

124 FERC ¶ 61,222
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Southern California Edison Company

Docket No. ER08-1231-000

ORDER ACCEPTING AND SUSPENDING PROPOSED INTERCONNECTION
FACILITIES AGREEMENT AND ESTABLISHING HEARING AND
SETTLEMENT JUDGE PROCEDURES

(Issued September 4, 2008)

1. On July 7, 2008, Southern California Edison Company (SoCal Edison) filed an unexecuted Interconnection Facilities Agreement (IFA) between the City of Riverside, California (Riverside) and SoCal Edison (collectively, the parties). In this order, the Commission accepts for filing the proposed IFA and suspend it for one day to become effective September 6, 2008. The Commission also establishes hearing and settlement judge procedures, and orders SoCal Edison to file an amended IFA that incorporates all modifications agreed to by both SoCal Edison and Riverside.

I. Background

2. SoCal Edison's unexecuted IFA provides for the interconnection of Riverside's proposed Wilderness Substation to the California Independent System Operator Corporation (CAISO) controlled grid and SoCal Edison's electrical system at a new substation to be constructed by SoCal Edison. Riverside intends to use the proposed Wilderness Substation to serve a portion of its existing end-use customer load currently being served from SoCal Edison's Vista Substation, as well as future load up to a maximum capacity of 560 kW. The new 220 kV Wildlife Substation to be constructed by SoCal Edison will be located adjacent to Riverside's Wilderness Substation and be part of the CAISO controlled grid. SoCal Edison's existing Mira Loma-Vista No. 1 220 kV transmission line will be looped into the Wildlife Substation to create two new CAISO-controlled transmission lines: the Mira Loma-Wildlife 220 kV transmission line, and the Vista-Wildlife 220 kV transmission line.

3. The unexecuted IFA specifies the terms and conditions pursuant to which SoCal Edison will provide interconnection service and to engineer, design, construct, install, own, operate, and maintain the Wildlife Substation as well as the Mira Loma-Vista 220 kV line loop into the Wildlife Substation, and to interconnect the 220/66 kV Riverside Wilderness Substation to the Wildlife Substation.

4. Pursuant to the IFA, Riverside shall be responsible for all costs associated with the ISO Controlled Facilities,¹ as well as the Interconnection Facilities Payment. In addition, Riverside's payment will include all costs incurred by SoCal Edison for engineering and design activities, right-of-way studies, environmental support, permitting, and other support activities necessary for the construction of the Wildlife Substation and the Mira Loma-Vista 220 kV line loop. SoCal Edison states that these costs are estimated to be \$48.2 million.² SoCal Edison states that, upon approval by the CAISO Governing Board of the ISO Controlled Facilities and approval by the California Public Utilities Commission of SoCal Edison's Certificate of Public Convenience and Necessity application, SoCal Edison will reimburse Riverside for all payments made by Riverside for the ISO Controlled Facilities. SoCal Edison states that the Interconnection Facilities Payment will compensate SoCal Edison for the capitalized costs it incurred in association with the SCE Interconnection Facilities,³ as well as the non-capitalized costs incurred by SoCal Edison associated with the engineering, design, procurement, construction and installation of the SCE Interconnection Facilities. SoCal Edison estimates the Interconnection Facilities Payment to be \$4.3 million.⁴ SoCal Edison states that payments from Riverside to SoCal Edison for the ISO Controlled Facilities and the Interconnection Facilities will commence in December 2009.

5. SoCal Edison states that the proposed IFA is the result of lengthy negotiations between Riverside and SoCal Edison. SoCal Edison further states that, following Riverside's review of the proposed IFA, Riverside expressed concerns about several issues in the IFA, and sent a letter to SoCal Edison dated June 5, 2008 (June 5th Letter) outlining these concerns.⁵ In response to Riverside's concerns raised in its June 5th Letter, SoCal Edison states that it believes some of the issues can be resolved and proposes several modifications to the IFA. At Riverside's request, SoCal Edison filed the IFA unexecuted. SoCal Edison notes that it did not modify the IFA from the last version that Riverside reviewed because Riverside requested that SoCal Edison

¹ The ISO Controlled Facilities are listed in Section 1 of Exhibit A to the IFA.

² SoCal Edison July 7, 2008 Filing at 3.

