

120 FERC ¶ 61,101
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 Nos. ER03-1094-000
ER03-1094-001
ER03-1094-002
EL03-214-000
ER07-955-000

ORDER APPROVING UNCONTESTED OFFER OF SETTLEMENT
AND ACCEPTING MODIFIED RATE SCHEDULE

(Issued July 27, 2007)

1. In this order, the Commission approves an uncontested Offer of Settlement by Southern California Edison Company (SoCal Edison) and accepts for filing an amendment to an existing rate schedule that implements the Offer of Settlement. The Offer of Settlement resolves disputes between SoCal Edison and the Los Angeles Department of Water Power (LADWP) over responsibility for costs that SoCal Edison incurs as a Scheduling Coordinator and over rights to construct a 500-kV transmission line between Devers, California and Palo Verde, Arizona.

I. Background

a. Scheduling Coordinator Services

2. In 1987, SoCal Edison and LADWP executed an agreement under which each party provides specified transmission services to the other (Exchange Agreement). In 1998, SoCal Edison turned over operation of its transmission system to the California Independent System Operator Corporation (CAISO) as part of a broad restructuring of California's electricity markets. The Exchange Agreement remains in effect as an Existing Contract that is recognized by the CAISO.¹

¹ CAISO FERC Electric Tariff, Third Replacement Volume No. II, Original Sheet No. 282-284 § 16.

3. In continuing to provide service under the Exchange Agreement, SoCal Edison has incurred costs that were not contemplated when the agreement was executed. The additional costs arise from SoCal Edison's role as a Scheduling Coordinator in California's restructured market. A Scheduling Coordinator pays the CAISO for transmission losses, ancillary services, imbalance energy and replacement reserves, all on behalf of a transmission service customer under an Existing Contract.²

4. On July 21, 2003, in Docket Nos. ER03-1094-000 and EL03-214-000, SoCal Edison submitted a proposed tariff that would allow SoCal Edison to recover, from LADWP, the costs that SoCal Edison incurs as Scheduling Coordinator for the Exchange Agreement (Scheduling Coordinator Tariff). LADWP protested on the grounds that the Exchange Agreement does not provide for SoCal Edison to recover its costs as a Scheduling Coordinator. The Commission accepted the Scheduling Coordinator Tariff subject to further consideration, initiated settlement proceedings, and established a refund effective date of December 9, 2003.³ From December 9, 2003 through October 31, 2006, SoCal Edison collected approximately \$33.4 million from LADWP under the tariff. From November 1, 2006 through the present, SoCal Edison has continued to collect amounts under the Scheduling Coordinator Tariff.

5. In May 2006, the Commission held that transmission owners may recover all costs that they incur as Scheduling Coordinators through their Transmission Owner Tariff's (TO Tariff) Transmission Revenue Balancing Account (TRBA) which impacts SoCal Edison's TO Tariff wholesale and retail Transmission Revenue Requirement.⁴

b. Transmission between Devers and Palo Verde

6. The Exchange Agreement requires SoCal Edison to provide 368 MW of firm transmission service to LADWP between Devers and Palo Verde until a new transmission line between those cities is constructed (the Devers-Palo Verde 2 or DPV2 Line) or, if the DPV2 Line is never constructed, for the life of an existing transmission line between those cities (the Devers-Palo Verde 1 or DPV1 Line). Outside the context of Commission proceedings, SoCal Edison and LADWP have disputed which party may construct and own the DPV2 Line.

² *Southern California Edison Co. v. FERC*, 415 F.3d 17, 18-19 (D.C. Cir. 2005).

³ *See Southern California Edison Co.*, 105 FERC ¶ 61,276 (2003).

