

137 FERC ¶ 61,013
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. ER11-2977-001

ORDER DENYING REHEARING

(Issued October 4, 2011)

1. In this order, we deny Clean Coalition's request for rehearing of an order issued on April 29, 2011 that conditionally accepted revisions to Southern California Edison Company's (SoCal Edison) wholesale distribution access tariff (WDAT).¹

I. Background

2. On March 1, 2011, SoCal Edison filed proposed revisions to its WDAT to combine its small generator interconnection procedures (SGIP) and large generator interconnection procedures (LGIP) into a new set of generation interconnection procedures (GIP).² Prior to these revisions, SoCal Edison used separate procedures to evaluate small and large generator interconnection requests. Large generator interconnection requests were studied utilizing a biannual cluster study process (CLGIP). In contrast, small generator interconnection requests were processed on an individual basis, and studied serially (sequentially) throughout the year, apart from the CLGIP

¹ *Southern Cal. Edison Co.*, 135 FERC ¶ 61,093 (2011) (WDAT Order).

² SoCal Edison March 1, 2011 Filing, Docket No. ER11-2977-000 (GIP Proposal). SoCal Edison provides open access distribution level services, including generator interconnection services for both small generators and large generators pursuant to Order No. 2006 under its WDAT. *See Southern California Edison Co.*, 125 FERC ¶ 61,202 (2008). *See also Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, *order on reh'g*, Order No. 2006-A, FERC Stats. & Regs. ¶ 31,196 (2005), *order granting clarification*, Order No. 2006-B, FERC Stats. & Regs. ¶ 31,221 (2006).

cluster.³ SoCal Edison estimated that it would take, under its then current procedures, as long as six to seven years to complete the studies for all of the small generators currently in the SoCal Edison queue.⁴

3. In the GIP Proposal, SoCal Edison proposed to offer a combined cluster study process as the default option for large and small generator interconnection requests, consistent with the timelines and financial security requirements used by the California Independent System Operator Corporation (CAISO) under its new GIP.⁵ SoCal Edison explained that because WDAT interconnection requests can and do have network impacts, affecting the CAISO-controlled grid, the study processes for interconnection requests to its distribution system must be coordinated with requests to interconnect to the CAISO grid.⁶ SoCal Edison stated that two cluster application windows will be offered annually in conjunction with the CAISO interconnection cluster windows so that SoCal Edison and CAISO interconnection requests can be studied simultaneously.

4. Additionally, in order to provide expedited consideration in those situations where clustering is not necessary, SoCal Edison proposed three alternative interconnection processes for qualifying generators. Specifically, in addition to the cluster study process, the GIP provided an independent study process, a fast track process and continuation of the under 10 kW inverter process. The GIP provided that interconnection requests under these processes are not subject to cluster application windows and may be submitted at any time during the year.⁷

5. The WDAT Order conditionally approved SoCal Edison's GIP Proposal, finding that it satisfied the applicable "consistent with or superior to" standard.⁸ Regarding SoCal Edison's proposal to offer a combined cluster study process, the Commission found that clustering "all electrically-interrelated projects will allow SoCal Edison to efficiently eliminate the current backlog of interconnection requests and work towards achieving California's 33 percent renewable portfolio standard."⁹ The Commission also

³ GIP Proposal at 9-10.

⁴ *Id.* P 6.

⁵ CAISO's GIP was conditionally approved by the Commission in December 2010. *Cal. Indep. Sys. Operator Corp.*, 133 FERC ¶ 61,223 (2010).

⁶ GIP Filing at 12.

⁷ *Id.* at 13-14.

⁸ WDAT Order, 135 FERC ¶ 61,094 at P 27.

⁹ *Id.* P 51.

found that coordinating the cluster study processes for interconnection requests to SoCal Edison's distribution and the CAISO-controlled transmission system would achieve greater efficiency and effectively manage network impacts on both systems.

6. The Commission rejected parties' objections to the length of the combined cluster study process, finding that comparisons to how the SGIP serial study process works on paper were misplaced.¹⁰ The Commission also rejected Clean Coalition's concern regarding the lack of objective criteria for determining cluster study boundaries. The Commission found that establishing such criteria would not be feasible because the composition of each cluster would be fact-sensitive and dependent upon the characteristics of the specific applicants in each cluster window.¹¹ The Commission rejected requests for a technical conference or independent audit of the cluster study process, explaining that it was premature to require further refinements of its GIP before SoCal Edison had an opportunity to gain experience with the new procedures and collaborate with CAISO and other participating transmission owners to identify any such future refinements.¹²

7. The Commission accepted SoCal Edison's proposal to establish an independent study process as an alternative to the cluster study process. The Commission disagreed with protestors' arguments that the two-part screen proposed by SoCal Edison lacked sufficient detail.¹³ The Commission found that SoCal Edison's evaluation of electrical independence, which relies on SoCal Edison's engineering judgment, "is just and reasonable, given the purpose of the independent study process," which is designed to obviate the need for additional studies for electrically-independent projects.¹⁴

8. The Commission accepted SoCal Edison's proposed modifications to its fast track process as a reasonable approach to qualifying a broader range of projects as eligible for fast track treatment, while ensuring the safety and reliability of the grid.¹⁵ The

¹⁰ *Id.* P 52.

