

133 FERC ¶ 61,255  
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. EL10-81-001

ORDER DENYING REQUEST FOR CLARIFICATION OR REHEARING

(Issued December 29, 2010)

1. In this order, we deny the request for clarification or, in the alternative, rehearing filed in response to the Commission's October 29, 2010 order,<sup>1</sup> which granted certain policy-based incentive rate treatments to Southern California Edison Company (SoCal Edison) for the proposed Lugo-Pisgah Transmission Project (Lugo-Pisgah) and the Red Bluff Substation Project (Red Bluff) (collectively, Projects).

**I. Background**

2. The Commission's Lugo-Pisgah/Red Bluff Order contains a detailed description of the Projects and the background related to the Commission's transmission rate incentive policies.

3. On August 4, 2010, SoCal Edison filed a petition for declaratory order (Petition) requesting Commission approval of certain incentive rate treatments for the proposed Projects under the Federal Power Act (FPA) section 219<sup>2</sup> and Order No. 679.<sup>3</sup>

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<sup>1</sup> *Southern California Edison Company*, 133 FERC ¶ 61,107 (2010) (Lugo-Pisgah/Red Bluff Order).

<sup>2</sup> 16 U.S.C. § 825s (2006).

<sup>3</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).

Additionally, SoCal Edison, specifically requested the Commission to consider its petition under FPA section 205.<sup>4</sup>

4. In the Lugo-Pisgah/Red Bluff Order, the Commission found that SoCal Edison had not satisfied the requirements of FPA section 219 and Order No. 679.<sup>5</sup> Nevertheless, based on the Commission's authority to grant policy-based incentives under section 205 of the FPA,<sup>6</sup> and in light of a combination of policy reasons enumerated in that order,<sup>7</sup> we granted SoCal Edison's requests for recovery of 100 percent construction work in progress (CWIP) and recovery of 100 percent of prudently-incurred abandoned plant costs if either Project is cancelled or abandoned for reasons beyond SoCal Edison's control.

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

5. 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.

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

## **III. Discussion**

### **A. Procedural Matters**

7. 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.

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<sup>4</sup> See SoCal Edison Petition at 1 ("Additionally, public policy dictates that even if the Commission does not find that the Projects have yet met the standard set forth in Order No. 679 ... [SoCal Edison] nevertheless be granted authority to recover costs if either of the Projects is cancelled or abandoned for reasons beyond [SoCal Edison's] control.")

<sup>5</sup> Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 2.

<sup>6</sup> 16 U.S.C. § 824d (2006).

<sup>7</sup> Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 3.

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

8. 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 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.

9. To the extent the Commission declines to narrow the scope of the Lugo-Pisgah/Red Bluff 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 Lugo-Pisgah/Red Bluff Order, may reapply for such incentives.

10. Alternatively, if the Commission does not grant the requested clarifications, WITG requests rehearing of the Commission's decision to grant CWIP and abandoned plant cost recovery to SoCal Edison as unduly discriminatory and arbitrary and capricious. WITG argues that in the Lugo-Pisgah/Red Bluff 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>8</sup>

**C. Commission Determination**

11. 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 Lugo-Pisgah/Red Bluff 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

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

American Recovery and Reinvestment Act (ARRA)....”<sup>9</sup> Indeed, we also explicitly noted in the order that:

[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>10</sup>

Accordingly, we find that the Lugo-Pisgah/Red Bluff 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>11</sup>

12. WITG also asserts that without narrowing the scope of the Lugo-Pisgah/Red Bluff 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>12</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.

13. In its alternative request for rehearing, WITG appears to be concerned that the Commission’s order conditionally granting Green Energy Express’s (Green Energy’s) request for incentives under FPA section 219 did not grant *sua sponte* Green Energy the incentives unconditionally under section 205.<sup>13</sup> WITG contrasts the Green Energy order with the Lugo-Pisgah/Red Bluff Order, in which it asserts that the Commission *sua*

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<sup>9</sup> *Id.* P 3; *see also id.* P 64, 68. 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).

<sup>10</sup> *Id.* P 63 (citation omitted).

<sup>11</sup> *California Indep. System Operator Corp.*, 133 FERC ¶ 61,224, at P 92 (2010).

<sup>12</sup> Request for Clarification or Rehearing at 7.

<sup>13</sup> *Id.* at 8.

*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>14</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. 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 exigencies of the deadlines imposed by the American Recovery and Reinvestment Act (ARRA), the potential that the ARRA funding may foster renewable project development, the public policy benefits that the Projects will provide in terms of the integration of location-constrained renewable resources and their contribution to meeting California's Renewable Portfolio Standard (RPS) requirements, and the scope of and risks associated with the Projects....<sup>15</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 clarification or rehearing in these proceedings, as discussed above.

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<sup>14</sup> See SoCal Edison Petition at 1 ("Additionally, public policy dictates that even if the Commission does not find that the Projects have yet met the standard set forth in Order No. 679 ... [SoCal Edison] nevertheless be granted authority to recover costs if either of the Projects is cancelled or abandoned for reasons beyond [SoCal Edison's] control").

<sup>15</sup> Lugo-Pisgah/Red Bluff Order, 133 FERC ¶ 61,107 at P 3; *see also id.* P 64, 68 (citation omitted).

By the Commission.

( S E A L )

Nathaniel J. Davis, Sr.,  
Deputy Secretary.