

113 FERC ¶ 61,022
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company, Docket Nos. ER05-1325-000
Pacific Gas and Electric Company, ER05-1319-000
San Diego Gas and Electric Company ER05-1324-000

ORDER ACCEPTING IN PART AND REJECTING IN PART TARIFF SHEETS
SUBMITTED IN COMPLIANCE WITH ORDER NO. 2006 AND ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES, AND CONSOLIDATING
PROCEEDINGS

(Issued October 11, 2005)

I. Introduction

1. Southern California Edison Company (Edison) filed proposed variations from the *pro forma* Small Generator Interconnection Procedures (SGIP) and Small Generator Interconnection Agreement (SGIA) that the Commission adopted in Order No. 2006.¹ Edison proposes multiple revisions to the *pro forma* SGIP and SGIA² ranging from stylistic and/or typographical variations (*i.e.*, editorial changes) to more substantive variations. In this order, we reject many of the proposed variations, determining that they have not been shown to be “consistent with or superior to” the *pro forma* SGIP or SGIA. We also reject, without prejudice, the proposed editorial changes, determining that these

¹ *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, 70 Fed. Reg. 34,190 (June 13, 2005), FERC Stats. & Regs. ¶ 31,180 (2005), *reh’g pending*; *see also Standardization of Small Generator Interconnection Agreements and Procedures, Notice of Proposed Rulemaking*, 68 Fed. Reg. 49,974 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 32,572 (2003).

² We will refer to the documents that were adopted in Order No. 2006 for inclusion in a Transmission Provider’s Open Access Transmission Tariff (OATT) as the *pro forma* SGIP and SGIA. Provisions of the *pro forma* SGIP are referred to as “sections” and provisions of the *pro forma* SGIA are referred to as “articles.”

types of changes to the *pro forma* SGIP and SGIA are more appropriately raised and addressed in the rulemaking proceeding. We do accept some of Edison's proposed changes on the basis that we have previously allowed similar revisions in the Order No. 2003 proceedings.³ Finally, for other proposed changes, we establish a hearing and settlement judge procedures and consolidate this proceeding with the PG&E proceeding in Docket No. ER05-1319-000 and San Diego Gas and Electric proceeding in Docket No. ER05-1324-000, which share similar issues of law and fact.

II. Background to Order No. 2006

2. Order No. 2006 required all public utilities⁴ to adopt standard rules for interconnecting new sources of electricity no larger than 20 megawatts. It continued the process begun in Order No. 2003 of standardizing the terms and conditions of interconnection service for interconnection customers of all sizes. The *pro forma* SGIP and SGIA of Order No. 2006 were developed to reduce interconnection time and costs for interconnection customers and transmission providers, preserve reliability, increase energy supply, lower wholesale prices for customers by increasing the number and types of new generation that will compete in the wholesale electricity market, facilitate development of non-polluting alternative energy sources, and help remedy undue discrimination as sections 205 and 206 of the Federal Power Act (FPA) require.⁵

3. Order No. 2006 required all public utilities to adopt the *pro forma* SGIP and SGIA. In Order No. 2006, the Commission deemed that the OATTs of all non-

³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, 68 Fed. Reg. 49,845 (Aug. 19, 2003), FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, 69 Fed. Reg. 15,932 (Mar. 26, 2004), FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, 70 Fed. Reg. 265 (Jan. 4, 2005), FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 70 Fed. Reg. 37,662 (June 30, 2005), FERC Stats. & Regs. ¶ 31,190 (2005); *see also Notice Clarifying Compliance Procedures*, 106 FERC ¶ 61,009 (2004). The Order No. 2003 Large Generator Interconnection Agreement and Large Generator Interconnection Procedures, as amended by Order Nos. 2003-A, 2003-B, and 2003-C, are referred to herein as the LGIA and the LGIP, respectively.

⁴ A public utility is a utility that owns, controls, or operates facilities used for transmitting electric energy in interstate commerce, as defined by the Federal Power Act. 16 U.S.C. § 824(e) (2000).

