

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

Mirant Las Vegas, et al.

Docket Nos. TX03-1-000
TX03-1-001
TX03-1-002
ER02-1741-000
ER02-1741-001
ER02-1741-002
ER02-1742-000
ER02-1742-001
ER02-1742-002

ORDER ON APPLICATION UNDER SECTIONS 210 AND 212
OF THE FEDERAL POWER ACT REQUESTING ESTABLISHMENT OF
INTERCONNECTION RATES, TERMS AND CONDITIONS

(Issued February 17, 2004)

1. This order finds that changing circumstances have overtaken a request that the Commission order interconnection under Section 210 of the Federal Power Act (FPA),¹ since there is no longer a need for the transmission upgrades upon which the parties premised their request. This order is in the public interest because it allows for the timely interconnection of new generation with the transmission network, thus promoting competition while protecting reliability.

I. Background

2. The McCullough Substation, in southern Nevada, consists of two switchyards, a 500-kV Switchyard and a 230-kV Switchyard. The Los Angeles Department of Water

¹ 16 U.S.C. § 824i (2000).

Power (LADWP), Nevada Power Company (Nevada Power), and the United States Department of the Interior, Bureau of Reclamation (Bureau of Reclamation) (collectively, McCullough Owners) are co-owners of the McCullough Substation. LADWP is the operating agent for the McCullough Substation.

3. Applicants² own or are developing generating facilities in southern Nevada that interconnect or will interconnect with Nevada Power's transmission system.
4. Nevada Power's transmission system is connected with the McCullough Substation. Nevada Power has an agreement with LADWP (the McCullough Letter Agreement) that obligates Nevada Power to fund upgrades to the McCullough Substation that become necessary because of the interconnection of new facilities to the Nevada Power transmission system. In turn, each Applicant has agreed through a Memorandum of Understanding between itself and Nevada Power and filed with the Commission in Docket Nos. ER02-1741-000 and ER02-1742-000³ to pay its share of Nevada Power's cost of the McCullough upgrades, if any, made necessary by its interconnection with the Nevada Power transmission system.
5. Applicants' interconnections to Nevada Power's transmission system have necessitated upgrades to the McCullough 500 kV Switchyard. Nevada Power has funded these upgrades and has collected those funds from Applicants.
6. The McCullough Letter Agreement also obligates Nevada Power to fund upgrades to the McCullough 230 kV Switchyard when they become necessary because of interconnections with its transmission system. The Short Circuit Working Group Fault Duty Analysis dated September 4, 2001 (Short Circuit Analysis) studied Applicants' projects and other projects⁴ as a group, and concluded that the group would cause a need to upgrade the McCullough 230 kV Switchyard.

² Applicants are Mirant Las Vegas, LLC (Mirant Las Vegas), Duke Energy Moapa, LLC (Duke Energy), Gen West, LLC (Gen West), Las Vegas Cogeneration II, LLC (Las Vegas Cogen), and Reliant Energy Bighorn, LLC (Reliant Energy).

³ See Nevada Power Company, 100 FERC ¶ 61,037 at P 1-3, 12-15 (2002) (Order accepting Memoranda of Understanding for filing).

⁴ These projects include: (a) Nevada Power's Centennial Project, which includes a 500 kV transmission line (See McCullough Owners' Protest at 13; Verified Statement of Dr. Tim Wu at 2-8); and (b) a generating facility that Diamond Generating Corporation (Diamond) is developing near Pahrump, Nevada.

A. The Application

7. On March 17, 2003,⁵ Applicants filed an application under Sections 210 and 212 of the FPA⁶ requesting that the Commission direct the McCullough Owners to: (1) release Nevada Power from financial responsibility for upgrades to the McCullough 230 kV Switchyard (which in turn would make it unnecessary for Applicants to reimburse Nevada Power); and (2) provide Applicants with transmission credits, with interest or other compensation, for the upgrades that the Applicants have funded for the McCullough 500 kV Switching Station.⁷ Applicants also move to consolidate this application with Docket Nos. ER02-1741-000 and ER02-1742-000, which are currently in settlement proceedings.⁸

8. With regard to their first request, Applicants contend that certain other generating projects that were supposed to interconnect with the Nevada Power transmission system (and that the Short Circuit Analysis studied along with Applicants as a group) have been significantly delayed, so that they should not be considered as part of the same group for the purpose of determining whether there is a need for upgrades at the McCullough 230 kV switchyard. They say that their interconnections with that transmission system in themselves do not necessitate upgrades to the 230 kV McCullough Switchyard, but that LADWP, in its capacity as operating agent for the McCullough intends to charge the cost of future upgrades to that Switchyard, when they become necessary, to Nevada Power.⁹

⁵ Applicants amended their Application on April 4, 2003 to include the Bureau of Reclamation as a co-owner of the McCullough Substation.

