

I. Background

2. On July 8, 2004, the California Public Utilities Commission (CPUC) issued Decision 04-07-028, which required CPUC-jurisdictional facilities to schedule and procure “sufficient and appropriate resources (both system-wide and locally within [their] service territories), to permit the CAISO to maintain reliable grid operations.”² Following this guidance, the CAISO developed its M-438 Operating Procedure, which “provides direction to load serving entities to commit generation units within Local Capacity Commitment Areas (LCCA) if the load serving entity has uncommitted generation units within an LCCA.”³ SoCal Edison is required to procure physical commitment and dispatch rights to at least 600 MWs of generation capacity to meet its obligation under the M-438 Procedure in the following area: South of Path 26, South of Lugo, and North of Miguel.

3. On September 9, 2004, in Docket No. ER04-1209, SoCal Edison filed to revise its TO Tariff to reflect the incremental costs incurred by SoCal Edison in following the M-438 Procedure as a new category of Reliability Service costs. On November 8, 2004, these tariff revisions became effective by operation of law. Subsequently, the Commission issued a ruling in Docket No. EL04-1209 that instituted an investigation pursuant to section 206 of the Federal Power Act (FPA)⁴ on the allocation of costs.⁵

4. On December 20, 2004, the Chief Administrative Law Judge (ALJ) issued an order in Docket No. EL05-29 (the section 206 investigation on the allocation of M-438 Operating Procedure costs) that suspended the procedural schedule for 90 days in order to allow SoCal Edison to make its 2005 Reliability Services True-Up filing and to file a motion to consolidate Docket Nos. EL04-1209 and EL05-29 with the True-Up filing. On December 30, 2005, in Docket No. ER05-410, SoCal Edison submitted its 2005 Reliability Services True-Up filing, and filed a motion to consolidate the above-mentioned proceedings. On February 28, 2005, in Docket No. ER05-410, the Commission accepted SoCal Edison’s 2005 Reliability Services True-Up filing effective January 1, 2005, subject to refund, consolidated it with Docket Nos. ER04-1209 and EL05-29, and set the consolidated cases for hearing and Settlement Judge procedures.

² SoCal Edison at 2.

³ SoCal Edison at 3.

⁴ 16 U.S.C. § 824e (2000).

⁵ *Southern California Edison Co.*, 109 FERC ¶ 61,263 (2004).

II. Instant Filing

5. To meet the 600 MW requirement, SoCal Edison has recently signed two contracts that will allow it to provide additional local area reliability under the M-438 Procedure. The contracts are with the owner of two generation units located in Redondo Beach, California (Redondo Beach units 6 and 7).⁶ Redondo Beach unit 6 is a 175 MW unit, and Redondo Beach unit 7 is a 493 MW unit, for a total amount of procured capacity to meet the M-438 Procedure requirements of 668 MW. SoCal Edison states that the contracts allow it to require the owner of the units to commit the units and include energy from the units in its day-ahead schedule of generation submitted to the ISO. These contracts were granted privileged treatment and submitted as attachments to the instant filing.

6. SoCal Edison proposes to modify its TO Tariff to allow its M-438 requirement to be achieved by including certain generation units as a part of SoCal Edison's day-ahead schedule of generation submitted to the ISO, or by requiring another Scheduling Coordinator to include generation that meets the M-438 requirement as a part of its day-ahead schedule of generation. And SoCal Edison states that it will incur the following costs: (1) a capacity payment to obtain the contractual rights; and (2) a payment to the Scheduling Coordinator to reflect the higher costs it incurs in meeting its generation requirement using the directed resource rather than the least-cost resource combination available to that Scheduling Coordinator.

7. Although SoCal Edison will incur costs to provide Reliability Services to the ISO associated with the Redondo Beach units, SoCal Edison states that it does not at this time propose to modify its Reliability Service rate levels. SoCal Edison states that it anticipates that it will incur \$13.9 million in capacity payments in 2005 to obtain the rights to require these units to be committed, as well as an estimated \$3.9 million of variable costs incurred when SoCal Edison does direct the units to be committed. SoCal Edison maintains that it is in the process of evaluating whether it should propose to modify its Reliability Service rate levels in a mid-year Reliability Services True-Up filing in order to ensure that Reliability Services rates reasonably reflect Reliability Services costs.

8. SoCal Edison requests that the Commission assign an effective date of June 1, 2005 to the TO Tariff modifications proposed in this filing.

⁶ See SoCal Edison, Privileged Exhibit No. SCE-4.

III. Notice, Interventions, and Protests

9. Notice of SoCal Edison's April 1, 2005 filing was published in the *Federal Register*, 70 Fed. Reg. 19,749 (2005), with interventions or protests due on or before April 22, 2005. Motions to intervene were filed by Arizona Electric Power Cooperative, Inc., and Southwest Transmission Cooperative, Inc., the California Department of Water Resources State Water Project (State Water Project), the Southern California Water Company, the M-R-S Public Power Agency, and the Transmission Agency of Northern California.

