPOSED TARIFF REVISIONS
AND GRANTING WAIVER REQUEST

(Issued February 27, 2020)

1. On December 27, 2019, pursuant to section 205 of the Federal Power Act,¹ the California Independent System Operator Corporation (CAISO) submitted proposed tariff revisions to revise the Transmission Control Agreement (TCA) among CAISO and its participating transmission owners, to include a new participating transmission owner, Horizon West Transmission, LLC (Horizon West), and to update the TCA for other participating transmission owners to reflect the expiration or termination of certain entitlements and contracts, additions or amendments to existing entitlements and contracts, and clean-up edits. CAISO also requests waiver of sections 2.1.2 and 4.1.1 of the TCA, which concern the application procedures for new participating transmission owners. As discussed below, we accept for filing, effective February 28, 2020, as requested, the proposed tariff revisions and grant waiver of sections 2.1.2 and 4.1.1 of the TCA.

I. Background

2. Horizon West was selected as the approved project sponsor following a competitive solicitation process administered by CAISO in 2014 based on transmission needs identified in the 2013-2014 transmission planning process. The Horizon West facilities include dynamic reactive power support inside the SVC Station located in San Diego County, California. The SVC Station is connected to San Diego Gas & Electric Company's Suncrest 500/230 kV facility. The SVC Station is the first facility to be placed under CAISO's operational control by a new participating transmission owner following the CAISO competitive solicitation process.

3. On May 7, 2015, Horizon West executed CAISO's *pro forma* Approved Project Sponsor Agreement. The Approved Project Sponsor Agreement sets forth the rights and obligations associated with the project that arise prior to the effective date of the TCA

¹ 16 U.S.C. § 824d (2018).

changes proposed in this filing, and it requires Horizon West to build the specified project to CAISO's defined specifications and then turn it over to CAISO for operational control.

4. The TCA is the agreement among CAISO and participating transmission owners that establishes the terms and conditions under which transmission owners place certain transmission facilities and entitlements under CAISO's operational control. 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.²

II. CAISO's Filing

5. CAISO proposes to revise the TCA to include Horizon West as a participating transmission owner, as well as to include updates to the TCA table of contents, a signature page, and appendix A for Horizon West. Further, CAISO proposes to add a new section 4.4.9 to address any concerns about the possibility that Horizon West might recover all or a portion of its revenue requirement for its high voltage transmission assets and then subsequently seek to withdraw those interests from CAISO's operational control and 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.³

6. In addition, CAISO requests waiver of sections 2.1.2 and 4.1.1 of the TCA, which set forth the application procedures for new participating transmission owners and that would otherwise require Horizon West to submit an application to CAISO to become a participating transmission owner. CAISO states that these provisions do not currently account for the process undertaken by new participating transmission owners that have been accepted through the competitive solicitation process.⁴ CAISO further asserts that the waiver is necessary because the provisions in sections 2.1.2 and 4.1.1 could otherwise

² Transmittal at 2.

³ *Id.* at 3-5. CAISO states that proposed section 4.4.9 is modeled on existing TCA sections 4.4.4, 4.4.5, 4.4.6, 4.4.7, and 4.4.8, which were incorporated into the TCA to address similar concerns relating to Trans Bay Cable L.L.C., Startrans IO, L.L.C., Citizens Sunrise Transmission L.L.C., GridLiance West Transco L.L.C. (GridLiance West), and Citizens Sycamore-Penasquitos Transmission LLC when they proposed to become parties to the TCA.

⁴ *Id.* at 5.

be viewed as potentially conflicting with the exemption from the TCA application process provided in Section 4.3.1.1 of the CAISO tariff. CAISO tariff Section 4.3.1.1 states that “[n]either the written declaration of intent nor the application requirement applies to Approved Project Sponsors.”