⁵ 16 U.S.C. §§ 824d, 824e (2000).

independent transmission providers were revised to include the *pro forma* SGIP and SGIA.⁶ The Commission did not require a formal amendment until compliance is due in the Commission's rulemaking on Electronic Tariff Filings.⁷ Accordingly, a non-independent transmission provider that intends to adopt the *pro forma* SGIP and SGIA (without variations) into its OATT need not formally add the documents to its OATT until it submits a compliance filing in response to the Commission's pending Electronic Tariff Filings rulemaking. However, the compliance obligation is different for non-independent transmission providers that seek variations from Order No. 2006, as discussed below.

4. In Order No. 2006, the Commission stated that, as in Order No. 2003,⁸ it would consider two categories of variations from Order No. 2006 submitted by a non-independent transmission provider.⁹ Variations based upon regional reliability criteria, referred to as "regional reliability variations," which track established reliability requirements (*i.e.*, requirements approved by the applicable regional reliability council), must be supported by references to established reliability requirements.¹⁰ Further, the text of the reliability requirements must be provided in support of the variation. Requests for regional reliability variations were due on the effective date of Order No. 2006.

5. The Commission also stated that if the variation is for any other reason, the non-independent transmission provider must demonstrate that the variation is "consistent with or superior to" the Order No. 2006 provision. Blanket statements that a variation meets the standard or clarifies Order No. 2006 are not sufficient. Any request for application of this standard will be considered under FPA section 205, and must be supported by

⁶ Order No. 2006 at P 544.

⁷ *See id*; *see also Electronic Tariff Filings, Notice of Proposed Rulemaking*, 69 Fed. Reg. 43,929 (July 23, 2004), FERC Stats. & Regs., Proposed Regulations ¶ 32,575 (2004).

⁸ Order No. 2003 at P 824-25.

⁹ Order No. 2006 at P 546-48.

¹⁰ *See New York Independent System Operator, Inc.*, 108 FERC ¶ 61,159, at P 94-95 (2004) (discussing local versus regional reliability rules), *order on reh'g*, 111 FERC ¶ 61,347 (2005).

arguments explaining how each variation meets the standard. Also, requests for “consistent with or superior to” variations could be submitted on or after the effective date of the Final Rule.¹¹

III. Edison’s Filing

6. On August 12, 2005, Edison filed revisions to its Wholesale Distribution Access Tariff (WDAT) and revisions to its SGIP and SGIA pursuant to Order No. 2006. Edison notes that the Commission has recognized that wholesale distribution service is different in nature from transmission service. It states that the WDAT exists because wholesale loads and generation customers interconnect to the respective participating transmission owner’s distribution system. Edison asserts that its proposed variations from the *pro forma* SGIP and SGIA are based on the “consistent with or superior to” standard of Order No. 2006. Edison requests that its revised SGIP and revised SGIA be made effective on Commission acceptance.

A. Proposed Revisions to WDAT

7. Edison proposes to amend its currently effective WDAT¹² to integrate its proposed WDAT SGIP and WDAT SGIA. Specifically, Edison proposes to add a sentence to section 15.1 of its WDAT referencing the SGIP as an attachment and to add a reference to the attachment in the table of contents.¹³ Similarly, a reference to the SGIA is included in the WDAT SGIP table of contents to reflect that the SGIA is at Attachment 9.

¹¹ The Commission noted that the “consistent with or superior to” standard is difficult to meet because the burden of showing that a variation is “consistent with or superior to” the relevant provision or provisions in the Order No. 2006 document is significant. Order No. 2006 at P 547. The Commission also stated that any request for a variation should be accompanied by a request to include the complete SGIP and SGIA into the Transmission Provider’s OATT.

¹² FERC Tariff, First Revised Volume No. 5.

