

133 FERC ¶ 61,254  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Jon Wellinghoff, Chairman;  
Marc Spitzer, Philip D. Moeller,  
John R. Norris, and Cheryl A. LaFleur.

Southern California Edison Company

Docket No. EL10-1-003

ORDER DENYING REQUEST FOR CLARIFICATION OR REHEARING

(Issued December 29, 2010)

1. On November 29, 2010, the Western Independent Transmission Group (WITG) filed a request for clarification or, in the alternative rehearing of an October 29, 2010 Commission order.<sup>1</sup> The October 2010 Order found that Southern California Edison Company (SoCal Edison) had not complied with the condition established in the Commission's December 17, 2009 order<sup>2</sup> conditionally granting SoCal Edison's petition for a declaratory order on transmission incentives (Petition). While finding that SoCal Edison had not met the requirements of section 219 of the Federal Power Act (FPA)<sup>3</sup> and Order No. 679,<sup>4</sup> the October 2010 Order found that certain incentives SoCal Edison sought for its Eldorado-Ivanpah Transmission Project (EITP) were justified in light of a combination of policy reasons and granted those incentives pursuant to Commission authority under section 205 of the FPA.<sup>5</sup> This order denies WITG's request for clarification and rehearing.

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<sup>1</sup> *Southern California Edison Co.*, 133 FERC ¶ 61,108 (2010) (October 2010 Order).

<sup>2</sup> *Southern California Edison Co.*, 129 FERC ¶ 61,246 (2009) (EITP Incentives Order).

<sup>3</sup> 16 U.S.C. § 825s (2006).

<sup>4</sup> *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

<sup>5</sup> 16 U.S.C. § 824d (2006).

## **I. Background**

2. The proposed EITP involves the following key features: building a new substation in the Ivanpah Dry Lake area in southern California; removal of 35 miles of the Eldorado leg of the existing Eldorado-Baker-Cool Water-Dunn Siding-Mountain Pass 115 kV line; and constructing a new 35-mile double-circuit 220 kV transmission line and towers between the proposed Ivanpah substation and SoCal Edison's existing Eldorado substation.

3. SoCal Edison estimates that the total cost for the EITP will be between \$430 million and \$480 million. SoCal Edison states that the EITP will provide regional benefits by fostering the development of location-constrained resources in the Ivanpah Dry Lake area, which, according to SoCal Edison, has the potential to be a vital center for solar generation.

4. In its Petition, SoCal Edison requested authorization, pursuant to Order No. 679, to recover the following incentives: (1) an ROE adder of 150-basis points for the EITP, in addition to the 50-basis point ROE adder previously granted by the Commission for SoCal Edison's participation in the California Independent System Operator Corporation (CAISO); (2) inclusion of 100 percent of CWIP for the EITP in rate base; and (3) recovery of 100 percent of prudently-incurred abandoned plant costs if the EITP is cancelled or abandoned for reasons beyond SoCal Edison's control (abandoned plant approval).

5. The EITP Incentives Order found that SoCal Edison was not entitled to the rebuttable presumption provided by Order No. 679 that the requirements of FPA section 219 have been satisfied because the EITP had not received approval through the CAISO transmission planning process. However, the EITP Incentives Order nevertheless conditionally approved SoCal Edison's requested incentives because the Commission found that "the CAISO transmission planning process may adequately consider the reliability and congestion-relieving impacts of the EITP."<sup>6</sup>

6. As a result, the EITP Incentives Order directed SoCal Edison to submit a filing within 30 days of the approval or disapproval of the EITP in the CAISO transmission planning process. The Commission further required that if the EITP was approved in

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<sup>6</sup> EITP Incentives Order, 129 FERC ¶ 61,246 at P 27. The EITP Incentives Order conditionally approved SoCal Edison's request for abandoned plant approval and 100 percent of CWIP, but conditionally approved an additional 100-basis point ROE adder, rather than the 150-basis point ROE adder requested by SoCal Edison. Additionally, the EITP Incentives Order confirmed the continuation of SoCal Edison's 50-basis point ROE adder for continued CAISO participation.