¹¹ *Id.* P 55.

¹² *Id.* P 56.

¹³ Projects submitted to SoCal Edison's independent study process must pass two screens: (1) a determination of electrical independence, conducted by CAISO, pursuant to CAISO's objective, Commission-approved criteria; and (2) an evaluation of electrical independence, conducted by SoCal Edison. *Id.* P 61.

¹⁴ *Id.* P 61.

¹⁵ *Id.* P 91.

Commission rejected Clean Coalition's allegation that certain proposed tariff sections contained "poison pill" language, which would effectively subject developers to unlimited financial risk. The Commission found that these provisions represent "a reasonable tradeoff between speed and accuracy," and are also consistent with well-established Commission policy that interconnection facilities and/or distribution upgrades are the financial responsibility of interconnection customers.¹⁶

9. The Commission also rejected requests to require SoCal Edison to commit to future modification of the fast track review screens. The Commission found that the first nine screens included in the GIP Proposal were the same as those that SoCal Edison had used under the SGIP, which were taken directly from Order No. 2006. Similarly, the Commission accepted SoCal Edison's proposal to continue using the 2MW threshold established by Order No. 2006 for its fast track process and the continued use of the 15 percent peak load screen, again noting that SoCal Edison proposed no substantive change in these screens to the Commission-approved *pro forma* screens.¹⁷

II. Requests For Rehearing

10. On May 30, 2011, Clean Coalition filed a timely request for rehearing. Clean Coalition argues that the Commission erred by improperly applying a more lenient standard of review to the GIP Proposal than that required by law. Clean Coalition asserts that the applicable law requires any proposed changes to SoCal Edison's SGIP to be consistent with or superior to the existing SGIP, and that the Commission's determinations "must be supported by arguments explaining how each variation meets the standard of review."¹⁸ Clean Coalition contends that SoCal Edison did not argue, nor did the Commission find, that each change in the GIP Proposal is consistent with or superior to the SGIP. Clean Coalition argues that, rather than evaluating each modification to SoCal Edison's SGIP, as required under Order No. 2003,¹⁹ the

¹⁶ *Id.* P 92.

¹⁷ *Id.* P 74, 95.

¹⁸ Clean Coalition Rehearing Request at 5.

¹⁹ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

Commission “took a gestalt approach and concluded ... that the net change was positive.”²⁰

11. Specifically, Clean Coalition claims that the net effect of the GIP is to increase costs for applicants and lengthen the interconnection study timelines, which is not consistent with or superior to the SGIP. Clean Coalition asserts that the cluster study timeline estimate offered by SoCal Edison of 320 days ignores waiting periods throughout the process. Clean Coalition argues that in order to make an “apples to apples” comparison between the old SGIP serial process and the new GIP cluster study process, those waiting periods must be accounted for. When the waiting periods are included, Clean Coalition estimates that the average cluster study process will take 692 days, as compared to the SGIP timeline of 320 calendar days. Clean Coalition states that this doubling of the timeline on paper is the main reason why the GIP cannot be deemed consistent with or superior to the SGIP, unless SoCal Edison shows that the fast track or independent study processes are viable alternatives. Clean Coalition acknowledges that it does not know what the average interconnection study timeline is under the SGIP, but states that it assumes it has been shorter than the paper timeline under the GIP.²¹

12. Clean Coalition argues that the fast track process is “fatally flawed,” such that it is not a viable alternative to the cluster study process. Clean Coalition asserts that newly-added sections 6.6. and 6.7 of the GIP imposes on developers an indefinite cost liability associated with future engineering or other study work related to both distribution and network upgrades, with no temporal limit for this cost liability. Clean Coalition repeats the arguments made in its protest that these provisions constitute “poison pill” language that effectively renders the fast track process useless because it is too risky. Clean Coalition requests that the Commission order SoCal Edison to remove any reference to future costs other than those identified at the time of interconnection through the fast track studies.²²

13. Further, Clean Coalition asserts that the Commission made several other factual errors that constitute grounds for rehearing. First, Clean Coalition claims that the WDAT Order commits logical and factual contradictions by finding that the fast track is a viable alternative to the cluster study process while also arguing that fast track applicants “must accept uncapped, undefined and indefinite financial liability” in order to proceed under

²⁰ Clean Coalition Rehearing Request at 14.

