

110 FERC ¶61,190
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company Docket No. ER05-410-000

ORDER ACCEPTING AND SUSPENDING RELIABILITY SERVICE RATES AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued February 28, 2005)

1. In this order, we accept for filing Southern California Edison Company's (SoCal Edison) revisions to its Transmission Owner Tariff (TO Tariff), FERC Electric Tariff, Second Revised Volume No. 6, and certain Existing Transmission Contracts to reflect a change to SoCal Edison's Reliability Service Revenue Requirement (Reliability Service Rates), and suspend the proposed Reliability Service Rates for a nominal period, to become effective on January 1, 2005, subject to refund and consolidate this proceeding with the proceeding in Docket Nos. ER04-1209-001 and EL05-29-000. We also establish hearing and settlement judge procedures. This order benefits customers because it ensures that SoCal Edison's Reliability Service rates are just and reasonable.

Background

2. On December 30, 2004, SoCal Edison filed increases in its Reliability Service Rates to be effective January 1, 2005. SoCal Edison's filing includes the proposed Reliability Service Rates to recover Reliability-Must-Run (RMR) and Local Out-of-Market (OOM) costs as reliability services costs from all customers with loads in SoCal Edison's historic control area taking service under the California Independent System Operator Corporation (CAISO) Tariff and SoCal Edison's TO Tariff. Under section 5.2 of the CAISO Tariff, CAISO directly bills each Participating Transmission Owner for the RMR costs it incurs. As a result of a recent amendment to the CAISO Tariff (Amendment 60), there are now four components of 'reliability services' that SoCal

Edison can include in its Reliability Service Rates. Those four components are: 1) RMR Services; 2) Local OOM Services; 3) Must Offer Obligation Services; and 4) M-438¹ Services.

3. SoCal Edison proposes to revise its TO Tariff to increase the Reliability Service Rates charged to end-use customers, Exiting Transmission Contract customers, and Wheeling customers. SoCal Edison states that its proposed rates are set to recover its Reliability Services Revenue Requirement for 2005 of \$85,352,237.

4. As part of its submittal, SoCal Edison also filed a motion to consolidate the instant filing with Docket Nos. ER04-1209-001 and EL05-29-000. In support of this request for consolidation, SoCal Edison states that all of the pleadings concern the allocation of various Reliability Services cost components among different customers and customer classes.² SoCal Edison argues that since these dockets are inextricably intertwined, consolidation is appropriate.

5. SoCal Edison states that, as set forth in the TO Tariff, the Reliability Services Revenue Requirement and Reliability Services Rates will become effective on January 1, 2005. Thus, SoCal Edison requests waiver of the Commission's 60-day prior notice requirement and requests that the Commission assign an effective date of January 1, 2005. SoCal Edison states that such waiver is consistent with Commission policy in *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106 (1992), because the proposed rate revisions are required to be made effective on January 1 of each year pursuant to section 5 of Appendix VI of the TO Tariff.

Notice of Filings and Pleadings

6. Notice of SoCal Edison's filing was published in the *Federal Register*, 70 Fed. Reg. 3013 (2005), with comments, interventions and protests due on or before January 21, 2005. Pacific Gas and Electric Company, Transmission Agency of Northern California, M-S-R Public Power Agency, CAISO, City of Colton, California, Northern California Power Agency, and California Electricity Oversight Board all filed motions to intervene in this proceeding. San Diego Gas & Electric Company and the California Public Utilities Commission filed motions to intervene out-of-time.

¹ Pursuant to Operating Procedure M-438, SoCal Edison will commit generating units under its dispatch control when the instructions in Operating Procedure M-438 indicate the need to do so to assist the CAISO in operating the grid reliably.

² SoCal Edison notes that Docket No. ER04-1209-001 does not specifically include a change in rates and that Docket No. EL05-29-000 is the Commission's investigation of allocation of costs that are incurred under the Operating Procedure set forth in Docket No. ER04-1209-000.

7. On January 21, 2005, the California Department of Water Resources State Water Project (CDWR) filed motion to intervene and a protest to SoCal Edison's filing arguing that SoCal Edison failed to demonstrate that its proposed Reliability Services Rates are just and reasonable, and are not unduly discriminatory and anticompetitive. It argues that the Commission should reject SoCal Edison's rate filing on multiple grounds. CDWR also argues that SoCal Edison's proposed Reliability Services Rates represents an approximate increase of 400 percent above the rates approved one year ago. It maintains that SoCal Edison's proposed allocation of "Reliability Services" costs to CDWR loads taking Wheeling service is neither lawful nor just and reasonable. CDWR further argues that SoCal Edison's allocation of "Reliability Services" costs based on a benefits theory is unduly discriminatory and anticompetitive, among other things charging CDWR's predominantly off-peak street lighting customers. It argues that SoCal Edison's rate proposal fails principles of cost causation. CDWR claims that SoCal Edison has not met the requirements for a waiver of the 60-day prior notice requirement. Finally, it asserts that, if the Commission does not reject the filing, it should set the filing for hearing and a maximum suspension.

