

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

California Independent System Operator Corporation Docket Nos. ER05-150-002 and
ER05-150-004

ORDER DIMISSING REQUEST FOR CLARIFICATION OR REHEARING AND
DISMISSING COMPLIANCE FILING

(Issued February 21, 2006)

1. On October 12, 2005, Trinity Public Utility District (Trinity PUD) submitted a filing advising the Commission that it has prepared, executed, and forwarded to Pacific Gas & Electric Company (PG&E) an amendment to its current 1993 Operating Agreement (1993 Operating Agreement) between Trinity PUD and PG&E in compliance with the Commission's September 23, 2005 Order.¹ On October 24, 2005, PG&E filed a request for clarification or rehearing of the September 23 Order, and a motion to reject Trinity PUD's October 12, 2005 compliance filing. As discussed below, we dismiss PG&E's request for clarification or rehearing, and dismiss Trinity PUD's compliance filing.

Background

2. The September 23 Order approved a Small Utility Distribution Company Operation Agreement (SUDC Operating Agreement) between the California Independent System Operator Corporation (CAISO) and Trinity PUD, with modifications. The Commission found that section 4.1 of the proposed SUDC Operating Agreement obligated Trinity PUD to coordinate with PG&E, and directed PG&E to make a filing with the Commission to reflect Trinity PUD's commitments.

3. Trinity PUD submitted a compliance filing stating that it had sent PG&E an amendment to the 1993 Operating Agreement that provides for Trinity PUD to coordinate with PG&E. PG&E filed, together with a request for clarification and rehearing, a motion to reject Trinity PUD's compliance filing.

¹ *California Independent System Oper. Corp.*, 112 FERC ¶ 61,324 (2005) (September 23 Order).

4. PG&E requests clarification regarding paragraph 21 of the September 23 Order, which directed PG&E to make a filing with the Commission to reflect the coordination called for by the SUDC Operating Agreement and the September 23 Order. PG&E requests that the Commission clarify that any changes to non-jurisdictional agreements between PG&E and Trinity PUD need not be filed with the Commission. In the alternative, PG&E requests rehearing; the 1993 Operating Agreement is a non-jurisdictional agreement and, therefore, changes to it should not be filed with the Commission. PG&E further states that it “will make the appropriate filing with the Commission when an amendment has been implemented, and following the Commission’s ruling in response to PG&E’s request for clarification or rehearing. . .”

Notice of Filings and Responsive Pleadings

5. Notice of Trinity PUD’s October 12, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 61,804 (2005), with interventions and protests due on or before November 2, 2005. PG&E filed the above-noted request for clarification or rehearing of the September 23 Order, and requests that the Commission reject Trinity PUD’s October 12, 2005 filing. Trinity PUD filed an answer.

6. In its motion to reject Trinity PUD’s filing, PG&E argues that the 1993 Operational Agreement is non-jurisdictional, and, thus, changes to the agreement should not be filed with the Commission.

Discussion

Procedural Matters

7. Rule 213(a)(2) of the 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 are not persuaded to accept Trinity PUD’s answer and will, therefore, reject it.

Commission Determination

8. Insofar as the 1993 Operating Agreement itself is not on file with the Commission, in retrospect, the Commission concludes that it erred in directing that an amendment to that agreement be filed with the Commission. Thus, we will dismiss Trinity PUD’s October 12, 2005 filing as well as PG&E’s request for clarification or rehearing. We nevertheless find that PG&E should make an appropriate filing, as it agreed to do, with the Commission to indicate that agreement has been reached between PG&E and Trinity PUD, as to their cooperation.

The Commission orders:

(A) The Commission hereby dismisses PG&E's request for clarification or rehearing, as discussed within the body of this order.

(B) The Commission hereby dismisses Trinity PUD's compliance filing, as discussed above.

(C) The Commission hereby directs PG&E to make an appropriate filing within 30 days of reaching agreement with Trinity PUD, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.