

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

July 30, 2004

Docket Nos. EC96-19-000
ER96-1663-063
ER98-3760-009

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Attention: David B. Rubin, Esq.

Dear Mr. Rubin:

1. On August 25, 2003, you submitted, in compliance with the Commission's order issued in this proceeding on July 25, 2003,¹ revisions to the California Independent System Operator Corporation (CAISO) Tariff on behalf of the CAISO.
2. The CAISO compliance filing included tariff sheets to reflect: (1) the addition of a new defined term, "PTO Service Area," (2) revisions to section 2.3.1.2.1 of its Tariff, and (3) a revision to the effective date for changes to the CAISO Tariff directed by the Commission's November 22, 2002 Order. Specifically, the July 25 Order directed that the term "PTO Service Area" have the following meaning: "An area in which a Participating Transmission Owner provides transmission service to itself, a UDC, a MSS, or End-Use Customers." In its compliance filing, the CAISO proposes to add this required definition to its Tariff.
3. On September 15, 2003, the City of Vernon, California (Vernon) protested the CAISO's compliance filing. Vernon states that "PTO Service Area" is used in many places and contexts in the CAISO Tariff. Vernon states that it is critical that each of these portions of the CAISO Tariff have clear meanings. Vernon states that the CAISO should be allowed to withdraw both definitions of "PTO Service Area," without prejudice to the filing of appropriate, understandable tariff provisions that meet whatever goal or

¹ 104 FERC ¶ 61,129 (2003) (July 25 Order).

meaning the CAISO intended with the current tariff language. Vernon states that, in the alternative, the CAISO should be required to submit a full explanation of the intended meaning of “PTO Service Area” in each section of the CAISO Tariff in which it appears.

4. Vernon’s protest does not dispute the CAISO’s compliance with the July 25 Order. Rather, Vernon challenges the merits of the Commission’s underlying directive in the July 25 Order that the CAISO include this definition of “PTO Service Territory” in its tariff. This is a collateral attack of that order which is beyond the scope of this compliance proceeding.² Therefore, we deny Vernon’s protest as an impermissible collateral attack on the Commission’s July 25 Order.

5. In a separate proceeding in Docket No. ER04-632-000, the CAISO proposed to replace the definition of “PTO Service Area” with the term “PTO Service Territory.” PTO Service Territory is defined as:

The area in which an IOU, a Local Public Owned Electric Utility, or federal power marketing administration that has turned over its facilities and/or Entitlements to ISO Operational Control was obligated to provide electric service To Load as of March 31, 2000. A PTO Service Territory may be comprised of the Service Areas of more than one Local Publicly Owned Electric Utility in which each entity was obligated to provide electric service as of March 31, 2000, if they are operating under an agreement with the ISO for aggregation of their MSS and their MSS Operator is designated as the Participating TO.

6. Our review indicates that the CAISO’s tariff sheets that reflect changes to “PTO Service Area,” section 2.3.1.2.1 and the revised effective date comply with the Commission’s July 25 Order and are accepted effective November 23, 2002.

² We note that Vernon did not seek rehearing of the July 25 Order. In addition, we cannot treat Vernon’s protest in this proceeding as a request for rehearing, since it was filed well after the date on which rehearings were due. *See* 16 U.S.C. § 8251(a) (2000).

Additionally we find that the CAISO's proposed tariff language regarding "PTO Service Area" in the instant compliance filing has been superseded by the Commission's acceptance, subject to modification, of the defined term "PTO Service Territory" in its May 6, 2004 Order issued in Docket No. ER04-632-000.³

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

³ 107 FERC ¶ 61,114 (2004).