⁶ 16 U.S.C. §§ 824i and 824k (2000).

⁷ Application at 2, 12. In its answer (filed May 1, 2003), Nevada Power stated that it will provide transmission credits for its portion of the upgrades at the 500 kV McCullough Switchyard. See Nevada Power answer at 10.

⁸ Id.

⁹ Each of the Applicants has an indirect contractual relationship with LADWP. Nevada Power's transmission system is directly interconnected with LADWP's transmission system at the McCullough Substation under an agreement that obligates Nevada Power to fund upgrades at the McCullough Substation made necessary by the interconnection of new facilities with the Nevada Power transmission system. In turn,
(continued)

Under the Memoranda of Understanding with Nevada Power, Applicants will then become responsible for those costs, even though their projects do not necessitate the upgrades.

9. Applicants state that if the McCullough Owners release Nevada Power from its financial responsibility for upgrades to the McCullough 230 kV Switchyard, then Nevada Power, in turn, can release Applicants from their responsibility for those upgrades.¹⁰ Applicants maintain that it is unreasonable to hold them indefinitely responsible for upgrades to the McCullough 230 kV Switchyard that their interconnections with the Nevada Power transmission system do not necessitate and that will only become necessary because of the subsequent interconnections of other generators.

10. Second, Applicants seek transmission credits or other compensation from LADWP or the McCullough Owners for the upgrades to the McCullough 500 kV Switching Station that they have paid for.

B. Arguments Raised in Response to Application

11. In response to Applicants' first argument, the McCullough Owners contend¹¹ that the Application does not qualify for treatment under Section 210 of the FPA because Applicants' interconnection facilities do not and will not directly interconnect with the McCullough Substation.¹² They further argue that even if the Application did qualify for treatment under section 210, granting the Application would neither optimize the efficiency of the McCullough Substation nor improve the reliability of an electric utility system, as section 210 requires. Rather, according to McCullough Owners, relieving Nevada Power from its obligation to fund upgrades to the McCullough 230 kV Switchyard would degrade the reliability of the McCullough Substation.

each Applicant is contractually obligated to Nevada Power through the Memoranda of Understanding. Application at 8.

¹⁰Application at 12.

¹¹The McCullough Owners presented their arguments in the protest that LADWP filed on their behalf as well as in the protests that LADWP and Salt River filed separately.

¹²McCullough Owners' Protest at 11.

12. McCullough Owners acknowledge that certain projects have delayed their in-service dates. But they assert that as long as all of the Applicants intend to interconnect with Nevada Power, Nevada Power continues its Centennial Project, and Diamond does not cancel its project or push it so far into the future as to make its inclusion in the studied group unreasonable, there still need to be upgrades at the McCullough 230 kV Switchyard.

13. Diamond adopts several of the McCullough Owner's arguments and further argues that relieving Applicants of their share of the McCullough 230 kV Switchyard upgrade costs would shift a larger share of those costs to other projects that will interconnect with Nevada Power. According to Diamond, this would, in turn, discourage the addition of new sources of generation, thus degrading, rather than enhancing, the reliability of the Western Area transmission grid.

14. In response to Applicants' second argument, McCullough Owners oppose a grant of transmission credits for improvements to the McCullough Substation as beyond the scope of a section 210 proceeding.

15. Nevada Power filed a separate intervention in which it explains that the real problem here is that the study showing a need for upgrades to the McCullough 230 kV Switchyard, the Short Circuit Analysis, analyzed the effect on the system of a group of projects that included Applicants' projects, Nevada Power's Centennial transmission project, and Diamond's project. However, Diamond has not made a definite commitment to pay its share of the costs, unlike Applicants, which have made secured commitments to pay their share of the costs whether their projects come on line or not. Nevada Power states that according to the Short Circuit Working Group Study results, if the Diamond Project alone is excluded from the scope of the study, the fault level falls below the rating of the McCullough 230 kV breakers and LADWP, in its capacity as operating agent, would be justified in eliminating the 230 kV breaker work from the McCullough scope. Nevada Power and, consequently, Applicants, would then be relieved from the financial obligations for such upgrade work.

C. Commission Request for Further Information

16. The Commission then requested the Applicants to supply further information about the status of their projects.¹³ The Commission noted the McCullough Owners' statement that:

¹³ Mirant Las Vegas, et al., 104 FERC ¶ 61,275 (2003) (September 12 Order).