¹³ The following sentence is added to section 15.1 of Edison’s WDAT: “An Eligible Customer requesting interconnection of a Small Generating Facility to the Distribution Provider’s Distribution System shall follow the SGIP set forth in Attachment G to request Interconnection Service and section 15.2 to request Distribution Service.” Additionally, a reference to the SGIP is included in WDAT’s table of contents to reflect that the SGIP is at Attachment G.

B. Proposed Revisions to SGIP and SGIA

8. Edison also proposes variations to the Commission's *pro forma* SGIP and SGIA. It states that all of the proposed changes are designed to make its WDAT SGIP and WDAT SGIA function properly within Edison's distribution system, to reflect that Edison owns and operates its distribution system within the California Independent System Operator (CAISO), and to reflect the issues that Edison raised in its rehearing request.¹⁴ Edison notes that the bulk of the modifications made to the *pro forma* WDAT SGIP and WDAT SGIA are those changes that the Commission accepted in Edison's filing for the WDAT Large Generator Interconnection Procedures (WDAT LGIP) and WDAT Large Generator Interconnection Agreement (WDAT LGIA).¹⁵

9. Edison proposes to replace "Transmission Provider" with "Distribution Provider" and "Transmission System" with "Distribution System" throughout the WDAT SGIP and WDAT SGIA. Edison states that these changes more accurately describe small generators in California, where the CAISO's role is limited to exercising operational control of the transmission grid, while Edison and other participating transmission owners own and operate their respective distribution systems. Edison also notes that these revisions are ministerial changes to indicate the relevant electric system to which the interconnection customer is interconnecting.¹⁶ Edison notes that such changes were accepted in the February 18 Order, and thus should be accepted in this filing.

10. Edison also proposes several changes to reflect that Edison operates a distribution system in the context of the CAISO-controlled grid. Edison proposes to modify the definitions of "Distribution System" and "Transmission System" to reflect that the facilities included in the definition of Distribution System are non-CAISO facilities owned, controlled, and operated by the Distribution Provider, whereas, the Transmission System consists of those facilities under the operational control of the CAISO. Edison

¹⁴ Edison's Request for Rehearing of Order No. 2006 was filed on June 13, 2005 in Docket No. RM02-12-001.

¹⁵ See *Southern California Edison Co.*, 110 FERC ¶ 61,176 (2005) (February 18 Order), *order on reh'g*, 112 FERC ¶ 61,036 (2005) (July 6 Order).

¹⁶ Edison notes that in some instances it was more appropriate to make the term "Transmission Provider" lower case rather than replace it, because of the context of the provision. Edison made the term "Transmission Provider" lower case, in the WDAT SGIP sections 3.4.9 and 4.9.

states that such distinctions are necessary because the original definitions could be confusing and lead to disputes about which facilities are part of the Distribution System (owned and operated by Edison) or the Transmission System (owned by Edison and operated by the CAISO). Therefore, Edison includes both terms “Transmission System” and “Distribution System” where it finds applicable, and revises the definition of Network Upgrades, to reflect that Edison’s Distribution System operates within the larger context of the CAISO’s control area.¹⁷

11. Edison also proposes a revision to the definition of “Operating Requirements” in the WDAT SGIA Glossary of Terms, to clarify that “ISO” is the CAISO.

12. Edison also proposes to use the term “Tariff” rather than “OATT” or “Open Access Transmission Tariff.” Edison contends “Tariff” more accurately reflects Edison’s Distribution System and WDAT as it exists today, operating within the CAISO-controlled grid. Accordingly, Edison proposes to add “Tariff” to the WDAT SGIP Glossary of Terms and to revise “Tariff” in the WDAT SGIA Glossary of terms to define that “Tariff” is the WDAT.

13. Edison proposes to define a new term, “Interconnection Handbook,” in the Glossary of Terms in the WDAT SGIP and WDAT SGIA and to incorporate references to its Interconnection Handbook in section 4.11 of the WDAT SGIP and article 1.5.4 of the WDAT SGIA.¹⁸ Edison contends that these changes are “consistent with or superior to” the *pro forma* SGIP and SGIA because a requirement that the interconnection

¹⁷ See WDAT SGIA Articles 1.5.3, 1.5.5, 3.4.5, 3.4.6 and the definitions of Upgrades and Network Upgrades.