³ The SCE Interconnection Facilities are listed in Section 2 of Exhibit A to the IFA.

⁴ SoCal Edison July 7, 2008 Filing at 3.

⁵ *Id.* at Attachment A.

unilaterally file the latest draft. SoCal Edison requests an effective date of September 6, 2008 for the IFA.

II. Notice of Filing and Responsive Pleadings

6. Notice of SoCal Edison's filing was published in the *Federal Register*, 73 Fed. Reg. 41,057 (2008), with interventions and protests due on or before July 28, 2008. Riverside filed a timely motion to intervene and protest. SoCal Edison filed its answer on August 12, 2008.

7. In its protest, Riverside asserts that several of the modifications proposed in SoCal Edison's transmittal letter do in fact resolve Riverside's concerns. However, Riverside states that several issues remain unresolved. Accordingly, Riverside requests the Commission to accept SoCal Edison's proposed IFA, subject to a one day suspension, to become effective September 6, 2008, subject to further review and modifications. Riverside also requests that the Commission establish a hearing and settlement judge procedures. In its answer, SoCal Edison responds to those issues raised by Riverside in its protest, and states its concurrence with Riverside's request that the Commission set this matter for hearing, suspend the hearing procedures, and implement settlement procedures to allow the parties to engage in further negotiations to resolve any remaining issues.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2008), the timely, unopposed motion to intervene serve to make Riverside a party to this proceeding.

9. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2008), prohibits an answer to a protest unless otherwise ordered by the decisional authority. The Commission will accept SoCal Edison's answer because it has provided information that assisted us in our decision-making process.

B. Revisions to the Interconnection Facilities Agreement

10. In their filings, both SoCal Edison and Riverside propose and agree upon a number of modifications to the IFA that resolve certain outstanding concerns as to the terms and conditions contained within the unexecuted IFA.

11. Specifically, SoCal Edison and Riverside have come to an agreement with respect to section 4.23 of the IFA, which includes a revised definition of "SCE

Interconnection.” They have also reached agreement concerning section 9.14 of the IFA, which includes new language that would require both parties to use commercially reasonable efforts to avoid performing regularly scheduled maintenance at times when such maintenance might adversely affect system reliability. In addition, SoCal Edison and Riverside have indicated that they have reached an agreement on certain disputed provisions of sections 2.8, 8.11, 11.3, 13.1, 14.8.3, 14.8.4, 14.9.1, 14.9.2, 19.1, and 28, as well as Article 4 of the IFA.

12. The Commission accepts those modifications to the proposed IFA which have been mutually agreed upon by SoCal Edison and Riverside. The Commission directs SoCal Edison to file within 30 days from the date of this order an amended IFA that incorporates all modifications agreed upon by both SoCal Edison and Riverside.

C. Hearing and Settlement Judge Procedures

13. SoCal Edison’s proposed IFA raises issues of material fact that cannot be resolved based on the record before the Commission, and that are more appropriately addressed in the hearing and settlement judge procedures ordered below.

14. The Commission’s preliminary analysis indicates that SoCal Edison’s proposed IFA has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, the Commission will accept SoCal Edison’s proposed IFA for filing and suspend it for one day, effective September 6, 2008, subject to refund. The Commission will also accept SoCal Edison’s proposed modifications to the IFA and directs SoCal Edison to file these modifications with the Commission. In addition, as discussed below, the Commission will set for hearing and settlement judge procedures the remaining unresolved issues between SoCal Edison and Riverside.

15. While the Commission is setting these unresolved issues for a trial-type evidentiary hearing, the Commission encourages the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, the Commission 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.⁶ 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

⁶ 18 C.F.R. § 385.603 (2008).

select a judge for this purpose.⁷ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the appointment of the settlement judge, 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.

The Commission orders:

(A) SoCal Edison's proposed IFA is accepted for filing and suspended for one day, to become effective September 6, 2008, subject to refund, as discussed in the body of this order.

(B) SoCal Edison is directed to submit an amended IFA within 30 days from the date of issuance of this order, consistent with 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 the issues raised in this proceeding, as discussed in the body of this order. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering 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 (2008), 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 in writing or by telephone within five (5) days of the date of this order.

⁷ 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).

(E) Within thirty (30) days of the appointment of the settlement judge, 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 administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in these proceedings in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Such 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.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.