²¹ *Id.* at 5-7 (contending that SoCal Edison could add new staff to resolve the serial study back log).

²² *Id.* at 8-9.

that option.²³ Second, Clean Coalition also argues that the WDAT Order made a factual error by describing the range of protestors' estimates of the cluster study timeline as "between 510 to 690 days." Clean Coalition emphasizes that it argued that the process would take an average, and not a maximum, of 692 days. Clean Coalition contends that this is a significant difference in meaning and constitutes grounds for rehearing.²⁴ Finally, Clean Coalition objects to SoCal Edison's statement that more than 50 interconnection requests have qualified for the fast track process since its implementation. Clean Coalition claims that SoCal Edison never presented evidence of this during the stakeholder process.²⁵

14. With regard to the independent study process, Clean Coalition argues that this process is "fatally flawed" because the GIP provides no objective criteria for determining whether a project qualifies for this option. Clean Coalition contends that unlike CAISO, which uses objective screens for electrical independence, SoCal Edison bases its screens entirely on engineering judgment. Thus, Clean Coalition repeats arguments raised in its protest that, as written, the independent study process constitutes a black box that grants SoCal Edison total discretion to deny independent study requests with no explanation other than "engineering judgment." Clean Coalition asserts that without improvements or clarifications on this issue, the independent study process represents a "false hope" for small developers.²⁶

15. Clean Coalition also refers to paragraph 55 of the WDAT Order, in which the Commission rejected Clean Coalition's request for objective criteria for determining cluster boundaries, and asserts that the Commission confused Clean Coalition's point regarding the need for objective criteria. Clean Coalition contends that because a set of "objective" criteria would apply to all situations, no foreknowledge of the individual projects in any particular area is necessary.²⁷ Clean Coalition questions why the use of objective criteria is feasible for CAISO's GIP, but not for SoCal Edison's GIP.

16. Clean Coalition claims that the fatally flawed fast track and independent study processes will be to force small developers into the cluster study process.²⁸ For instance,

²³ *Id.* at 11-12.

²⁴ *Id.*

²⁵ *Id.* at 10-11.

²⁶ *Id.* at 11-12.

²⁷ *Id.* at 12.

²⁸ *Id.* at 13.

Clean Coalition contends that applicants seeking to avoid the default cluster study process by requesting the independent study process will not know if they have satisfied the independence criterion before applying²⁹ As a result, according to Clean Coalition, applicants will have to pay a second application fee of \$50,000 plus \$1,000 per megawatt if the applicant is rejected from the independent study process and forced to later join the cluster study process.³⁰

17. Finally, Clean Coalition argues that in the WDAT Order, the Commission erroneously disregarded intervenors' concerns by finding, over protests, that SoCal Edison's GIP includes viable alternatives to the cluster study process and that the revised fast track process includes relaxed qualification standards.³¹

18. On May 31, 2011, Irwin Energy Security Partners (Irwin Energy) filed a motion to intervene out of time and a request for rehearing.³² Irwin Energy states that on June 21, 2009, it was selected by the United States Army, Army Corps of Engineers to assist with a solar energy development project in the SoCal Edison service territory. Irwin Energy maintains that it failed to intervene in this proceeding due to certain delays related to the project. Thus, Irwin Energy requests that the Commission accept its late motion and grant rehearing, allowing Irwin Energy to participate in the 2011 cluster window.³³

III. Discussion

A. Procedural Matters

19. When late intervention is sought after the issuance of a dispositive order, the prejudice to other parties and burden upon the Commission of granting the late intervention may be substantial. Thus, the movant bears a higher burden to demonstrate good cause for granting such a late intervention. Irwin Energy has not met this higher burden of justifying late intervention. Accordingly, we reject Irwin Energy's untimely motion to intervene. Because Irwin Energy is not a party to this proceeding, it lacks

²⁹ Clean Coalition Rehearing Request at 13.

³⁰ *Id.*

³¹ *Id.* at 16-17.

³² Irwin Energy Motion and Rehearing Request at 3-4.

