

144 FERC ¶ 61,072
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

San Diego Gas & Electric Company

Docket No. ER13-1596-000

ORDER GRANTING LIMITED WAIVER

(Issued July 30, 2013)

1. On May 30, 2013, San Diego Gas & Electric Company (SDG&E) filed a request for a one-time, limited waiver of certain requirements in Citizens Sunrise Transmission LLC Border East Line Rate (Appendix X) of SDG&E's currently-effective Transmission Owner (TO) Tariff.¹ Specifically, SDG&E's requested waiver will defer filing of its Cycle 2 informational filing² from May 30, 2013 to June 28, 2013, with a proposed effective date of July 1, 2013. The waiver will allow SDG&E additional time to correct an error recently determined in the charge calculation under SDG&E's Appendix X formula.³ In this order, we grant the limited waiver, as discussed below.

I. Background

2. Citizens Sunrise Transmission LLC (Citizens Sunrise), a wholly-owned subsidiary of Citizens Energy Corporation, prepaid SDG&E \$85.194 million to lease 50 percent of

¹ The Commission conditionally accepted Appendix X in *San Diego Gas & Electric Company*, 139 FERC ¶ 61,188 (2012). Appendix X provides a formula rate to be revised annually on the basis of an informational filing to be made just prior to June 1 of each year. The rate effective period extends from June 1 of each year to May 31 of the following year and is subject to a true-up mechanism.

² Cycle 2 refers to the second cycle of annual informational filings by SDG&E under Appendix X.

³ Concurrently with the informational filing SDG&E intends to submit a separate FPA section 205 filing to modify Appendix X (Formula Modification Filing).

the transfer capability of the Border East Line⁴ for 30 years.⁵ SDG&E charges Citizens Sunrise a formula rate for the operation and maintenance of the Border East Line, which is set forth as the Border East Line Rate in Appendix X of the SDG&E TO Tariff.⁶ SDG&E is required to file an Appendix X informational filing prior to June 1 of each year to determine the relevant costs to be incorporated into the Border East Line Rate for the rate effective period, which begins on June 1 and remains in effect through May 31 of the subsequent year.⁷

3. SDG&E explains that the annual calculation of the Border East Line Rate is based on the previous calendar year's data as represented in SDG&E's FERC Form 1, with the true-up adjustment cost component determined through an annual reconciliation of the difference between SDG&E's actual costs of providing the transmission service and the actual revenues received from Citizens Sunrise for transmission services during the true-up period.⁸ According to SDG&E, in Cycle 1 SDG&E and Citizens Sunrise had to make certain estimates based on forecasted costs that were expected to flow through Appendix X. Now that Sunrise Powerlink is operational, SDG&E is able to utilize actual cost data in calculating the Border East Line Rate as it prepares to submit its Cycle 2 informational filing.

II. SDG&E's Filing

4. SDG&E states that in preparing the Cycle 2 informational filing, it became apparent to SDG&E that the currently-approved Appendix X formula apportions a greater portion of costs to Citizens Sunrise than is appropriate given the nature and operations of the Border East Line.⁹

⁴ San Diego Gas & Electric May 30, 2013 Petition at n.3, 4 (SDG&E Petition). SDG&E states that the Border East Line segment is located between the Imperial Valley substation and the San Diego County line and is part of the SDG&E's Sunrise Powerlink Transmission line, which stretches from the Imperial Valley substation to load-centers in western San Diego County, California.

⁵ SDG&E Petition at 2.

⁶ SDG&E, eTariff, FERC Electric Tariff, TO Tariff Filing, app. X (4.0.0).

⁷ SDG&E Petition at 2-3.

⁸ *Id.* at 3.

⁹ SDG&E Petition at 6, n.12.

5. Accordingly, SDG&E states that it seeks this waiver in order to make the appropriate adjustments in its planned Formula Modification Filing and Cycle 2 informational filing, in order to reflect a correct charge to Citizens Sunrise for the Cycle 2 rate effective period.¹⁰ SDG&E argues that, absent a waiver, a demonstrably incorrect charge to Citizens Sunrise would become effective on June 1, 2013. SDG&E argues that the improper charge would cause severe economic harm to Citizens Sunrise. SDG&E also requests waiver, to the extent it is necessary, to make a Federal Power Act section 205 filing to modify its Appendix X formula.

