

134 FERC ¶ 61,200
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. EL10-1-001

ORDER DENYING REHEARING AND CLARIFICATION

(Issued March 17, 2011)

1. In this order, we deny requests for rehearing or clarification of the Commission's December 17, 2009 order conditionally granting transmission rate incentives pursuant to section 219 of the Federal Power Act (FPA)¹ as implemented by Order No. 679² for Southern California Edison Company's (SoCal Edison) Eldorado-Ivanpah Transmission Project (EITP).³ In the EITP Incentives Order, the Commission conditioned authorization of incentives on the California Independent System Operator Corporation (CAISO) approving the EITP in its transmission planning process and finding that the EITP will ensure reliability or reduce the cost of delivered power by reducing congestion.⁴ Subsequent to issuance of the EITP Incentives Order, on October 29, 2010, the Commission found that SoCal Edison had not complied with the condition established in the EITP Incentives Order.⁵ While the Commission granted SoCal Edison certain policy-based incentives under section 205 of the FPA,⁶ it denied the requested 150-basis

¹ 16 U.S.C. § 825s (2006).

² *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007).

³ *Southern California Edison Co.*, 129 FERC ¶ 61,246, at P 27 (2009) (EITP Incentives Order).

⁴ *Id.* P 28.

⁵ *Southern California Edison Co.*, 133 FERC ¶ 61,108, at P 62 (2010) (October 2010 Order).

⁶ *Id.* at P 2, 62 (citing 16 U.S.C. § 824d (2006)).

point return on equity (ROE) adder for the EITP.⁷ Consistent with this determination, the Commission also granted in part the rehearing request of the California Public Utilities Commission (CPUC), which had sought rehearing of the Commission's conditional grant of ROE incentives in the EITP Incentives Order.⁸ This order denies the remaining requests for rehearing or clarification of the EITP Incentives Order.

I. Background

2. On October 1, 2009, SoCal Edison filed a petition for a declaratory order (Petition) requesting Commission approval of certain rate incentive treatments for the EITP. The proposed EITP involves the following key features: building a new substation in the Ivanpah Dry Lake area in southern California; removal of 35 miles of the Eldorado leg of an existing 115 kV line; and constructing a new 35-mile double-circuit 220 kV transmission line and towers between the proposed Ivanpah substation and SoCal Edison's existing Eldorado substation. SoCal Edison estimates that the total cost for the EITP will be between \$430 million and \$480 million. The estimated in-service date for the EITP is mid-2013.⁹

3. In its Petition, SoCal Edison requested authorization to recover the following incentives: (1) an ROE adder of 150-basis points for the EITP, in addition to the 50-basis point ROE adder previously granted by the Commission for SoCal Edison's participation in CAISO; (2) inclusion of 100 percent of Construction Work In Progress (CWIP) for the EITP in rate base; and (3) recovery of 100 percent of prudently-incurred abandoned plant costs if the EITP is cancelled or abandoned for reasons beyond SoCal Edison's control (abandoned plant approval). SoCal Edison also requested that the Commission declare the EITP facilities to be network facilities, eligible to be rolled into SoCal Edison's Commission-jurisdictional transmission revenue requirement.¹⁰

4. SoCal Edison argued that the EITP will provide regional benefits by fostering the development of location-constrained resources in the Ivanpah Dry Lake area, which, according to SoCal Edison, has the potential to be a vital center for solar generation. SoCal Edison further contended that the EITP is necessary to enable these resources to be developed and integrated into the CAISO-controlled grid.¹¹

⁷ *Id.* P 2, 96-99.

⁸ *Id.* P 62.

⁹ EITP Incentives Order, 129 FERC ¶ 61,246 at P 1-2, 4.

¹⁰ *Id.* P 5-6.

¹¹ *Id.* P 3-4.

II. The EITP Incentives Order

5. In the EITP Incentives Order, the Commission found that SoCal Edison was not entitled to the rebuttable presumption provided by Order No. 679 that the EITP is needed to maintain reliability or reduce congestion because the EITP had not received approval through the CAISO transmission planning process or received construction approval from the relevant state authorities. However, the Commission nevertheless conditionally approved SoCal Edison's requested incentives because it found that "the CAISO's transmission planning process may adequately consider the reliability and congestion-relieving impacts of the EITP." Accordingly, the Commission directed SoCal Edison to submit a filing within 30 days of the approval or disapproval of the EITP in the CAISO planning process.¹²

6. In the EITP Incentives Order, the Commission authorized continuation of SoCal Edison's 50-basis point ROE adder for participation in CAISO and conditionally granted SoCal Edison an additional 100-basis point ROE adder, resulting in a 150-basis point adder for the EITP. The Commission did not conditionally approve the full 200-basis point adder SoCal Edison sought because it found that, while the EITP may present a degree of risk to SoCal Edison, an additional 50-basis point adder would be excessive when considered alongside the Commission's conditional grant of CWIP and abandoned plant approval.¹³