10. The City of Colton, California (Colton) filed a motion to intervene and protest. Colton argues that it should receive a credit or at least not be forced to pay for SoCal Edison's costs to contractually procure generation capacity since Colton's own generation offsets SoCal Edison's need to meet reliability requirements in the South of Path 26, South of Lugo, and North of Miguel area.

11. State Water Project also filed a protest. State Water Project argues that SoCal Edison's proposal should be rejected because it violates the Commission policy that "to ensure that the costs incurred to correct the reliability problem are allocated to affected load, the costs of the selected infrastructure should be allocated at ideally a subzone level to the load responsible for the problem."⁷ State Water Project states that the Redondo Beach costs should not be allocated to State Water Project loads, which are not located in the area for which such costs are incurred. Furthermore, State Water Project argues that SoCal Edison's proposal should be rejected because it is inconsistent with FPA requirements and Commission policies, such as the Commission's Order 2004 Standards of Conduct,⁸ which requires strict separation between transmission and power selling activities. State Water Project states that SoCal Edison's proposal would apparently authorize representatives of merchant generators to incur transmission costs and develop transmission rates, in violation of the FPA's filing requirements and raising significant conflict of interest concerns. State Water Project also argues that failure to provide

⁷ State Water Project at 1 n.1 and 4 n.10 (citing *PJM Interconnection, LLC*, 107 FERC ¶ 61,112 at P 74 (2004)).

⁸ *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, III FERC Stats. & Regs. ¶ 31,161 (2004), 107 FERC ¶ 61,032 (2004), *order on reh'g*, Order No. 2004-B, III FERC Stats. & Regs. ¶ 31,166 (2004), 108 FERC ¶ 61,118 (2004), *order on reh'g*, Order No. 2004-C, 109 FERC ¶ 61,325 (2004), *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005).

ratepayers with the key contract underlying the Redondo Beach transaction⁹ fails the FPA's requirement of public review.¹⁰ In the alternative, State Water Project requests that SoCal Edison's filing be suspended for the maximum period and set for hearing.

12. The Metropolitan Water District of Southern California (Metropolitan) filed a motion to intervene, consolidate and protest. Metropolitan argues that SoCal Edison's filing seeks an impermissible delegation of discretionary authority to determine least-cost dispatch of generation for transmission services. Metropolitan states that "it is one thing for SCE to determine its 'least-cost commitment' for the costs of serving its own load [proposed in the filing in Docket No. ER04-1209], it is quite another to permit it to make the same 'least-cost commitment' determination whether to schedule its generating units or those under contract to supply reliability services, and then spread the resulting costs to all entities taking service under SoCal Edison's TO Tariff."¹¹ Metropolitan continues that allowing one market participant to determine which generating unit is dispatched to provide reliability services, with costs spreading to all taking TO service is inconsistent with the concept of an independent system operator and provides the opportunity for self-dealing. Finally, Metropolitan urges the Commission to consolidate this proceeding with the proceeding in Docket Nos. ER04-1209, EL05-29 and ER05-410 so that it can address all of the issues arising out of SoCal Edison's Reliability Services filings in a comprehensive, orderly, and efficient manner.

13. SoCal Edison filed an answer on May 9, 2005.

IV. Discussion

A. Procedural Matters

14. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 384.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to allow the answer, and accordingly we will reject SoCal Edison's answer.

⁹ SoCal Edison, Privileged Exhibit No. SCE-4.

¹⁰ *See* State Water Project at 5 (citing section 205(c) of the FPA, 16 U.S.C. § 824d (2004)).

¹¹ Metropolitan at 7-8.

B. Commission Determination

15. SoCal Edison's revised M-438 Procedure filing raises issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

16. Our preliminary analysis indicates that SoCal Edison's proposed revisions to the TO Tariff have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept the proposed tariff revisions for filing, suspend them for a nominal period, make them effective June 1, 2005, subject to refund, and set them for hearing and settlement judge procedures.

17. Presently, the parties to this proceeding are engaged in settlement judge procedures in Docket Nos. ER04-1209-000, EL05-29-000, and ER05-41-000 concerning whether, among other things, the local reliability service required under the M-438 procedure constitutes a new Reliability Service cost and how such costs should be allocated. We will require that this proceeding be consolidated with the proceeding in Docket Nos. ER04-1209-000, EL05-29-000, and ER05-41-000, because there are common issues of law and fact and the parties will be able to address all of the issues arising out of SoCal Edison's Reliability Services filings in one proceeding.¹²

The Commission orders:

(A) SoCal Edison's proposed revisions to the TO Tariff is hereby accepted for filing, suspended for a nominal period, to become effective June 1, 2005, subject to refund, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R., Chapter I), a public hearing shall be held concerning SoCal Edison's proposed revisions to the TO Tariff. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Paragraph (D) below.

¹² We note that the issue of whether the M-438 contracts for the Redondo Beach units should receive privileged treatment is an issue that should be pursued at the hearing.

(C) Docket No. ER05-763-000 is hereby consolidated with Docket Nos. ER04-1209-000, EL05-29-000, and ER05-410-000.

(D) The settlement judge or the presiding judge in the latter proceeding, as appropriate, shall determine the procedures best suited to accommodate consolidation.

(E) The proposed rate schedule designations are accepted as filed.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.