

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
William L. Massey, and Nora Mead Brownell.

Mirant Las Vegas, et al.

Docket Nos. TX03-1-000, TX03-1-001,
ER02-1741-000 and ER02-1742-000

ORDER REQUESTING ADDITIONAL INFORMATION

(Issued September 12, 2003)

1. This order directs Applicants¹ and other parties to this proceeding to provide additional information regarding the status of their projects so that the Commission can properly consider the application for the interconnection of facilities. This order benefits consumers by ensuring that the Commission has before it all current, relevant information when ruling on the application and determining proper cost allocation.

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 Power (LADWP), Nevada Power Company (Nevada Power), the Salt River Project Agricultural Improvement and Power District (Salt River), 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. Applicants own or are developing generating facilities in southern Nevada that interconnect or will interconnect with Nevada Power's transmission system.

¹Applicants 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).

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. 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 ER02-1742-000² 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 projects³ as a group, and concluded that the group would cause a need to upgrade the McCullough 230 kV Switchyard.

II. The Application

7. On March 17, 2003,⁴ Applicants filed an application under sections 210 and 212 of the FPA⁵ requesting that the Commission direct the McCullough Owners to: (1) release Nevada Power from financial responsibility for upgrades to the McCullough 230 kV Switchyard; and (2) provide Applicants with transmission credits, with interest or other

²See Nevada Power Company, 100 FERC ¶ 61,037 at P 1-3, 12-15 (2002).

³These 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.

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

⁵16 U.S.C. §§ 824i and 824k (2000).

compensation, for the upgrades that the Applicants have funded for the McCullough 500 kV Switching Station.⁶ Applicants also move to consolidate this application with Docket Nos. ER02-1741-000 and ER02-1742-000, which are currently in settlement proceedings.⁷

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. Applicants state that the McCullough Owners intend to charge the cost of future upgrades to that Switchyard, when they become necessary, to Nevada Power and that, 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.⁸ 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.

III. Notice and Further Pleadings

11. Notice of the amended Application was published in the Federal Register, 68 Fed. Reg. 19,525 (2003), with comments, interventions and protests due on or before May 1, 2003. On April 28, 2003, The Southwest Transmission Dependent Utility Group

⁶Application at 2, 12.

⁷Id.

⁸Application at 12.

(Southwest) filed a motion to intervene. On April 30, 2003, LADWP, Diamond, and the Bureau of Reclamation filed motions to intervene and protests. On May 1, 2003, the Arizona Power Authority (Arizona Authority), the Metropolitan Water District of Southern California (Metropolitan), Nevada Power, and the Western Area Power Administration (Western) moved to intervene and the McCullough Owners and Salt River moved to intervene and protest. On May 7, 2003, the Southwest Transmission Cooperative, Inc. (Southwest Cooperative) filed a motion to intervene out of time. On May 15, 2003, Applicants filed an answer to the protests.

12. In response to Applicants' first argument, the McCullough Owners argue⁹ 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.¹⁰ 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, relieving Nevada Power from its obligation to fund upgrades to the McCullough 230 kV Switchyard would degrade the reliability of the McCullough Substation.

13. 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.

14. Diamond adopts several of these 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.

⁹The 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.

¹⁰McCullough Owners' Protest at 11.

15. 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.¹¹

16. 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 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 points out that without the Diamond Project, the rest of the group does not cause a need for upgrades to the McCullough 230 kV Switchyard.

IV. Discussion

A. Procedural Matters

17. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2002), the timely motions to intervene in this docket make those that filed them parties to this proceeding. We will grant Southwest Cooperative's untimely, unopposed motion to intervene, given its interest in this proceeding, the early stage of the proceeding, and the absence of any undue prejudice or delay. 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 a protest, unless otherwise permitted by the decisional authority. We are not persuaded to allow Applicants' answer to intervenors' protests and will, therefore, reject it.

B. Request for Additional Information

18. To expedite the interconnection of Applicants' projects, and to allocate cost responsibility for any upgrades to the 230 kV switchyard, we need to obtain the latest

¹¹Salt River 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.

information about the status of those projects and about the status of other projects that were studied as a group, along with Applicant. Although the Application states that LV Cogen and Mirant Las Vegas "are in operation and supplying electric energy to consumers using the Nevada Power transmission system[,]"¹² the Application refers to only one of the Applicants, Reliant Energy Big Horn, as having "entered into a transmission service agreement to take transmission over Nevada Power's transmission system."¹³ The other projects are in various stages of development or construction and the in-service dates of the various facilities are uncertain. It is unclear from the record in this proceeding, for example, when the Diamond Project or the Centennial Project will come on line. In particular, we note that while the Applicants have negotiated and filed interconnection agreements, Diamond has not. We note that Diamond has indicated that it will interconnect with Valley Electric, which is a jurisdictional public utility.

19. McCullough Owners state that the Short Circuit Analysis shows that the interconnection of the Reliant Bighorn, Enron, Duke, Mirant and Pinnacle West Projects, along with Diamond's Ivanpah Project and Nevada Power's Centennial Project, will cause the short circuit duty at the McCullough 230-kV Switchyard to exceed the ratings of its 230 kV circuit breakers.¹⁴ McCullough Owners also state that:

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

¹²Application at 16.

¹³Application at 5; see McCullough Owners' Protest at 10-12.

¹⁴McCullough Owners' Answer at 17.

projects are canceled, a final decision can be made whether the upgrade of the McCullough 230 kV Switchyard will be required^{15]}

20. The central issue before us is the appropriateness of maintaining all of the projects together for study and cost allocation purposes.¹⁶ The question is whether it is still reasonable to consider Applicants' projects, Diamond and Centennial as a group. If Diamond is unwilling to make a reasonable level of commitment, it should not be considered as part of the group. Since without Diamond the group does not cause a need for upgrades, it would be unjust and unreasonable to force the group to pay for upgrades. If that is the case, and Diamond does later come on-line, it may have to pay for upgrades by itself, or along with any other projects that cause the need for the upgrades. In order to properly address this issue, we need to know what projects are likely to be connecting with Nevada Power's transmission system and when. We will, therefore, direct Applicants and other parties in this proceeding 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, and in particular the status of the Diamond and the Centennial Projects.

B. The milestones that each project has achieved to date with regard to:
(a) entering into interconnection agreements with the appropriate transmission provider;
(b) transmission service agreements and the date service will commence under the

¹⁵McCullough 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."). The Duke and Bighorn Projects are part of the Centennial Project (see Wu at 2).

¹⁶The failure of any project to secure an interconnection agreement with the appropriate transmission provider would be an indication that a project should not be included in a fault study with other projects that have secured such an agreement.

transmission agreements; (c) funding commitments and expenditures; (d) participation in transmission planning studies; (e) provision to the transmission provider of reasonable credit support to ensure payment of applicant's share of the cost of any required or necessary upgrades; (f) site acquisition, acquisition of major equipment, and similar commitments; and

C . Whether the Short Circuit Analysis that clustered together Applicants' projects, the Pinnacle West Project, the Centennial Project and Diamond's Ivanpah Project is still viable.

The Commission orders:

Applicants and parties are hereby directed to provide the information described in the body of this order within sixty (60) days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.