

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellingshoff.

Southern California Edison Company

Docket No. ER06-1126-000

ORDER ACCEPTING TRANSMISSION SERVICE AGREEMENTS

(Issued August 11, 2006)

1. On June 9, 2006,¹ Southern California Edison Company (SoCal Edison) filed an amended and restated Mutual Assistance Transmission Service Agreement (Amended MATA) on its own behalf and on behalf of Arizona Public Service Company (APS) and San Diego Gas & Electric Company (SDG&E). The Amended MATA, which is between SoCal Edison, APS, SDG&E, and Imperial Irrigation District (IID) (collectively, the Parties), incorporates the Path 49 Upgrade Project Participation Agreement and corresponding 2006 Transmission Capacity Allocation Table (Path 49 Upgrade Agreement). In this order, the Commission grants waiver of the Commission's 60-day prior notice requirement and accepts the Amended MATA for filing, effective July 1, 2006, as requested.

Background

2. The original MATA was accepted by letter order dated June 5, 1984.² SoCal Edison states that on August 25, 2005, the Parties executed the Path 49 Agreement,

¹ On June 13, 2006, SoCal Edison submitted an errata to remove the following language, which SoCal Edison states was included in error, from its June 9 filing letter: "Likewise, a copy of the executed MOU between SDG&E and IID is provided as Attachment 9 to SDG&E's Amended MATA, which is attached to this filing letter." The MOU was not attached to the filing letter.

² *Southern California Edison*, Docket No. ER84-407-000, (June 5, 1984) (unpublished letter order). SoCal Edison submitted three separate amendments to the MATA which were each accepted. *See Southern California Edison*, Docket No. ER88-241-000, (April 11, 1988) (unpublished letter order); *Southern California Edison*, Docket Nos. ER94-360-000 and ER94-497-000, (April 1, 1994) (unpublished letter order); *Southern California Edison*, Docket No. ER97-7460-000, (Nov. 7, 1997) (unpublished letter order).

which addresses the services and facilities necessary for the Path 49 Series Capacitor Upgrade Project (Project) to achieve a 505 MW non-simultaneous rating increase to Path 49. The Path 49 Upgrade Agreement specifies the terms and conditions under which the Parties will construct and pay for the Project and allocate the increased scheduling capability resulting from the Project. According to SoCal Edison, the Parties received Western Electric Coordinating Council approval for the 505 MW increase for the Project. In addition, SoCal Edison states that the capacity allocation table was revised to incorporate the 505 MW increase and that the Parties acknowledge that each Party may elect to size and rate the specific equipment in the plan of service greater than those sizes and ratings required for the rating increase.

3. SoCal Edison also states that the proposed Amended MATA conforms the Path 49 Upgrade Agreement to the requirements of Order No. 614³ and incorporates the 505 MW non-simultaneous rating increase to Path 49 into the Path 49 Upgrade Agreement. SoCal indicates that there are no revenues associated with the Amended MATA and requests waiver of the Commission's 60-day prior notice requirement for an effective date of July 1, 2006.

Notice of Filing and Responsive Pleadings

4. Notice of SoCal Edison's filing was published in the *Federal Register*, 71 Fed. Reg. 38,392 (2006), with interventions and protests due on or before July 5, 2006. SDG&E and IID filed motions to intervene and comments. SoCal Edison filed an answer to the comments. SDG&E filed an answer to IID's comments.

5. SDG&E states that it entered into a Power Flow Altering Device Memorandum of Understanding (MOU) with IID concurrently with the Parties' negotiation and execution of the Path 49 Upgrade Agreement.⁴ SDG&E states that before the Amended MATA was filed, it was not clear how the Commission would view the MOU, *i.e.*, if the Commission would consider the MOU to be a jurisdictional agreement that must be filed. SDG&E states that in light of its uncertainty, it arranged for the MOU to be included in the version of the Amended MATA applicable to SDG&E's tariff. However, IID requested removal of the MOU because it believed that since the MOU did not add capacity to Path 49 or describe how Path 49 capacity is to be divided between the parties,

³ See *Designation of Electric Rate Schedule Sheets*, Order No. 614, 65 Fed. Reg. 18,221, (FERC Stats. & Regs., Regulations Preambles July 1996-December 2000, ¶ 31,096 (2000)).

⁴ The purpose of the MOU is to provide, as between SDG&E and IID, a plan for study, construction, ownership and operation of certain equipment related to these parties' obligations under the Path 49 Upgrade equipment.

it was not necessary to file the MOU with the Amended MATA. SDG&E indicates that consequently, to avoid delaying SoCal Edison's filing, SDG&E agreed to the removal of the MOU, pending the Commission's clarification regarding whether the MOU should be included in SDG&E's version of the Amended MATA. Accordingly, SDG&E requests that the Commission clarify whether the MOU is a jurisdictional agreement that should be filed, and if so, whether SDG&E may include the MOU in its Amended MATA by means of a compliance filing in this docket, to become effective on July 1, 2006.

6. IID states that the power flow altering device and phase shifters, which are the subject matter of the MOU, are irrelevant to the Amended MATA proceeding. Therefore, IID argues, it is premature and inappropriate for the Commission to consider the MOU in this proceeding.

7. In its answer, SoCal Edison notes that neither SDG&E nor IID oppose the Amended MATA. Instead, SDG&E and IID have a dispute concerning the MOU that has no bearing on the approval of the Amended MATA. Therefore, SoCal Edison requests that the Commission expeditiously approve the Amended MATA, with the requested effective date.

8. In its answer, SDG&E reiterates its request that the Commission clarify whether the MOU is a jurisdictional agreement, and if it is, whether it can be included in the Amended MATA by means of a compliance filing. In addition, SDG&E responds that it supports SoCal Edison's request for expeditious approval of the Amended MATA, with the requested effective date.

Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2006), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

10. Rule 213(a)(2) of the Commission's Rule of Practice and Procedure, 18 C.F.R. §385.213(a)(2) (2006), prohibits an answer to an answer unless otherwise ordered by the decisional authority. We will accept SDG&E's and SoCal Edison's answers because they have provided information that assisted us in our decision-making process.

B. Amended MATA and Waiver Request

11. Our review indicates that the Amended MATA for each of the Parties appears to be just and reasonable and has not been shown to be unjust, unreasonable, unduly

discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept the Amended MATA for each of the Parties.

12. In addition, we will generally grant waiver of the 60-day prior notice requirement where good cause has been shown, such as where a filing is uncontested and does not change rates.⁵ The Amended MATA is uncontested and does not propose to change rates. Therefore we will allow the Amended MATA, to become effective July 1, 2006, as requested.

13. With respect to SDG&E's concerns about whether the MOU needs to be filed, we find it unnecessary to make that determination in this case. The appropriate means for SDG&E to obtain a Commission determination as to the jurisdictional status of the MOU is for SDG&E to file the MOU with the Commission in a separate docket.⁶

The Commission orders:

SoCal Edison's Amended MATA for each jurisdictional utility is accepted and made effective on July 1, 2006, as requested.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁵ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106 at 61,338, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

⁶ *See Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139 at 61, 997-8 (1993), *reh'g denied*, 65 FERC ¶ 61,081 (1993) (Prior Notice Order) (if a utility is uncertain about its filing obligations it can file the agreement and simultaneously request the Commission to disclaim jurisdiction; file a petition for a declaratory order; or apply for a written interpretation by the Office of the General Counsel). It appears that the MOU may be required to be filed under the Prior Notice Order.