

144 FERC ¶ 61,073
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.

Citizens Sunrise Transmission LLC

Docket No. ER13-1598-000

ORDER GRANTING LIMITED WAIVER

(Issued July 30, 2013)

1. On May 30, 2013, Citizens Sunrise Transmission LLC, a wholly-owned subsidiary of Citizens Energy Corporation (Citizens Sunrise) filed a request for a one-time, limited waiver of Appendix III of its currently-effective Transmission Owner (TO) Tariff¹ to allow Citizens Sunrise to defer making its informational filing from May 30, 2013 to June 28, 2013, with a proposed effective date of July 1, 2013. In this order, we grant the one-time, limited waiver, as discussed below.

I. Background

2. Citizens Sunrise has leased from San Diego Gas and Electric Company (SDG&E) 50 percent of the transfer capability of the Border East Line of the Sunrise Powerlink Transmission Project.² SDG&E operates and maintains the Border East Line for Citizens Sunrise. The operating and maintenance costs charged to Citizens Sunrise for its interest in the Border East Line are established, by formula, in Appendix X of SDG&E's TO

¹ The Commission conditionally accepted Citizens Sunrise's TO Tariff, including Appendix III in *Citizens Sunrise Transmission LLC*, 138 FERC ¶ 61,129 (2012). Appendix III provides a formula rate to be revised annually on the basis of an informational filing to be made just prior to June 1 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 The Sunrise Powerlink Transmission Project is a 120-mile, 500 kV transmission line and associated upgrades that extend from SDG&E's Imperial Valley substation to load-centers in western San Diego County, California. The Border East Line segment leased to Citizens Sunrise is located between SDG&E's Imperial Valley substation and the San Diego County line.

Tariff. Pursuant to Appendix III of its TO Tariff, Citizens Sunrise will incorporate the operating cost amount into its informational filing to true-up the operating cost component of its Transmission Revenue Requirement (TRR).³

3. Citizens Sunrise has recently been advised by SDG&E that there are problems with the formula in SDG&E's Appendix X, which is used to calculate the operation and maintenance costs allocated to Citizens Sunrise for its interest in the Border East Line. According to Citizens Sunrise, SDG&E has advised it that the formula apportions a significantly larger portion of costs to Citizens Sunrise than is warranted by the nature and operation of the Border East Line.⁴ SDG&E is concurrently petitioning the Commission for deferral of its Appendix X informational filing from May 30, 2013 to June 28, 2013, until it can make a concurrent formula modification filing which will enable it to reflect correct formulaic constructs.⁵

II. Citizens Sunrise's Filing

4. Citizens Sunrise is requesting a one-time, limited waiver of its TO Tariff, Appendix III requirement that it file its annual informational filing no later than May 30. Citizens Sunrise argues that, absent the requested waiver, SDG&E's flawed formula will force it to include an erroneous amount in its TRR. Citizens Sunrise states that denial of the requested waiver will create an unintended and inappropriate allocation of costs between the Border East Line and the rest of the SDG&E system that will cause severe economic harm to Citizens Sunrise. Citizens Sunrise asserts that a deferral of its informational filing, allowing it to receive the correct formulaic input from SDG&E, is in the public interest.⁶

5. Citizens Sunrise argues that good cause exists to grant waiver because the underlying errors, inherent in the SDG&E formula, were unintended and not apparent on their face. According to Citizens Sunrise, SDG&E only became aware of the errors as a

result of experience gained through application of the formula during the initial two

³ Citizens Sunrise May 30, 2013 Petition at 2 (Citizens Sunrise Petition).

⁴ *Id.* at 3.

⁵ SDG&E also petitioned the Commission for waiver in Docket No. ER13-1596-000. Concurrently with this order, the Commission grants SDG&E's requested waiver.

⁶ Citizens Sunrise Petition at 3-4.

cycles of SDG&E's Appendix X.⁷

6. Citizens Sunrise states that no undesirable consequences will result from granting this request for limited waiver. Citizens Sunrise states that, like SDG&E's waiver request, Citizens Sunrise's request is limited in duration and scope and will permit Citizens Sunrise to obtain the correct cost amount from SDG&E to appropriately reflect the annual charge for operation and maintenance of the Border East Line. Citizens Sunrise indicates that it does not expect to have to request additional waivers regarding this issue and therefore, this is a one-time waiver request.⁸

7. According to Citizens Sunrise, the true up mechanism of the formula will negate any potential harm to customers caused by the deferral of its informational filing. Citizens Sunrise asserts that all parties will continue to pay their currently-effective rates through June 30, 2013. Citizens Sunrise adds that the true-up that it will file in 2014 will address any differential resulting from the one-month deferral. Citizens Sunrise asserts that the waiver will not harm third parties, as all parties will be charged the appropriate rate envisioned by the Commission and all parties in the development of the Boarder East Line.⁹

III. Notice of Filing and Responsive Pleadings

8. Notice of Citizens Sunrise'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 the Modesto Irrigation District, the City of Santa Clara, California and the M-S-R Public Power Agency, Pacific Gas and Electric Company and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena and Riverside, California. The Commission received no comments or protests.

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.

⁷ *Id.* at 4.

⁸ *Id.* at 5.

⁹ *Id.* at 6-7.

B. Commission Determination

10. The Commission has historically granted certain waiver requests involving an emergency situation or unintentional error.¹⁰ 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.¹¹ Based on the factors presented in this case, we find that Citizens Sunrise's request for waiver meets these conditions and thus, for the reasons discussed below, we grant Citizens Sunrise's request for limited waiver to defer the filing of its informational filing from May 28, 2013 to June 30, 2013.

11. We agree with Citizens Sunrise that the requested waiver is limited in both duration and scope because it will be in effect only from May 30, 2013 to June 28, 2013 and will apply only to the filing of Citizens Sunrise's informational filing. Furthermore, we find that there are no undesirable consequences that follow from Citizens Sunrise deferring the filing of its informational filing by 30 days.

12. Finally, we find that benefits to customers are evident in this matter. Granting the waiver will permit Citizens Sunrise to appropriately reflect the annual charge for operation and maintenance of the Border East Line in its informational filing. We find that the true-up mechanism in Citizens Sunrise's formula rate will address any differential resulting from the one-month deferral. Under the circumstances presented, good cause exists to delay the filing of Citizens Sunrise's informational filing for 30 days.

¹⁰ 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).

¹¹ See *Cal. Indep. Sys. Operator Corp.*, 118 FERC ¶ 61,226, at P 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).

The Commission orders:

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

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.