¹⁸ Interconnection Handbook is defined as:

A handbook, developed by the Distribution Provider and posted on the Distribution Provider’s website or otherwise made available by the Distribution Provider, describing the technical and operational requirements for wholesale generators and loads connected to the Distribution System, as such handbook may be modified or superseded from time to time. Distribution Provider’s standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards. In the event of a conflict between the terms of the SGIA (SGIP) and the terms of the Distribution Provider’s Interconnection Handbook, the terms of the SGIA (SGIP) shall govern.

customer comply with the requirements set forth in the Distribution Provider's Interconnection Handbook ensures that the safety and reliability of the system is maintained. Edison also states that these changes are consistent with the Commission's February 18 Order¹⁹ and the reference to Interconnection Guidelines accepted in *Xcel Energy Operating Companies*.²⁰

14. Edison also proposes to define the term "Good Utility Practice" in the SGIP, because the term is used throughout the document, including the Interconnection Handbook inserts, but is never defined. It proposes to use the definition provided in the *pro forma* SGIA.

15. Edison proposes to delete the second sentence of section 8 in the WDAT SGIP Facilities Study Agreement. Edison argues that the deletion is "consistent with or superior to" the *pro forma* SGIP Facilities Study Agreement because the language in section 8 is in direct conflict with the language in section 7 of the same agreement.²¹

16. Edison proposes to change the term "Force Majeure" to "Uncontrollable Force" in the WDAT SGIA, and conform the definition of Uncontrollable Force to the definition in Edison's currently effective WDAT. Edison states that it is making the change to be consistent with the litigation in Edison's WDAT, where the parties settled to use "Uncontrollable Force." Edison further states that such a change is "consistent with or superior to" the *pro forma* SGIA because it is reasonable and coherent to use the same term for all of the WDAT, the WDAT LGIA, and the WDAT SGIA since such an event could affect both interconnection service and distribution service.

17. Edison proposes to revise article 1.8 of the WDAT SGIA concerning payment for reactive power to reflect Edison's membership in the CAISO. Edison states that the changes are "consistent with or superior to" the *pro forma* SGIA because the current language in article 1.8 does not accurately reflect the relationship among the CAISO, distribution provider, and interconnection customer. According to Edison, it is the

¹⁹ Edison states it is incorporating the Commission's ruling in the February 18 Order, which required Edison to state that the WDAT LGIP and WDAT LGIA, as applicable, control in the event that there is a conflict between its Interconnection Handbook and WDAT LGIP and WDAT LGIA.

²⁰ 107 FERC ¶ 61,313, PP 30-31 (2004).

²¹ See Edison's August 12, 2005 filing at attachment C, page 50 and Edison's August 12, 2005 Transmittal Letter, pages 11-12.

CAISO, not the Distribution Provider, who pays Interconnection Customers for reactive power consistent with the CAISO Tariff when the small generating facility is required by the CAISO to operate outside of the range specified in article 1.8.1.

18. Additionally, Edison proposes three minor changes to assist the interconnection customer in its application process.²² First, Edison proposes to revise section 1.3 of the SGIP to clarify that if the interconnection customer desires distribution service under the WDAT, that the customer must submit a separate application in accordance with section 15.2 of the WDAT.²³ Second, Edison proposes to add in the interconnection request (application form) that additional information is required in accordance with section 15.2 for distribution service.²⁴ Edison states that these two changes are “consistent with or superior to” the *pro forma* SGIP because they prevent commercial operation date delays that can arise from failure to submit two applications under the WDAT, one for interconnection service under the WDAT SGIP and one for distribution service. Third, Edison proposes to modify a sentence in the small generator interconnection request to require interconnection customers to demonstrate site control. Edison states that this change is also “consistent with or superior to” the *pro forma* small generator interconnection request because it reduces confusion.²⁵

²² Such changes were made to WDAT SGIP section 1.3 and WDAT SGIP attachments 2 and 5. See also Edison’s August 12, 2005 Transmittal Letter at Page 16-17.