As long as each of the Applicants intends to interconnect to [Nevada Power's transmission] system, [Nevada Power] continues to plan to construct and interconnect the Centennial Project, and the Diamond Project is not cancelled or pushed so far into the future as to make its inclusion in the 2003 test year study unreasonable, the combined effect of these facilities maintain the need to upgrade the McCullough 230 kV Switchyard. However, no money has been expended to date nor has equipment been ordered to upgrade the McCullough 230 kV Switchyard. When it becomes clear either that all of the Applicants' generator facilities, the Centennial Project and the Diamond Project either are committed to come on line or that any of the latter two projects or either of the Duke or Reliant Bighorn projects are canceled, a final decision can be made whether the upgrade of the McCullough 230 kV Switchyard will be required^{14]}

17. The Commission noted that the central issue in this proceeding is whether or not to continue to group all of the projects together for study and cost allocation purposes. To expedite the interconnection of Applicants' projects and to allocate cost responsibility for any upgrades at the McCullough 230 kV switchyard, the Commission sought the latest information about the status of Applicants' projects. Accordingly, it directed Applicants to supply the following information: (a) a detailed description of each project, including the proposed in-service date for each unit or phase of the project; (b) the milestones that each project has achieved to date; and (c) whether the Short Circuit Analysis that

¹⁴Id. at P 19. See McCullough Owners Answer at 17-18. See also Nevada Power Intervention at 7 (if Diamond Project is excluded, there is no necessity for upgrades at the 230 kV McCullough Switchyard); Diamond Intervention at 3 (the Short Circuit Analysis shows that interconnection of Applicants' projects plus interconnection of the Diamond and Centennial Projects necessitate upgrades); McCullough Owners Protest at 16-18, 21-25 (the need for upgrades at the 230 kV McCullough Switchyard remains unless one of the major projects, the Diamond or Centennial Project, is cancelled or significantly delayed); Verified Statement of Dr. Tim Wu at 8 (the Short Circuit Analysis shows that "if any one of the Duke, Bighorn, or Diamond projects were to be cancelled, the fault duty at the McCullough 230-kV substation would be below the interrupting capability of the circuit breakers at that substation.").

clustered together Applicants' projects, the Pinnacle West Project, the Centennial Project and Diamond's Ivanpah Project is still viable.¹⁵

D. Further Information Provided

18. On November 10 and November 12, 2003, Applicants and the McCullough Owners filed their responses to the Commission's request for information. Diamond filed an answer to Applicants' responses; Duke Energy, Genwest, and Mirant filed answers to Diamond's response; and Diamond filed an answer to their answers.

II. Discussion

A. Procedural Matters

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2002), prohibits an answer to an answer, unless otherwise permitted by the decisional authority. We will accept Diamond's answer because it has provided information that assisted us in our decision-making process.

B. Analysis

1. The Responses to the Commission's Request for Further Information

20. The parties' responses to the Commission's request for further information show that Mirant Las Vegas has constructed, owns and operates a 550 MW generation facility in Clark County, Nevada, which is interconnected with the Nevada Power transmission system. Its in-service date was May 31, 2003. Las Vegas Cogen has constructed and owns a 230 MW facility in North Las Vegas, Nevada and connected to the Nevada Power transmission system. Its in-service date was January 2003.

21. Reliant Energy is developing and will own the 500 MW gas-fired Big Horn generation facility, which is planned to interconnect with the Nevada Power transmission system and to come on line in the first quarter of 2004. Gen West is constructing, and will own and operate, the 590 MW Silverhawk Plant northeast of Las Vegas, Nevada. The Silverhawk Plant is planned to interconnect with Nevada Power's transmission system and to be in service by in mid-2004.

¹⁵ September 12 Order at P 20.

22. Diamond is developing the 500 MW Ivanpah project in Clark County, Nevada. It states that Clark County has authorized the necessary zoning and that it has secured or will soon secure all necessary regulatory permits. The Ivanpah project is planned to interconnect with the Valley Electric Association, Inc. (Valley Electric) transmission system. Diamond states that it has fully funded the design for temporary improvements at the Mead Substation that its interconnection with Valley Electric will necessitate. On January 16, 2004, in Docket No. ER04-424-000, Valley Electric filed an interconnection agreement with Diamond. The in-service date for the Ivanpah project is June 1, 2006.

23. Nevada Power is developing the Centennial Project, which is a comprehensive transmission project that includes multiple projects. It is designed to address the increased need for energy delivery to the Las Vegas Valley and to accommodate several independent power producers operating, or proposing to operate generating facilities in southern Nevada. Nevada Power has completed several components of the project. Other components have in-service dates from 2004 to 2006. The Harry-Allen-Mead 500 kV Project, which had an in-service date of April, 2006 is now scheduled to start service in January 2007.

24. Duke Energy has put its 1200 MW Duke Moapa Project indefinitely on hold pending favorable market conditions.¹⁶

2. Commission Determination

25. With respect to whether the Diamond project will come on line, the Applicants argue that, since they have made financial commitments that Diamond has not made, Diamond's project is less certain than theirs to come on line. We disagree. There is no evidence that this is the case. Diamond has funded temporary improvements at the Mead Substation and has an interconnection agreement with Valley Electric. In light of Diamond's meeting these and other milestones, it is obviously committed to this project, which is proceeding according to schedule. There is no requirement that Diamond make large payments long before construction of facilities is to begin.

