

151 FERC ¶ 61,215
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

San Diego Gas & Electric Company

Docket No. ER15-1022-000

ORDER GRANTING REQUEST FOR WAIVER

(Issued June 12, 2015)

1. On February 10, 2015, San Diego Gas & Electric Company (SDG&E) filed a request for a limited, one-time waiver of certain provisions in the California Independent System Operator Corporation (CAISO) tariff related to the submission of settlement meter data that would otherwise subject SDG&E to a penalty of \$134,000. For good cause shown, as discussed below, we will grant SDG&E a one-time waiver of sections 10.3.6.3, 37.5.2, and 37.11 of the CAISO tariff for the reasons stated herein.¹

I. Background

2. Under section 37.5.2 of the CAISO tariff, market participants are required to provide complete and accurate Settlement Quality Meter Data for each trading hour and correct any errors in the data no later than 48 business days after the trading day. Under section 10.3.6.3 of the CAISO tariff, failure to either submit complete and accurate actual Settlement Quality Meter Data or to replace estimated Settlement Quality Meter Data with complete and accurate actual meter data by this timeline would constitute a violation of CAISO tariff section 37.5.2 and subject the market participant to penalties under section 37.11.

3. Otay Landfill Gas V, LLC (Otay Landfill V) and Otay Landfill Gas VI, LLC (Otay Landfill VI) (collectively, “Otay”) are qualifying generation facilities within SDG&E’s portfolio of purchased power resources. SDG&E states that the power purchase agreements between SDG&E and Otay specify that SDG&E-

¹ The Commission notes that SDG&E neglected to specifically state in its filing the exact tariff sections from which it is seeking waiver.

owned meters shall be used to measure output for billing purposes. SDG&E-owned meters were in place and used to measure test power generated by the Otay facilities starting in late June 2013. SDG&E states that, on August 7, 2013, SDG&E first scheduled the Otay facilities into the CAISO markets as CAISO resources based on its mistaken belief that Otay had completed the necessary steps to transmit meter data to CAISO and that its resources had been certified as CAISO Metered Entities and thus had achieved full commercial status. SDG&E states that, because CAISO did not have a physical control on its system to prevent the scheduling of uncertified generators, SDG&E was permitted to schedule the Otay generators into the CAISO market even though they were not yet eligible resources.²

4. SDG&E states that it first became aware that the Otay facilities' meters lacked functioning connectivity with CAISO in mid-November 2013 when the CAISO alerted SDG&E of this fact. SDG&E states that meters with functioning connectivity to CAISO were subsequently installed, and the Otay facilities received the tariff-required Certificate of Compliance on March 3, 2014, effective December 4 and 8, 2013 for Otay Landfill V and Otay Landfill VI, respectively.³

5. SDG&E states that, on April 10, 2014, CAISO notified SDG&E that it would permit the Otay resources to be treated as Scheduling Coordinator Metered Entities during the relevant timeframe (i.e., August 7, 2013 through December 18, 2013), and would therefore allow SDG&E to submit data for the Otay resources using SDG&E's meter data for this period when CAISO-certified meter data were not available.⁴ However, SDG&E states that by the time CAISO agreed to accept SDG&E's meter data, CAISO's tariff deadline for avoiding penalties in connection with the submission of Settlement Quality Meter Data for Scheduling Coordinator Metered Entities had passed for all affected trade dates up to December 18, 2013. Therefore, SDG&E states that CAISO has begun the process that could potentially result in the imposition of penalties on SDG&E for 134 affected trade dates. With the penalty for the late submission of data being

² SDG&E Request for Waiver at 2.

³ *Id.*

⁴ SDG&E clarifies that the data provided to the CAISO from the SDG&E meters at the Otay facilities covered the period August 6, 2013 through December 7, 2013. SDG&E states that CAISO used CAISO meter data as the Settlement Quality Meter Data for the time period covering December 5 through December 18 for Otay Landfill V and December 8 through December 18 for Otay Landfill VI. *Id.* at 3.

\$1,000 per day, SDG&E states that it could be assessed a total of \$134,000 in penalties.⁵

II. SDG&E Request for Waiver

6. SDG&E argues that its request for a limited, one-time waiver meets the criteria for granting such waivers established in the Commission's prior orders.⁶ Specifically, SDG&E asserts that its inability to timely submit CAISO meter data for the Otay facilities during the period of August 7, 2013 through December 18, 2013 was inadvertent and unintentional. SDG&E states that all parties involved have proceeded diligently and in good faith to resolve the error. SDG&E also argues that it scheduled resources based on its understanding that the Otay generators had CAISO-certified meters installed that were working and communicating at that time, which would have then made the resources eligible to participate fully in CAISO markets. SDG&E contends that it was able to schedule the Otay resources because CAISO did not have a control in its system to prevent SDG&E from scheduling the resources even though they were not yet eligible.⁷

7. SDG&E also asserts that the scope of this request is limited given that in July 2014, CAISO implemented Operating Procedure No. 5320⁸ and revised its new resource implementation documentation to reduce the likelihood that this type of error would occur again.⁹ SDG&E further argues that, because of the procedural changes CAISO has implemented, and given the highly unusual circumstances, granting this waiver will not have undesirable consequences. SDG&E states that given the cooperation among the three parties involving use of SDG&E's meter data, there is no concern about the integrity of such data.¹⁰

⁵ *Id.*

⁶ See *Pacific Gas & Elec. Co.*, 139 FERC ¶ 61,007 (2012) and *San Diego Gas & Elec. Co.*, 140 FERC ¶ 61,122 (2012).