²³ WDAT SGIP section 1.3: “If the Interconnection Customer also desires Distribution Service, then the Interconnection Customer shall submit to the Distribution Provider an Application in accordance with the section 15.2 of the Tariff, including the required deposit.”

²⁴ Application Form: “If the Interconnection Customer also requests Distribution Service, additional information and an additional deposit is required in accordance with section 15.2 of the tariff.” See August 12, 2005 filing at attachment C, page 18, 28.

²⁵ In attachment 2 and 5 to the WDAT SGIP, Edison proposes to add “and documentation of site control pursuant to section 1.5 of the SGIP” to the end of the *pro forma* sentence that currently reads, “An Interconnection Request is considered complete when it provides all applicable and correct information required below.”

19. Further, Edison made the term “interconnection request” lower case in the definition of Material Modification in the WDAT SGIP and WDAT SGIA, because it argues that the capitalized term only signifies those requests to interconnect a smaller generating facility to the distribution provider’s distribution system; however, Edison states that a Material Modification must include any modification that has a material impact on the cost or time of both later-queued Interconnection Requests under the WDAT SGIP, as well as other interconnection requests to the CAISO-controlled grid.

20. Finally, Edison includes changes to reflect the issues raised in its rehearing request. Edison proposes to add miscellaneous provisions to each of the Interconnection Study Agreements attached to the *pro forma* SGIP. Edison states that it asked for clarification in the rehearing request regarding which miscellaneous provisions would apply to those agreements and suggested that the parallel provisions of the *pro forma* SGIA should apply to each of the Interconnection Study Agreements. Edison incorporates other changes from its rehearing request by reference.

IV. Notice and Responsive Pleadings

21. Notice of Edison’s filing was published in the *Federal Register*, 70 Fed. Reg. 49,274 (2005), with comments, protests, and interventions due on or before September 2, 2005. The Southern California Water Company (SoCal Water)²⁶ filed a timely motion to intervene and protest. On September 12, 2005, Edison filed an answer to the protest.

22. SoCal Water states that Edison does not demonstrate that its proposed variations are “consistent with or superior to” to the Commission’s *pro forma* SGIP and SGIA. Therefore, SoCal Water requests that the Commission reject certain proposed changes to the WDAT SGIP and WDAT SGIA, set for hearing other proposed changes to the WDAT SGIP and WDAT SGIA, and consolidate this case with Docket Nos. ER04-435-010, ER04-435-012 and ER05-612-000, which concern Edison’s WDAT LGIA and WDAT LGIP proceedings.

23. SoCal Water argues that Edison cannot simply incorporate variations that it is seeking in rehearing of Order No. 2006. SoCal Water asserts that Edison should not be allowed to make changes pursuant to its rehearing request until the Commission grants

²⁶ SoCal Water is a wholly owned subsidiary of American States Water Company. Through its Bear Valley Electric Service division, SoCal Water owns and operates an electric distribution utility that provides retail electric service to about 21,600 mostly residential customers in a service territory in San Bernardino County, California.

the rehearing and modifies the *pro forma* SGIP and SGIA. Until such changes occur, if they occur, SoCal Water asserts that Edison should be required to conform to the *pro forma* SGIP and SGIA.

24. SoCal Water also argues that Edison's change in section 8 of the *pro forma* SGIP Facilities Study Agreement should be rejected because there is no inconsistency justifying Edison's change. SoCal Water asserts that the *pro forma* SGIP Facilities Study Agreement, section 8, requires the transmission provider to prepare and transmit a facilities study within 30 days of its completion. Deleting the sentence "barring unusual circumstances, the facilities study must be completed and the facilities study report transmitted within 30 Business Days of Interconnection Customer's agreement to conduct a facilities study" would remove the clear requirement that the facilities study report be transmitted to the customer contemporaneously with its completion.