CAISO's transmission planning process, SoCal Edison would be required to provide evidence not only of the approval, but also that the transmission planning process included a finding that the EITP will ensure reliability or reduce the cost of delivered power by mitigating congestion, consistent with Order No. 679-A.<sup>7</sup>

## **II. SoCal Edison's Compliance Filing**

7. On August 3, 2010, SoCal Edison submitted a compliance filing in response to the EITP Incentives Order. In its compliance filing, SoCal Edison argued that CAISO has completed the large generator interconnection study process for the EITP and confirmed that the EITP will provide reliability benefits for nearly 2,000 MW of planned renewable generation in the Ivanpah Dry Lake region of California.

8. SoCal Edison contended that the execution of three large generator interconnection agreements with Brightsource Energy (Brightsource), relied upon in the interconnection study process, satisfy the condition in the EITP Incentives Order. SoCal Edison argued that the CAISO interconnection study process satisfies the requirement under Order No. 679 that in order to obtain transmission rate incentives, an applicant must demonstrate that the facilities for which incentives are sought will either ensure reliability or reduce the cost of delivered power by reducing transmission congestion consistent with the standards set forth in FPA section 219.

9. In its compliance filing, SoCal Edison also requested that, even if the condition set forth in the EITP Incentives Order has not been satisfied, the Commission should unconditionally grant SoCal Edison the incentives it requested as a matter of policy. SoCal Edison argued that the incentives are necessary to ensure the development of renewable resources in California and Nevada is not deterred because of the continuation of the conditional nature of the Commission's incentives authorization.<sup>8</sup>

## **III. The October 2010 Order**

10. In the October 2010 Order, the Commission found that SoCal Edison has not complied with the condition established in the EITP Incentives Order. The Commission found that SoCal Edison's reliance in its compliance filing on CAISO's interconnection study process is insufficient to satisfy the requirements of Order No. 679 because the large generator interconnection process does not constitute the kind of open and

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<sup>7</sup> *Id.*

<sup>8</sup> *See* SoCal Edison August 3, 2010 Compliance Filing at 23-24.

transparent regional process contemplated by Order No. 679 for the purpose of qualifying for a rebuttable presumption that the requirements of FPA section 219 have been satisfied.<sup>9</sup>

11. Nevertheless, based on the Commission's authority to grant policy-based incentives under section 205 of the FPA,<sup>10</sup> and in light of a combination of policy reasons enumerated in that order,<sup>11</sup> we granted SoCal Edison's requests for recovery of 100 percent CWIP and abandoned plant approval if the EITP is cancelled or abandoned for reasons beyond SoCal Edison's control. The October 2010 Order continued to grant SoCal Edison a 50-basis point ROE adder for its participation in CAISO, but rejected any additional ROE adders for the EITP.<sup>12</sup>

#### **IV. Request for Clarification or, in the Alternative, Rehearing and Answer**

12. On November 29, 2010, Western Independent Transmission Group (WITG) filed a request for clarification or, in the alternative, rehearing. No other party to the case has sought rehearing or clarification.

13. On December 6, 2010, Brightsource filed a request for expedited action on WITG's request for clarification. On December 9, 2010, SoCal Edison filed a request for leave to answer and answer to WITG's request for clarification or rehearing.

#### **V. Discussion**

##### **A. Procedural Matters**

14. Rule 713(d)(1) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 713(d)(1) (2010), prohibits an answer to a request for rehearing. Therefore, we reject SoCal Edison's answer to the rehearing request.

##### **B. WITG's Request for Clarification or Rehearing**

15. WITG does not object on any substantive ground to the incentives granted in this case. Rather, WITG requests that the Commission clarify that its grant of abandoned plant cost recovery and CWIP rate recovery to SoCal Edison was based on the unique

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<sup>9</sup> October 2010 Order, 133 FERC ¶ 61,108 at P 66.

<sup>10</sup> 16 U.S.C. § 824d (2006).

<sup>11</sup> October 2010 Order, 133 FERC ¶ 61,108 at P 2.

<sup>12</sup> *Id.* P 99.

and exigent circumstances resulting from the aggressive construction start deadlines for certain renewable generation projects to obtain federal financing support under the American Recovery and Reinvestment Act (ARRA). WITG posits that, without the requested clarification, the Commission's ruling in this proceeding would result in the arbitrary and unduly discriminatory granting of certain rate incentives based on public policy rationales under FPA section 205 only for Large Generator Interconnection Procedure (LGIP)-based network upgrades proposed by incumbent transmission developers. WITG states that, such a ruling would encourage incumbent transmission developers to circumvent regional transmission planning processes and Commission precedent under FPA section 219 and Order No. 679.