8. The Metropolitan Water District of Southern California (Metropolitan Water District) filed a motion to intervene and protest. Metropolitan Water District echoes CDWR's arguments and, among other things, argues that SoCal Edison's proposed TO Tariff and Reliability Services Rates are unjust and unreasonable. It asserts that the allocation of certain Reliability Service Rates to wholesale TO Tariff customers is unjust and unreasonable because costs are allocated without any evidence establishing benefits or cost-causation. Metropolitan Water District also argues that SoCal Edison's proposed Reliability Services rate design methodologies discriminate among similarly situated customers, stating that there is a significant and irrational disparity in the treatment of Participating Transmission Owners and Non-Participating Transmission Owners. It argues that SoCal Edison's rationale for recovering RMR costs from all Wheeling customers is illogical and inconsistent with cost-causation. Finally, Metropolitan Water District opposes SoCal Edison's request for waiver of the 60-day prior notice requirement and asserts that, if the Commission does not reject SoCal Edison's filing, the Commission should set the proceeding for hearing.

9. On January 21, 2005, Arizona Electric Power Cooperative, Inc. and Southwest Transmission Cooperative, Inc. (AEP/CO/Southwest Cooperative) jointly filed a motion to intervene and a protest to SoCal Edison's filing. AEP/CO/Southwest Cooperative argues that SoCal Edison's proposed cost allocation methodology is unjust, unreasonable and unduly discriminatory. It asserts that the 12 CP methodology has been misapplied, and appears inappropriate for at least the energy costs that comprise the bulk of the Reliability Service costs. It maintains that SoCal Edison's filing offers little support for basing Existing Transmission Contract allocation on the maximum reservation as opposed to actual volume at the coincident peaks. AEP/CO/Southwest Cooperative's

Existing Transmission Contract is appropriate under the circumstances. AEPCO/Southwest Cooperative concludes that SoCal Edison's filing should be rejected or suspended and set for hearing.

10. On February 10, 2005, SoCal Edison filed a motion for leave to answer and an answer to the protests. On February 16, 2005, CDWR filed an answer arguing that SoCal Edison's answer should not be accepted because it does not assist with a complete and accurate record. CDWR argues that SoCal Edison failed to adequately answer any party's protest and merely reiterates many of its original arguments.

Discussion

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding. We will grant San Diego Gas & Electric Company and the California Public Utilities Commission motions to intervene out-of-time given the early stage of this proceeding and the absence of any undue prejudice or delay. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept SoCal Edison's answer or CDWR's answer and will, therefore, reject them.

12. SoCal Edison's proposed Reliability Services Rates 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.

13. Our preliminary analysis indicates that SoCal Edison's proposed Reliability Services Rates 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 the proposed Reliability Services Rates, as included on the revised TO Tariff and rate schedule sheets, for filing, suspend them for a nominal period, make them effective January 1, 2005,³ as requested, subject to refund, and set them for hearing and settlement judge procedures.

14. 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

³ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

of the Commission's Rules of Practice and Procedure.⁴ 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.⁵ 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.

15. Due to the fact that the issues raised in this proceeding and those raised in Docket Nos. ER04-1209-001 and EL05-29-000 involve common issues of law and fact, we will consolidate the proceedings for purposes of settlement, hearing and decision.

The Commission orders:

(A) SoCal Edison's proposed Reliability Service Rates are hereby accepted for filing, suspended for a nominal period, to become effective January 1, 2005, as requested, subject to refund, as discussed in the body of this order.

(B) 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 justness and reasonableness of SoCal Edison's proposed Reliability Service Rates. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraph (C) below.

(C) The settlement or presiding judge, as appropriate, as designated in Docket Nos. ER04-1209-001 and EL05-29-000 shall determine the procedures best suited to accommodate the consolidation of the proceedings.

⁴ 18 C.F.R. § 385.603 (2004).

⁵ 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).

Docket No. ER05-410-000

6

(D) This proceeding is hereby consolidated with the proceeding in Docket Nos. ER04-1209-001 and EL05-29-000.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.