V. Discussion

A. Procedural Matters

25. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2005), the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding. 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 Edison's answer and will, therefore, reject it.

B. Proposed Revisions

26. As discussed below, the Commission accepts certain proposed modifications to the *pro forma* SGIP and SGIA because the Commission previously has accepted similar modifications.²⁷ We reject the proposed modifications that seek to make generally applicable typographical or editorial clarifications or corrections that are more appropriately addressed in the rulemaking proceeding, without prejudice to the outcome of the order on rehearing of Order No. 2006. We will set for hearing and settlement judge procedures the proposed changes made to reflect the fact that Edison owns and operates its distribution system within the CASIO-controlled grid, which raise issues of

²⁷ See July 6 Order at P 32.

material fact that cannot be resolved based on the record before us.²⁸ Finally, we will reject any remaining proposed changes as not “consistent with or superior to” the *pro forma* SGIP and SGIA.

27. The Commission accepts Edison’s proposed revisions to Edison’s WDAT SGIP and WDAT SGIA to reflect that the transmission provider is actually the distribution provider, specifically to replace “Transmission Provider” with “Distribution Provider” and “Transmission System” with “Distribution System.”²⁹ The Commission accepted these types of revisions in the July 6 Order and we will accept Edison’s proposed revisions here under the same rationale.³⁰

28. The Commission also accepts the revisions to section 4.11 of the WDAT SGIP and article 1.5.4 of the WDAT SGIA, including revisions to the WDAT SGIP table of contents to reflect section 4.11, which essentially require the interconnection customer to comply with the distribution provider’s interconnection handbook when designing, constructing, operating, or maintaining interconnection facilities. Previously, the Commission allowed a Participating Transmission Owner to require compliance with its interconnection handbook as consistent with Order No. 2003.³¹ We likewise, find

²⁸ For example, Edison’s revisions to the definitions of Distribution System and Transmission System.

²⁹ We note that in Order No. 2003, at paragraph 803, we stated:

“Distribution” is an unfortunately vague term, but it is usually used to refer to lower-voltage lines that are not networked and that carry power in one direction. Some lower-voltage facilities are “local distribution” facilities not under our jurisdiction, but some are used for jurisdictional service such as carrying power to a wholesale power customer for resale and are included in a public utility’s OATT (although in some instances, there is a separate OATT rate for using them, sometimes called a Wholesale Distribution Rate).

³⁰ See July 6 Order, 112 FERC ¶ 61,036 at P 32.

³¹ February 18 Order at P 45; see also *California Independent System Operator Corp.*, 112 FERC ¶ 61,009, at P 167 (2005).

Edison's proposed revisions consistent with Order No. 2006. Although the Commission previously has not required that an interconnection handbook be included in an LGIP or LGIA, we require the filing of any handbook sections that affect rates, terms, and conditions of service.³²

29. Moreover, the Commission accepts the definition of Interconnection Handbook that corresponds to the revisions to section 4.11 and article 1.5.4. However, Edison must remove the sentence that states that "the Distribution Provider's standards contained in the Interconnection Handbook shall be deemed consistent with Good Utility Practice and Applicable Reliability Standards." We reject this statement because it is not needed to define "Interconnection Handbook." Moreover, this statement is outside the scope of this compliance filing because it asks the Commission to conclude that all provisions of Edison's Interconnection Handbook should be considered Good Utility Practice and Applicable Reliability Standards.

30. Finally, the Commission accepts the revisions to section 15 of Edison's WDAT to integrate its proposed WDAT SGIP and WDAT SGIA. We, however, reject the proposal to reference the SGIA in the WDAT SGIP table of contents because the proposal should be addressed as part of the rulemaking, as discussed below.

31. Other than those proposed modifications that we set for hearing below, we will reject the remainder of Edison's proposed changes because they have not been shown to be "consistent with or superior to" the *pro forma* SGIP and SGIA. As we stated in Order No. 2006, the "consistent with or superior to" standard is difficult to meet because the burden of showing that a variation is "consistent with or superior to" the relevant provision or provisions in the Final Rule is significant.³³ Changes that merely clarify a provision do not ordinarily meet this standard.