⁷ SDG&E Request for Waiver at 3-4.

⁸ Operating Procedure No. 5320 defines the CAISO policies and procedures on pre-commercial testing and creates additional internal cross-checks to ensure that the right sequence of events occurs prior to a resource achieving full commercial status.

⁹ See Der-Gevorgian Declaration at 8-9.

¹⁰ SDG&E Request for Waiver at 4.

8. SDG&E further states that, although the penalties at issue are for submission of meter data more than 48 business days after the trading day, it did not learn that the CAISO was not receiving meter data from the Otay generators until more than three months after SDG&E first scheduled the resources, and that CAISO did not agree to accept SDG&E meter data for the affected trade dates until late March 2014. SDG&E argues that the limited waiver will benefit customers by eliminating penalty liability for circumstances that were beyond SDG&E's control.¹¹

III. Notice and Responsive Pleadings

9. Notice of SDG&E's filing was published in the *Federal Register*, 80 Fed. Reg. 8635 (2015), with interventions, comments, and protests due on or before March 3, 2015. A timely motion to intervene and comments were submitted by CAISO.

10. CAISO supports SDG&E's request for waiver. CAISO states that this situation has not arisen before and is unlikely to reoccur, so it is not concerned that granting this waiver would lead to a rush of further waiver filings from similarly-situated entities.¹² CAISO explains that its systems are configured to permit a resource that has not reached full commercial status to schedule its output into CAISO markets as a way to facilitate payment to resources for providing exceptional dispatch pre-commercial test energy. CAISO states that SDG&E's mistaken belief that Otay had CAISO-certified meters in place coupled with SDG&E's ability to use the CAISO scheduling interface likely gave SDG&E the false impression that Otay would be settled as a CAISO Metered Entity for its exceptional dispatch pre-commercial operations test energy. CAISO states that, subsequent to the relevant timeframe here, it implemented business processes to make clear to resources that CAISO's granting of approval to synchronize to the grid for test purposes does not necessarily mean that the resource has been approved for commercial operations.¹³

¹¹ *Id.*

¹² CAISO Comments at 4.

¹³ *Id.* at 3-4.

IV. Discussion

A. Procedural Matters

11. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2014), the timely, unopposed motion to intervene serves to make CAISO a party to this proceeding.

B. Commission Determination

12. The Commission has previously granted waiver of tariff provisions where an error was made in good faith; the waiver is of limited scope; and granting waiver would address a concrete problem and result in no undesirable consequences, such as harm to third parties.¹⁴ Applying those criteria here, we find that good cause exists, and we will grant SDG&E's unopposed request for a limited, one-time waiver of CAISO tariff sections 37.5.2, 10.3.6.3, and 37.11.

13. We find that SDG&E acted in good faith. SDG&E acted in a timely manner to submit its meter data to CAISO. The timing of SDG&E's submission of the meter data to CAISO was dependent on CAISO's notification that the Otay facilities lacked functioning connectivity with the CAISO and the subsequent decision by CAISO to allow SDG&E to submit its meter data in place of the CAISO certified meter data.¹⁵ SDG&E could not have acted until CAISO agreed to treat the Otay facilities as Scheduling Coordinator Metered Entities and accept SDG&E meter data. Further, the waiver is of a limited scope, covering approximately a four month period. CAISO states that it has taken measures to offer additional clarity in its business processes to decrease the likelihood of this type of error reoccurring. Additionally, we find that granting waiver will remedy a concrete problem by eliminating penalty liability for circumstances that were beyond SDG&E's control. Finally, we find that relieving SDG&E of paying a penalty in this one instance will not harm third parties.

¹⁴ See *Exelon Generation Company, LLC*, 151 FERC ¶ 61,174 (2015); *Appalachian Power Company, et al.*, 143 FERC ¶ 61,015 (2013); *PPL EnergyPlus, LLC*, 142 FERC ¶ 61,177 (2013).

¹⁵ We agree with SDG&E that, given the cooperation of the involved parties, there does not appear to be any concern about the integrity of the metered data submitted by SDG&E.

The Commission orders:

SDG&E is hereby granted waiver of CAISO Tariff sections 10.3.6.3, 37.5.2, and 37.11, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.