7. CAISO contends that an approved project sponsor does not need to submit a written declaration or an application to CAISO to become a participating transmission owner because the competitive solicitation process and the *pro forma* Approved Project Sponsor Agreement restate policy set forth in Section 4.3.1 of the CAISO tariff.⁵ Therefore, CAISO states that a new participating transmission owner resulting from the competitive solicitation process that has executed an Approved Project Sponsor Agreement should not also be required to go through the application process as provided in sections 2.1.2 and 4.1.1 of the TCA. CAISO states that such a requirement would be duplicative of and potentially inconsistent with Section 4.3.1.1 of the CAISO tariff, would subject approved project sponsors to additional and unnecessary procedures, and would cause potential confusion and delay in the process of approved project sponsors becoming a new participating transmission owner.⁶

8. CAISO requests waiver of the provisions in sections 2.1.2 and 4.1.1 of the TCA that would otherwise require Horizon West to submit an application to CAISO, so that Horizon West can be added to the TCA as a new participating transmission owner. 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 any perceived conflict regarding the new participating transmission owner application procedure described above. Second, CAISO asserts that the waiver is of limited scope because it applies only to a few provisions in the TCA and is limited to recognizing that Horizon West is a new participating transmission owner. Third, CAISO contends that the waiver addresses the concrete problem that the TCA provisions would otherwise be duplicative of, and potentially perceived to be in conflict with, the new participating transmission owner procedures followed by Horizon West as an approved project sponsor. Fourth, CAISO states that the requested waiver would not have undesirable consequences, and no party to the TCA has objected to these revisions.

9. CAISO also proposes to revise Pacific Gas & Electric’s (PG&E) appendix A to the TCA to reflect the removal of the Lease of Transmission Capacity agreement with PacifiCorp due to termination of that agreement on December 31, 2017. CAISO

⁵ *Id.* at 5-6.

⁶ *Id.* at 6.

proposes to update the reference to an agreement included in the list of encumbrances in PG&E's appendix B to the TCA. Further, pursuant to a request from GridLiance West, CAISO proposes to revise GridLiance West's appendix A to the TCA to provide a more detailed description of its transmission facilities.⁷

III. Notice of Filing and Responsive Pleadings

10. Notice of CAISO's filing was published in the *Federal Register*, 85 Fed. Reg. 500 (Jan. 6, 2020), with protests and interventions due on or before January 17, 2020. PG&E and Southern California Edison Company (SoCal Edison) filed timely motions to intervene. On January 30, 2020, Horizon West filed an out-of-time motion to intervene.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the timely, unopposed motions to intervene serve to make PG&E and SoCal Edison parties to this proceeding.

12. Pursuant to Rule 214(d) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214(d), we grant Horizon West's late-filed motion to intervene given its interest in the proceeding, the early stage of the proceeding, and the absence of undue prejudice or delay.

B. Substantive Matters

13. We accept CAISO's proposed revisions to the TCA. We find that CAISO's proposed revisions are consistent with previous modifications to the TCA that included new participating transmission owners or are otherwise discrete updates and corrections, as described above.⁸ Further, as discussed below, we grant CAISO's request for waiver of sections 2.1.2 and 4.1.1 of the TCA, which concern the application procedures for new participating transmission owners.

14. 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

⁷ *Id.* at 5.

⁸ *See supra* note 3.

problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.⁹ We find that the circumstances of CAISO's waiver request satisfy these criteria.

15. First, we find that CAISO has acted in good faith to address the potential for any perceived conflict between its tariff and the TCA regarding the new participating transmission owner application procedure for Horizon West. Second, we find that the waiver is of limited scope because it applies only to two provisions in the TCA, and it is limited to recognizing that Horizon West is a new participating transmission owner by virtue of becoming a participating transmission owner through CAISO's competitive solicitation process and subsequent execution of the Approved Project Sponsor Agreement. Third, we find that the waiver addresses the concrete problem that the TCA provisions would otherwise be duplicative of, and potentially perceived to be in conflict with, the new participating transmission owner procedures followed by Horizon West under the Approved Project Sponsor Agreement. Fourth, we find that the requested waiver would not have undesirable consequences, such as harming third parties, as the only impact of the waiver is to ensure that Horizon West is properly recognized as a new participating transmission owner. We also note that no party has contested the request for waiver.

16. Finally, we remind CAISO to submit a filing revising the effective date of these proposed changes in the event that the Horizon West facilities are energized on a date later than February 28, 2020. The compliance filing is due within 30 days of the actual facility energization date.

⁹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

The Commission orders:

(A) CAISO's proposed tariff revisions are hereby accepted for filing, effective February 28, 2020, 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)

Nathaniel J. Davis, Sr.,
Deputy Secretary.