32. Many of these proposed revisions are editorial in nature or are revisions that should be applied generically to all SGIPs and SGIA. With respect to Edison's editorial revisions the Commission believes that proposed changes are more appropriately addressed in the rulemaking proceeding where they may be considered in a single

³² See, e.g., July 6 Order at P 22.

³³ Order No. 2006 at P 547.

proceeding and applied generically.³⁴ For example, the deletion in section 8 of the WDAT SGIP Facilities Study Agreement is an editorial revision that can be applied generically and should be presented in that proceeding as well.³⁵

33. Additionally, Edison's proposed modifications to reflect issues raised in its rehearing requests are rejected. Edison cannot simply incorporate variations that it is seeking in rehearing before a Commission decision is rendered. Such changes include, for example, but are not limited to: 1) the addition of miscellaneous provisions to each of the Interconnection Study Agreements attached to the *pro forma* SGIP, 2) the addition of language regarding small wind generators in Article 1.8.1 of the SGIA, and 3) other changes incorporated by reference to the rehearing request. These are variations that should be applied generically to all SGIPs and SGIA.

34. The above revisions are more appropriately addressed in the rulemaking proceeding where they may be considered in a single proceeding and applied generally. The Commission will address such editorial revisions in the Order No. 2006 compliance process as we addressed such revisions in the Order No. 2003 compliance process.³⁶ Accordingly, we reject Edison's proposed editorial and generically applicable revisions, as well as its attempt to incorporate changes from its Order No. 2006 rehearing request without prejudice to the outcome of the order on rehearing of Order No. 2006.

35. The Commission will require Edison to submit a further compliance filing that includes the *pro forma* SGIP and SGIA and only those provisions specifically accepted in this order.

V. Hearing and Settlement Judge Procedures

36. Certain of Edison's proposed modifications to the *pro forma* SGIP and SGIA, *i.e.*, (1) changes made to conform language to WDAT terminology, (2) changes made to reflect differences between the nature of service(s) provided under *pro forma* OATT and WDAT, and (3) changes made to be consistent with the CAISO tariff and the provisions

³⁴ For example, Edison's proposal to include the definition of Good Utility Practice in the SGIP.

³⁵ Other editorial changes include, *e.g.*, Edison's revisions in SGIP section 1.3 and attachments 2 and 5.

³⁶ *See, e.g., Arizona Public Service Co.*, 107 FERC ¶ 61,257 (2004).

of the market within California, raise issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

37. Our preliminary analysis indicates that certain of the proposed revisions to the *pro forma* SGIP and SGIA have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept them for filing, suspend them for a nominal period, and make them effective October 12, 2005, subject to refund. We will set the proposed modifications, discussed above, for hearing and settlement judge procedures.

38. Given the common issues of law and fact, we will consolidate this proceeding with the proceedings in Docket Nos. ER05-1319-000 and ER05-1324-000 for purposes of settlement, hearing, and decision.

39. While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their dispute before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.³⁷ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.³⁸ The settlement judge shall report to the Chief Judge and the Commission within 60 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

³⁷ 18 C.F.R. § 385.603 (2005).

³⁸ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges).

The Commission orders:

(A) Edison's proposed tariff revisions are hereby accepted in part, suspended for a nominal period, and made effective October 12, 2005, subject to refund, and rejected in part, as discussed in the body of this order.

(B) Edison is hereby directed to submit, within 30 days of the date of this order, a compliance filing, as discussed within the body of this order.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning Edison's proposed rate schedule for reactive power and voltage control services. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2005), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within sixty (60) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, N.E., Washington, DC 20426. Such a conference shall be held for the purpose of

establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure

(G) Docket Nos. ER05-1319-000, ER05-1324-000, and ER05-1325-000 are hereby consolidated for purposes of hearing, settlement, and decision.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.