⁴ *Pacific Gas and Elec. Co.*, 115 FERC ¶ 61,226, at P 9 (2006).

c. Present filings

7. On May 29, 2007, SoCal Edison submitted an Offer of Settlement in Docket No. ER03-1094-000 and related dockets. On the same date, in new Docket No. ER07-955-000, SoCal Edison submitted an amended Exchange Agreement that would implement the Offer of Settlement.⁵

8. Under the terms of the Offer of Settlement and amended Exchange Agreement, SoCal Edison would withdraw the Scheduling Coordinator Tariff. SoCal Edison would also refund the \$33.4 million that LADWP paid under the tariff from December 2003 through October 2006 – less \$17.5 million that was attributable to transmission losses. SoCal Edison would also refund the payments that LADWP made under the tariff from November 1, 2006 to the effective date of the Offer of Settlement, less losses and plus interest. The Offer of Settlement contemplates that SoCal Edison may recover, through its TO Tariff's TRBA, the amounts that will be refunded to LADWP and all future costs as Scheduling Coordinator for the Exchange Agreement.

9. Also under the Offer of Settlement and amended Exchange Agreement: (1) SoCal Edison would be entitled to construct and own the DPV2 Line, and (2) SoCal Edison would be required to continue to provide transmission service to LADWP over the DPV1 Line after the DPV2 Line goes into service.

d. Interventions

10. LADWP and the Public Utilities Commission of the State of California (CPUC) submitted comments in support of the Offer of Settlement. Notice of SoCal Edison's submission of the amended Exchange Agreement was published in the Federal Register on June 18, 2007.⁶ LADWP, the California Department of Water Resources State Water Project, and Modesto Irrigation District filed timely motions to intervene. As a result, under Rule 214 of the Commission's Rules of Practice, those entities are parties to Docket No. ER07-955-000.⁷

⁵ The Offer of Settlement is also referred to as a Settlement Agreement between SoCal Edison and LADWP. The amended Exchange Agreement is titled the Los Angeles-Edison Amended and Restated Exchange Agreement between LADWP and SoCal Edison.

⁶ 72 Fed. Reg. 33,478 (June 18, 2007).

⁷ 18 C.F.R. § 385.214 (2006).

II. Discussion

11. The Offer of Settlement is uncontested, is in the public interest and is hereby approved to become effective on the date of issuance of this order. The Offer of Settlement is consistent with our decision to allow transmission owners such as SoCal Edison to recover their costs as Scheduling Coordinators through their TO Tariff's TRBA. The Offer of Settlement also allows SoCal Edison to pursue construction of the DPV2 Line, which SoCal Edison characterizes as critical infrastructure. For the same reasons, we accept the amended Exchange Agreement.

12. The current Exchange Agreement, except as specifically provided for, does not permit unilateral rate changes by either SoCal Edison or LADWP. Accordingly, any future proposed change to the amended Exchange Agreement, except as provided therein,⁸ will be subject to review under the "public interest" standard.⁹ The Commission's acceptance of the Offer of Settlement does not constitute approval of, or precedent regarding, any principle or issue in this or any other proceeding.

The Commission orders:

(A) The Commission hereby approves the Offer of Settlement and accepts for filing the amended Exchange Agreement as discussed in the body of this order, effective on the date of issuance of this order.

(B) SoCal Edison is directed to withdraw the Scheduling Coordinator Tariff. Also, the proposed recovery by SoCal Edison in its TRBA of all costs incurred as LADWP's Scheduling Coordinator is hereby approved.

(C) Within thirty (30) days from the date of this order, SoCal Edison shall make refunds as provided for under the Offer of Settlement. Within fifteen (15) days after making such refunds, SoCal Edison shall file with the Commission a compliance refund report. SoCal Edison shall furnish copies of the report to LADWP and the CPUC.

⁸ Exhibit B, Transmission Service Rate, to the revised Exchange Agreement provides that for transmission service pursuant to sections 6.1 and 8.1, LADWP shall pay for transmission as set forth in Appendix II to SoCal Edison's TO Tariff, as such rate may change from time to time under the just and reasonable standard of review.

⁹ See Amended Exchange Agreement § 8.5 (establishing the standard of review for changes to the amended agreement); *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

(D) This order terminates Docket Nos. ER03-1094-000, ER03-1094-001, ER03-1094-002, EL03-214-000, and ER07-955-000.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.