¹⁶ See Duke Energy Response to Commission's request at 1.

The September 12 Order, P. 19 n.15 identified the Duke Moapa and Reliant Bighorn Projects as part of the Centennial Project. Duke Energy notes that neither the Duke Moapa nor the Reliant Bighorn Project is part of the Centennial Project. The Commission accepts this clarification.

26. Furthermore, we note that under the McCullough Letter Agreement, Nevada Power and LADWP outline their respective responsibilities for financing and arranging for the upgrades of the McCullough Switchyards. According to LADWP, the Letter Agreement provides for the flexibility for Nevada Power and LADWP to adjust the fault duty mitigation scope of work if an interconnecting generator cancels or significantly delays its project. We find that the indefinite postponement of Duke Energy's project constitutes a significant delay, requiring an adjustment to the scope of work.

27. In light of Duke Energy's decision to put on hold the Duke Moapa project, an adjustment to the scope of work is required. Based on the record, it appears that this study will demonstrate that further expansion will be unnecessary. That is, Nevada Power has indicated that, if the 500 MW Diamond Project did not go forward, upgrades to the 230 kV Switchyard would be unnecessary.¹⁷ Diamond's interconnection with Nevada Power will not trigger a need for upgrades at the McCullough 230 kV Switchyard because, even if the Diamond's Ivanpah project goes forward, with Duke Moapa's project being postponed, there is a net reduction of 700 MW from the previously used capacity amounts that the Short Circuit Working Group used in determining the need for such upgrades.

28. This finding disposes of the fundamental issue in this proceeding. If there are other unresolved issues that the Applicants wish to pursue, they must so notify the Commission within 30 days of the date of this order, and describe therein any efforts made by the parties during the 30-day period to settle such issues.¹⁸ If they do not respond within thirty (30) days after the issuance of this order, on the thirty-first (31) day after the issuance of this order this proceeding will be dismissed without further action on our part.

III. Request for Rehearing

29. On October 14, 2003, the Salt River Project Agricultural Improvement and Power District (Salt River) filed a request for rehearing of the September 12 Order. Salt River

¹⁷ Nevada Power's Answer at 7.

¹⁸ On March 19, 2003, the Settlement Judge in Nevada Power Company, Docket Nos. ER02-1741-000 and ER02-1742-000, which involves most of these same parties and issues similar to those before us here, issued a report to the Chief Judge and the Commission holding the proceeding in abeyance pending Commission action on the application here. See 102 FERC ¶ 63,046 (2003).

notes that the September 12 Order characterized Salt River as a co-owner of the McCullough Substation.¹⁹ It asks that the proceeding be dismissed with respect to it, since it holds its interest in the McCullough Substation solely for the benefit of the Bureau of Reclamation and has itself no ownership or other beneficial interest or usage rights in or financial obligation for the McCullough Substation and does not operate or control that Substation.

30. Salt River states that the McCullough 230-kV Switchyard Agreement among LADWP, the Bureau of Reclamation and Nevada Power sets forth the ownership interests in that Switchyard. Salt River notes that it is not a party to that Agreement and that the Agreement does not identify Salt River as having any interest in the McCullough 230-kV Switchyard.

31. Salt River further states that it is the United States Department of the Interior, Bureau of Reclamation (Bureau of Reclamation), not Salt River, that is the real owner in interest of the McCullough 500-kV Switchyard. Salt River also states that the Navajo Project Co-Tenancy Agreement makes it clear that Salt River merely holds title to the McCullough 500-kV Switchyard for the use and benefit of the Bureau of Reclamation. Salt River notes that it does not operate or control any of the McCullough 500-kV Switchyard facilities and, that both the Navajo Project Participation Agreement and the Navajo Project Co-Tenancy Agreement prevent Salt River from using the McCullough 500-kV Switchyard for its own use and benefit.²⁰

32. The information that Salt River has made available in its request for rehearing makes it clear that Salt River is not, in fact, a co-owner of the McCullough Substation. Accordingly, the Commission will grant rehearing on this issue.

The Commission orders:

(A) Applicants' request that the Commission release Nevada Power from financial responsibility for upgrades to the McCullough 230 kV Switchyard is hereby dismissed for the reasons discussed above.

¹⁹ See September 12 Order at P 2 listing Salt River as a co-owner of the McCullough Substation.

²⁰ See Salt River Rehearing at 4-5.

(B) Applicants are hereby directed to inform the Commission of any unresolved issues within 30 days of the date of issuance of this order or this proceeding will be dismissed as discussed in the body of this order.

(C) Salt River's request for rehearing is hereby granted.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.