

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Valley Electric Association, Inc.

Docket Nos. ER04-424-000
ER04-424-001

ORDER ACCEPTING INTERCONNECTION AGREEMENT FOR FILING

(Issued March 23, 2004)

1. On January 16, 2004, as amended on January 23, 2004, Valley Electric Association, Inc. (Valley Electric) filed an executed Interconnection Agreement (IA) with Ivanpah Energy Center, LP (Ivanpah). As explained below, we will accept the IA for filing, to be effective January 17, 2004. This order benefits customers by encouraging investment in new generation, thus making markets more competitive.

I. Background

2. Valley Electric is an electric distribution cooperative and public utility located in southwestern Nevada. Ivanpah is an independent power producer that owns and is developing the Ivanpah generation project, and is an affiliate of Diamond Generating Corporation (Diamond). Diamond is one of several entities¹ developing generating facilities in southern Nevada, including the Ivanpah generation project, a two-unit 500 MW natural gas-fired combined cycle generating facility (Ivanpah Facility).

3. The Nevada Generators are each developing generating facilities that will interconnect with Nevada Power Company's (Nevada Power) transmission system. Nevada Power, in accordance with Western Electricity Coordinating Council (WECC) requirements, formed a Short Circuit Working Group (SCWG) to determine, among other things, the effect of the interconnections on third party transmission systems in the region. The SCWG study indicated that the interconnection of the Nevada Generators to Nevada Power's transmission system, along with the interconnection of Diamond's Ivanpah Facility to Valley Electric's transmission system, would necessitate upgrades to certain

¹ Mirant Las Vegas, LLC (Mirant Las Vegas), Duke Energy Moapa, LLC (Duke Energy), Gen West LLC (GenWest), Las Vegas Cogeneration II, LLC, and Reliant Energy Bighorn, LLC (Reliant Energy) (collectively, Nevada Generators).

regional third party transmission systems. Nevada Power has already funded these upgrades and has collected those funds from the Nevada Generators.

II. Valley Electric's IA

4. The IA provides the terms and conditions by which the Ivanpah Facility will interconnect with Valley Electric's transmission system. The IA also allocates the costs of that interconnection. The Ivanpah facility will be located near Valley Electric's 230 kV transmission line connecting the Western Area Power Administration's (Western) Mead substation and Valley Electric's Pahrump substation. Under the IA, Ivanpah is required to pay for the costs of upgrades to Valley Electric's transmission system needed to accommodate the interconnection of the Ivanpah Facility to Valley Electric's transmission system. The IA also provides that Ivanpah will receive transmission credits with interest, as required by Commission precedent and by Order No. 2003.²

5. The IA states that the costs and expenses detailed in the IA do not include the costs of any upgrades needed to third party transmission systems (the Western's Mead substation, the Los Angeles Department of Water and Power's McCullough substation, or Southern California Edison Company's El Dorado substation). The IA states that these costs and expenses will be addressed in other agreements among the parties.³ Valley Electric requests an effective date of January 17, 2004.

III. Notice of Filing and Pleadings

6. Notices of Valley Electric's filing and amended filing were published in the Federal Register, 69 Fed. Reg. 5141, and 69 Fed. Reg. 5969 (2004), respectively, with motions to intervene and protests due on or before February 13, 2004. Timely motions to intervene were filed by Ivanpah, Mirant Las Vegas, Duke Energy and GenWest. Nevada Power filed a timely motion to intervene and protest. Reliant Energy filed a timely motion to intervene with comments.

7. Nevada Power states that the SCWG study demonstrates that Ivanpah's interconnection, when combined with the interconnection of the Nevada Generators, will

² Standardization of Generator Interconnection Agreements and Procedures, Order No. 2003, 68 Fed. Reg. 49,845 (2003), FERC Stats. and Regs ¶ 31,146 (2003); order on reh'g, Order No. 2003-A, Standardization of Generator Interconnection Agreements and Procedures, 106 FERC ¶ 61,220 (2004).

³ Valley Electric IA at § 5.2.1.

cause reliability problems on third party transmission systems at the El Dorado, McCullough and Mead substations that necessitate the replacement of breakers and other upgrades at those substations. Nevada Power states that, on behalf of the Nevada Generators, it had to commit to fund these upgrades. Nevada Power states that it has filed Memoranda of Understanding (MOUs) with each of the Nevada Generators in order to allocate the costs of required third party upgrades to each of the Nevada Generators.⁴ Nevada Power states that these proceedings have yet to be resolved, due in part to the fact that Diamond has not been willing to commit to pay its share of these upgrade costs. Nevada Power states that Diamond's lack of such a financial commitment creates a risk that Nevada Power may have to bear responsibility for Diamond's share of the costs of the upgrades.