³³ *Id.* at 6.

standing to seek rehearing of the WDAT Order under the FPA and the Commission's regulations.³⁴

B. Substantive Matters

20. We will deny Clean Coalition's request for rehearing. First, we reject Clean Coalition's assertion that the Commission applied the incorrect legal standard. While the SoCal Edison WDAT Order may not have expressly made the finding that each and every provision of SoCal Edison's proposal was "consistent with or superior to" the *pro forma*, the Commission clearly stated that "consistent with or superior to" was the applicable standard of review and found that "SoCal Edison's revised GIP satisfies the consistent with or superior to standard."³⁵ Regarding Clean Coalition's assertion that SoCal Edison's GIP fails the "consistent with or superior to" standard due to increased study timelines, we find that Clean Coalition bases its comparison on the paper process set forth in the former SGIP rather than using the actual results and consequences of that process. Clean Coalition has admitted that it does not know the average interconnection study timeline under the SGIP, but appears to assume that it is shorter than the new process under the WDAT. As we stated in our original order, Clean Coalition's comparison of the serial study process to the cluster study process is flawed because its comparison fails to take into account the backlog that has occurred under the serial study process when multiple interconnection requests are electrically related to each other.³⁶ As with its initial comments, Clean Coalition's only support for its objections regarding the timeline of the GIP process is this flawed comparison. Therefore, we deny rehearing on this issue.

21. Additionally, we continue to reject Clean Coalition's claim that the fast track process is flawed due to the alleged "poison pill" provision that imposes financial responsibility for subsequent engineering or study work related to the upgrades. We find that Clean Coalition's argument continues to ignore well-established Commission policy that interconnection upgrades are the financial responsibility of interconnection customers because these upgrades generally do not benefit all users.³⁷ As we stated in

³⁴ See 16 U.S.C. § 825(a) (2006); 18 C.F.R. § 385.713(b) (2011); *Southern Co. Services, Inc.*, 92 FERC ¶ 61,167 (2000).

³⁵ WDAT Order, 135 FERC ¶ 61,093 at P 27.

³⁶ Our alleged error in describing Clean Coalition's argument as presenting a cluster study timeline of up to 690 days rather than an average of 692 days is irrelevant to our ultimate determination. Regardless of the timeline applied, Clean Coalition is still comparing the GIP to the SGIP's paper process. Because it is the comparison itself that is inappropriate, using a different timeline would not result in a different determination.

³⁷ See, e.g., Order No. 2006, FERC Stats. & Regs. ¶ 31,180 at P 407-408.

the WDAT Order, the provisions at issue simply provide notice to interconnection customers that such facilities might be identified later and, if so, will be reflected in an updated generator interconnection agreement. If a generator opts for an expedited study process, it does so with the knowledge that the associated cost estimates may be less accurate than if it participated in the full cluster study process, which has cost certainty but includes additional studies.³⁸ Thus, we find that Clean Coalition raises no new arguments to persuade us to reconsider our finding in the WDAT Order.

22. Similarly, we reject Clean Coalition's arguments regarding the independent study process. First, we find that Clean Coalition appears to conflate the issue of objective criteria for cluster boundaries with the issue of objective criteria for determining electrical independence. The question of whether a project belongs in a particular cluster is distinct from whether that project can be safely studied independently and therefore does not have to be part of a cluster at all. Also, we reiterate that establishing objective criteria is not feasible because the composition of each cluster would be fact-sensitive and dependent upon the characteristics of the specific applicants in each cluster window.³⁹ Thus, we continue to find, for the reasons cited in the WDAT Order,⁴⁰ that objective criteria for cluster boundaries is impractical. Additionally, we find that SoCal Edison's electrical independence test is sufficiently objective as to make the independent study process a viable alternative to the cluster study process.

23. Further, we disagree with Clean Coalition that SoCal Edison's independence review constitutes a "black box of engineering judgment." As the Commission explained in the WDAT Order, the SoCal Edison test is comprised not only of SoCal Edison's engineering judgment, but also the objective criteria set forth in the CAISO GIP.⁴¹ Based on the CAISO criteria and the system information provided by SoCal Edison, applicants should have a reasonable idea of whether a project will qualify for this process. Finally, the posting requirements established in the WDAT Order should provide transparency into SoCal Edison's interconnection process and further assist applicants in selecting the most appropriate interconnection process for their projects.⁴²

³⁸ WDAT Order, 135 FERC ¶ 61,094 at P 92.

³⁹ *Id.* P 55.

⁴⁰ *Id.* P 46.

⁴¹ *Id.* P 61.

⁴² *Id.* P 55.

24. Regarding Clean Coalition's claims of alleged factual errors that warrant rehearing, we find that the alleged errors amount to mere semantic differences with no substantive bearing on the Commission's analysis or findings. Therefore, we deny rehearing on this issue.

The Commission orders:

(A) Clean Coalition's request for rehearing is denied, as discussed in the body of this order.

(B) Irwin Energy's motion to intervene out of time is denied, as discussed in the body of this order.

By the Commission. Commissioner Spitzer is not participating.

(S E A L)

Kimberly D. Bose,
Secretary.