16. To the extent the Commission declines to narrow the scope of the October 2010 Order as requested, WITG requests that the Commission clarify that all transmission projects previously denied incentive rate treatment, despite a showing that they would further the broader public policy rationales identified in the October 2010 Order, may reapply for such incentives.

17. Alternatively, if the Commission does not grant the requested clarifications, WITG requests rehearing of the Commission's decision to grant CWIP and abandoned plant approval to SoCal Edison as unduly discriminatory and arbitrary and capricious. WITG argues that in the October 2010 Order, the Commission granted these incentives *sua sponte* pursuant to broad public policy rationales that were previously rejected in the case of non-incumbent transmission developers.<sup>13</sup>

### C. Commission Determination

18. We find that the clarification requested by WITG is unnecessary and therefore deny it. The Commission considers each request for incentives based upon the individual facts and unique circumstances surrounding the particular request. The October 2010 Order specifically stated that the granted incentives "are justified in light of a combination of policy reasons including the exigencies of the deadlines imposed by the American Recovery and Reinvestment Act (ARRA)...."<sup>14</sup> Indeed we also explicitly noted in the order that:

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<sup>13</sup> Request for Clarification or Rehearing at 7-8 (citing *Green Energy Express, LLC*, 129 FERC ¶ 61,165 (2009)).

<sup>14</sup> *Id* P 2; *see also id.* P 79. Congress recently extended certain deadlines associated with ARRA. *See* The Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. L. 111-312).

[W]hen we consider such incentive requests, our policy is to review each request for incentives on its own merits and on a case-by-case basis. Thus, in granting the CWIP and abandoned plant incentives requested by SoCal Edison, we emphasize that our actions are limited to the unique circumstances presented in this docket.<sup>15</sup>

Accordingly, we find that the October 2010 Order did not encourage incumbent transmission owners to circumvent the regional transmission planning processes or Commission precedent; each incentive request is reviewed on a case-by-case basis. We further note, going forward, the CAISO's recently approved Revised Transmission Planning Process will assess significant generator interconnection upgrades in the transmission planning processes, which will provide greater transparency and efficiency.<sup>16</sup>

19. WITG also asserts that without narrowing the scope of the October 2010 Order as requested, "there could be a substantial increase in the number of projects that qualify for incentive rates awarded under the Commission section 205 jurisdiction."<sup>17</sup> We do not agree. The Commission will continue to review petitions for declaratory orders regarding incentive rate treatments on the merits of each request.

20. In its alternative request for rehearing, WITG appears to be concerned that the Commission's order conditionally granting Green Energy Express's (Green Energy) request for incentives under FPA section 219 did not grant *sua sponte* Green Energy the incentives unconditionally under section 205.<sup>18</sup> WITG contrasts the Green Energy order with the EITP, in which it asserts that the Commission *sua sponte* reviewed SoCal Edison's application using broad public policy rationales. First, the Commission did not act *sua sponte* in this case. Unlike Green Energy, SoCal Edison specifically requested that the Commission consider its petition under FPA section 205.<sup>19</sup> Second, to the extent WITG is asking for rehearing or reconsideration of the Green Energy order, this docket is not the appropriate place for such a request and we will not here consider it.

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<sup>15</sup> *Id.* P 74 (citation omitted).

<sup>16</sup> *California Indep. System Operator Corp.*, 133 FERC ¶ 61,224, at P 92 (2010).

<sup>17</sup> Request for Clarification or Rehearing at 7.

<sup>18</sup> *Id.* at 8.

<sup>19</sup> *See* SoCal Edison August 3, 2010 Compliance Filing at 23-24.

Finally, the Commission's order was reasonable and supported by the record as it was presented; the incentives we granted were:

...justified in light of a combination of policy reasons, including the following: the exigencies of the deadlines imposed by the American Recovery and Reinvestment Act (ARRA), the potential that ARRA funding may foster renewable project development, the public policy benefits that the EITP will provide by integrating location-constrained renewable resources and their contribution towards meeting California's Renewable Portfolio Standard (RPS) requirements, and the scope of and risks associated with the EITP.<sup>20</sup>

Therefore, the decision was neither unduly discriminatory nor arbitrary and capricious. We therefore deny rehearing on this issue.

The Commission orders:

The Commission denies the request for rehearing or clarification in these proceedings, as discussed above.

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

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<sup>20</sup> October 2010 Order, 133 FERC ¶ 61,108 at P 2 (citation omitted).