6. SDG&E states that good cause exists to grant the requested waiver because the underlying errors in the Appendix X formula were unintended. According to SDG&E, the errors became apparent after application of the formula during the initial two cycles of Appendix X. SDG&E also notes that the waiver is limited in duration as the requested waiver will defer the Cycle 2 information filing 30 days, and limited in scope as SDG&E does not expect to request additional waivers regarding this issue.¹¹

7. SDG&E further argues that granting the requested waiver will benefit a customer and not harm third parties.¹² According to SDG&E, all parties will continue to pay their currently-effective rates through June 30, 2013, and the true-up mechanism will operate during Cycle 3 to address any differential resulting from the one-month delayed effective date arising from the grant of the waiver. SDG&E further states that Citizens Sunrise will continue paying its currently-effective rate to SDG&E through the waiver period, after which the new rate will become effective July 1, 2013, subject to refund, pending Commission action on the Cycle 2 informational filing and the modified Appendix X formula.

III. Notice of Filing and Responsive Pleadings

8. Notice of SDG&E's filing was published in the *Federal Register*, 78 Fed. Reg. 34,363 (2013), with interventions and protests due on or before June 20, 2013. Motions to intervene were filed by Modesto Irrigation District, Trans Bay Cable, LLC, the City of Santa Clara, California and the M-S-R Public Power Agency and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California. The Commission received no comments or protests.

¹⁰ Citizens Sunrise also petitioned the Commission in Docket No. ER13-1598 for deferral of its Appendix III informational filing from May 30, 2013 to June 28, 2013. Concurrently with this order, the Commission granted waiver of the requested deferral.

¹¹ SDG&E Petition at 5.

¹² *Id.* at 6-7, n.13.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2012), the timely, unopposed motions to intervene serve to make the entities that filed them parties to the proceeding.

B. Commission Determination

10. The Commission has historically granted certain waiver requests involving an emergency situation or an unintentional error.¹³ Additionally, when good cause for a waiver of limited scope exists, there are no undesirable consequences, and the resultant benefits to customers are evident, we have found that a one-time waiver is also appropriate.¹⁴ Based on the factors presented in this case, we find that SDG&E's request for waiver meets these conditions and thus, for the reasons discussed below, we grant SDG&E's request for limited waiver to defer filing of its Cycle 2 informational filing from May 30, 2013 to June 28, 2013.¹⁵

11. We agree with SDG&E that the requested waiver is limited in scope because the informational filing will be delayed for 30 days and limited to the Border East Line. Under the circumstances presented, good cause exists to delay the filing of SDG&E's informational filing by 30 days and permit SDG&E to concurrently submit its Formula Modification Filing, in order to accurately reflect the resultant charges to Citizens Sunrise

¹³ See *ISO New England Inc.*, 117 FERC ¶ 61,171, at P 21 (2006) (granting limited and temporary change to tariff to correct an error); *Great Lakes Transmission LP.*, 102 FERC ¶ 61,331, at P 16 (2003) (granting emergency waiver involving *force majeure* event for good cause shown); *TransColorado Gas Transmission Co.*, 102 FERC ¶ 61,330, at P 5 (2003) (granting waiver for good cause shown to address calculation invariance adjustment).

¹⁴ See *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at 24 (2007); *Cal. Indep. Sys. Operator Corp.*, 124 FERC ¶ 61,031 (2008) (granting waivers of the CAISO's Large Generator Interconnection Procedures (LGIP) to allow CAISO to create three study groups in order to streamline interconnection requests). See also *Cal. Indep. Sys. Operator Corp.*, 132 FERC ¶ 61,132 (2010) (granting limited waiver of the LGIP for projects in the transition cluster when a participating transmission owner has committed to up-front fund all or a portion of the customer's share of network upgrades).

¹⁵ We do not address SDG&E's request for waiver of to submit a section 205 filing to modify its Appendix X formula because we find such waiver unnecessary, given that SDG&E is not prohibited from making a separate section 205 filing.

under Appendix X of SDG&E's TO Tariff. Furthermore, we find that there are no undesirable consequences that follow from such a brief delay.

12. Finally, we find that benefits to customers are evident in this matter. According to SDG&E, in the absence of granting waiver, Citizens Sunrise would experience approximately a four-fold increase in its rates for the rate effective period beginning June 1, 2013 over the prior cycle's rates.¹⁶

The Commission orders:

SDG&E's request for limited, one-time waiver is granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁶ SDG&E Petition at 5.