

122 FERC ¶ 61,088
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. ER08-300-000

ORDER ACCEPTING AND SUSPENDING AGREEMENTS AND ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES

(February 1, 2008)

1. The Commission accepts for filing an unexecuted Small Generator Interconnection Agreement (SGIA or Interconnection Agreement) and an unexecuted Wholesale Distribution Service Agreement (Service Agreement) (collectively “Agreements”) between Southern California Edison Company (SoCal Edison) and the County Sanitation District of Los Angeles (District).¹ SoCal Edison filed these unexecuted Agreements on December 5, 2007, requesting that this filing date also serve as the effective date for these Agreements. For the reasons explained herein, we will grant waiver of the notice requirements to permit a December 5, 2007 effective date, suspend for a nominal period these Agreements, and set them for hearing and settlement judge procedures.

Background

2. The District owns the Puente Hills Project (or “Project”), a 9.27 MW generating facility, located in the City of Puente Hills, California. SoCal Edison explains in its transmittal letter that the Puente Hills Project is an existing facility interconnected to SoCal Edison’s electrical system that currently serves on-site load. The District submitted an application to SoCal Edison for wholesale Distribution Service from the Puente Hills Project to SoCal Edison’s Rio Hondo 230 kV Substation to allow it to begin exporting energy into the wholesale electric markets.

3. SoCal Edison explains that on January 16, 2007, it filed with the Commission a Letter Agreement in Docket No. ER07-252-000, to which SoCal Edison and the District

¹ SoCal Edison states that the SGIA has been designated as Service Agreement No. 196 under SoCal Edison’s FERC Electric Tariff, First Revised Volume No. 5. The Service Agreement has been designated as Service Agreement No. 197 under SoCal’s FERC Electric Tariff, First Revised Volume 5.

are parties. This Letter Agreement was entered into with the intention of expediting the design and procurement of facilities needed to interconnect the Puente Hills Project to SoCal Edison's electric system, and to facilitate the Puente Hills Project's participation in the wholesale electric market. The parties subsequently amended the Letter Agreement at the request of the District in order to allow the District to export its generation on a temporary basis. The Commission accepted the Amended Letter Agreement in Docket No. ER07-1288-000, effective August 9, 2007.²

4. SoCal Edison filed an SGIA, which utilizes SoCal Edison's *pro forma* SGIA. It specifies the terms and conditions, pursuant to which SoCal Edison will own, operate and maintain the Interconnection Facilities and Distribution Upgrades required to interconnect the Puente Hills Project to SoCal Edison's Distribution System. The SGIA includes terms and conditions for interconnection of the Puente Hills Project on a temporary as well as a permanent basis. SoCal Edison states that the Distribution Upgrades are those additions, modifications, and upgrades to SoCal Edison's distribution system at or beyond the Point of Interconnection to facilitate interconnection of the Puente Hills Project. In accordance with the SGIA, the District is to be responsible for an Interconnection Facilities Charge, an Interconnection Facilities Payment of \$793,000, a Distribution Upgrade Payment of \$2,444,000, and an additional \$1,132,950 for income taxes associated with these two payments.

5. SoCal Edison explains that following the Interconnection Facilities In-Service Date, the Agreement specifies that the District will pay to SoCal Edison a monthly Interconnection Facilities Charge, which is calculated as the product of the Customer-Financed Monthly Rate and the Interconnection Facilities Cost.

6. The monthly Interconnection Facilities Charge for providing service on a temporary basis, as specified in the Amended Letter Agreement and based on the Estimated Cost for the Temporary Interconnection Facilities, will be \$930 ($0.33\% \times \$282,000$). Following the In-Service Date of the Permanent Interconnection Facilities, the monthly Interconnection Facilities Charge will be \$2,616 ($0.33\% \times \$793,000$), based upon the Estimated Cost for the Permanent Interconnection Facilities.

7. SoCal Edison also explains that the SGIA also includes a Reliability Management System Agreement (RMS Agreement), which sets forth the terms and conditions for maintaining the reliable operation of the Western Interconnection as a result of the generator's commitment to complying with certain reliability standards.

² The Amended Agreement revised the Letter Agreement to reflect, among other considerations: (1) the expanded scope of the work to include the installation of a Ground Detector Remote Terminal Unit; (2) extension of the time for completion of the project; and (3) the estimated cost for such expanded scope of work. *S. Cal. Edison Co.*, Docket No. ER07-1288-000 (Sept. 21, 2007) (unpublished letter order).

8. The Service Agreement sets forth SoCal Edison's agreement to provide distribution service for 9.27 MW produced by the Puente Hills Project to the California Independent System Operator Corporation (CAISO) grid.³

9. SoCal Edison requests waiver, pursuant to Section 35.11 of the Commission's regulations, 18 C.F.R. § 35.11 (2007), of the 60-day prior notice requirement to permit the Agreements to be effective December 5, 2007. SoCal Edison states that granting waiver is appropriate because it will enable SoCal Edison to provide the Puente Hills with interconnection service and Distribution Service on a temporary basis as soon as possible, thus facilitating the availability of power in Southern California. SoCal Edison also states that the granting of this waiver will not affect SoCal Edison's other rate schedules.

Notice of Filing

10. Notice of this filing was published in the *Federal Register*, 72 Fed. Reg. 71,886, with interventions and protests due on or before December 26, 2007. None were filed.

Discussion

11. SoCal Edison states that the District requested that it file these Agreements as unexecuted so that the District may take service as soon as possible. SoCal Edison also states that the District did not execute the Agreements because it disagrees with SoCal Edison concerning its cost responsibility for certain Distribution Upgrades necessary for the reliable permanent interconnection of the Puente Hills Project. Accordingly, SoCal Edison requests that the Commission waive its notice requirements to permit a December 5, 2007 effective date.

12. We find that the record in this proceeding, which is limited to unexecuted Agreements filed by SoCal Edison and Attachment B, a letter dated November 15, 2007 from the District to SoCal Edison, which outlines the District's concerns regarding the assignment of certain Distribution Upgrade costs, does not allow us to conclude that the filed Agreements are just and reasonable. Accordingly, we find that the Agreements have not been shown to be just and reasonable and, in fact, may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, we will accept the Agreements, and suspend them for a nominal period, subject to refund, and set the Agreements for hearing and settlement judge proceedings, as ordered below.

³ The Service Agreement also includes a loss factor credit of 1.12 percent to be applied to the Puente Hills Project, which SoCal Edison states was accepted by the Commission for generators interconnection at distribution voltages. *See S. Cal Edison Co.*, Docket No. ER98-2365-000 (May 22, 1998) (unpublished letter order).

13. We also grant SoCal Edison's requested waiver of the 60-day notice requirement, and find good cause to allow the Agreements to become effective December 5, 2007.⁴ Further, no party has contested SoCal Edison's waiver request.

14. While we are setting this matter for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes 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.⁵ 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.⁶ 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 unexecuted Agreements are hereby accepted for filing. We grant waiver of the 60-day notice requirement and suspend the Agreements for a nominal period, to become effective December 5, 2007, 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 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 the unexecuted Agreements. However, the hearing will be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

⁴ *Central Hudson Gas & Electric Corp.*, 60 FERC ¶ 61,106, *reh'g denied*, 61 FERC ¶ 61,089 (1992).

⁵ 18 C.F.R. § 385.603 (2007).

⁶ If the parties decide to request a specific judge, they may 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).

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2007), 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.

(D) 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.

(E) 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)

Kimberly D. Bose,
Secretary.