8. Nevada Power states that the IA's commitment to address the costs of the regional third party upgrades in separate agreements is too vague. Nevada Power states that Diamond's failure to commit to fund these upgrades causes the IA to be unjust and unreasonable and the Commission cannot determine whether the IA is just and reasonable until it can examine the type and nature of the commitment Diamond is willing to make regarding its responsibility to fund the upgrades to the affected third party systems.

9. Similarly, Reliant states that the IA does not recognize Diamond's responsibility for regional transmission upgrades, other than a brief sentence in section 5.2.1 of the IA that explicitly excludes costs of regional effects from the IA and states that these costs will be addressed in the future. Reliant states that the IA should explicitly recognize Diamond's responsibility for regional transmission system impacts and set forth a timetable for the filing of these other agreements.

10. Nevada Power also filed a motion for consolidation with ongoing proceedings in Docket No. ER04-152-000, which involves a MOU between Nevada Power and certain generation developers concerning the generators' obligation to fund upgrades to Western's Mead 230 kV substation. Nevada Power states that the participation of Valley Electric and Diamond would increase the likelihood of a settlement, as well as the fair and complete resolution of this long-running dispute regarding the parties' responsibilities for the costs of the upgrades to the third party systems.

11. Ivanpah filed an answer opposing consolidation. Ivanpah argues that the IA and Nevada Power's MOU do not present common issues. The IA is an agreement between

⁴ Nevada Power filed the MOUs in Docket Nos. ER02-1741-000, *et al.* (relating to the upgrades to the McCullough and El Dorado substations) and in Docket No. ER04-152-000 (relating to the upgrades to the Mead substation). These proceedings are currently in settlement discussions.

Ivanpah and the owner of the transmission system to which it proposes to interconnect and addresses only the terms of that interconnection. The IA specifies only the upgrades needed on Valley Electric's transmission system in order to interconnect the Ivanpah project. Ivanpah states that contrary to Nevada Power, the other agreements between Ivanpah, Valley Electric, and other affected transmission systems are not at issue in the MOU proceeding in Docket No. ER04-152. Ivanpah stresses that it has never been an MOU generator and argues that interjecting those issues into this proceeding would therefore be inappropriate.

12. On February 23, 2004, Nevada Power filed an answer in response to Ivanpah's opposition to Nevada Power's motion to consolidate.

IV. Discussion

A. Procedural Matters

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2003), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2003), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept Valley Electric's answer because it has provided information that assisted us in our decision-making process.

B. Commission Decision

14. Our review indicates that the proposed IA is just and reasonable and has not been shown to be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. The IA is also consistent with Order No. 2003. While protesters are concerned that provisions for third party upgrades are not addressed in the IA, no protesters have argued that the proposed IA is otherwise unjust and unreasonable. There is no Commission requirement that the IA address the upgrades on third party transmission systems. Moreover, we note that other interconnection agreements with Nevada Power similarly do not resolve such cost issues.⁵

15. As we stated in Order No. 2003, the transmission provider must take the same steps to integrate the interconnection customer's generating facility into its transmission system, including coordinating the interconnection with affected systems, that it would take for its

⁵ See GenWest Motion to Intervene at P 9, n. 11.

own affiliated generation.⁶ Order No. 2003 provides that a generator's commitment to fund upgrades necessary to resolve reliability problems on affected third party systems can be handled either in the interconnection agreement with the interconnecting transmission provider or in another agreement with the affected third party system. We find that Valley Electric's commitment in the IA to address costs of third party upgrades meets the requirements of Order No. 2003.

16. However, to ensure that Valley Electric will negotiate with affected third party systems in a timely fashion, we will require Valley Electric to file a report with the Commission within 30 days of the date of this order regarding the status of negotiations with affected third party transmission systems regarding the allocation of upgrade costs to Diamond. Accordingly, we will accept the IA for filing, to become effective on January 17, 2004, as requested. Since we are not setting this filing for a trial-type evidentiary hearing, we see no reason to consolidate these proceedings.⁷ Therefore, the Commission will deny the request for consolidation.

The Commission orders:

(A) Valley Electric's Interconnection Agreement is hereby accepted for filing, effective January 17, 2004.

(B) Valley Electric is hereby required to file a status report within 30 days, as discussed in the body of this order.

By the Commission.

(S E A L)

Magalie R. Salas
Secretary.

⁶ See Order No. 2003 at ¶ 31,446.

⁷ See, e.g., New York Independent System Operator, Inc., 105 FERC ¶ 61,108 (2003); Arizona Public Service Company, 90 FERC ¶ 61,197 (2000).