7. In evaluating the Petition, the Commission found that the EITP would provide the following regional benefits: enabling the development of up to 1400 MW of renewable resources in the Ivanpah Dry Lake area, a potentially vital center for solar generation; allowing these new resources to be integrated into the CAISO-controlled grid; and providing assistance in meeting California's Renewable Portfolio Standards (RPS) targets.¹⁴

8. In the EITP Incentives Order, the Commission determined that the EITP, which is an upgrade to an existing network facility and part of a looped transmission system that enables CAISO to rely on EITP capacity in its operation of the grid, constituted network integrated facilities.¹⁵

¹² EITP Incentives Order, 129 FERC ¶ 61,246 at P 27.

¹³ *Id.* P 79-80.

¹⁴ EITP Incentives Order, 129 FERC ¶ 61,246 at P 40.

¹⁵ *Id.* P 88-89 & n.105 (citing *Mansfield Mun. Elec. Dep't.*, 97 FERC ¶ 61,134, at 61,613-14 (2001), *reh'g denied*, 98 FERC ¶ 61,115 (2002)).

III. Requests for Clarification and/or Rehearing of the EITP Incentives Order

9. On January 19, 2010, the CPUC and the California Department of Water Resources State Water Project (State Water Project) filed requests for rehearing of the EITP Incentives Order. Additionally, on January 19, 2010, the M-S-R Public Power Agency and the City of Santa Clara, California (collectively the M-S-R Parties) and the Transmission Agency of Northern California (TANC) filed requests for clarification, or, in the alternative, rehearing of the EITP Incentives Order. Finally, also on January 19, 2010, Southern California Edison Company (SoCal Edison) filed a request for clarification of the EITP Incentives Order.

10. Six Cities filed an answer to SoCal Edison's request for clarification. SoCal Edison's answer to requests for clarification addressed the requests for clarification of both TANC and the M-S-R Parties.

IV. Subsequent History After the EITP Incentives Order

1. SoCal Edison's Compliance Filing and the Commission's October 2010 Order

11. On August 3, 2010, SoCal Edison submitted a compliance filing claiming to demonstrate that it had complied with the condition in the EITP Incentives Order. In the compliance filing, SoCal Edison stated that CAISO has completed the large generator interconnection study process for the EITP and confirmed that the EITP will provide reliability benefits and congestion reduction for nearly 2,000 MW of planned renewable generation in the Ivanpah Dry Lake region of California. In addition, SoCal Edison contended that the executed large generator interconnection agreements relied upon in the interconnection study process further satisfy the condition in the EITP Incentives Order.

12. On October 29, 2010, the Commission issued an Order on Compliance Filing and Granting Partial Rehearing, i.e., the October 2010 Order,¹⁶ to address SoCal Edison's request for a determination that it had complied with the condition in the EITP Incentives Order. In the October 2010 Order, the Commission concluded that SoCal Edison had not complied with the condition established in the EITP Incentives Order. Specifically, the October 2010 Order found that the EITP had not been approved in the CAISO transmission planning process. Instead, SoCal Edison relied on approval of three large generator interconnection agreements through CAISO's large generator interconnection procedures (LGIP) to support its request for a finding of compliance. The Commission found that SoCal Edison's reliance on the LGIP is insufficient to satisfy the requirements

¹⁶ October 2010 Order, 133 FERC ¶ 61,108 (2010).

of Order No. 679¹⁷ and that neither the execution of the three large generator interconnection agreements nor the affidavits submitted along with CAISO's compliance filing provided sufficient information to support a finding that the EITP will ensure reliability or reduce the cost of delivered power by reducing transmission congestion as contemplated by FPA section 219 and Order No. 679.¹⁸

13. While the Commission in the October 2010 Order found that SoCal Edison had not complied with the condition set forth in the EITP Incentives Order, it nevertheless unconditionally granted SoCal Edison's requested CWIP and abandoned plant approval incentives. The decision to grant these incentives was based on the Commission's public policy evaluation under section 205 of the FPA, and the unique facts and circumstances presented in the case, including: the exigencies of the deadlines imposed by the American Recovery and Reinvestment Act (ARRA), the potential that ARRA funding may foster renewable project development, the public policy benefits that the EITP will provide by integrating location-constrained renewable resources and their contribution to meeting California's RPS requirements, and the scope of and risks associated with the EITP.¹⁹

14. The October 2010 Order unconditionally granted SoCal Edison's requested abandoned plant approval incentive based on the Commission's public policy evaluation under section 205 of the FPA in order to encourage the construction of the EITP, which the Commission found would provide increased access to renewable generation and assist in meeting California's RPS goals.²⁰ SoCal Edison's pleadings indicated that the abandoned plant incentive is the critical lynchpin associated with SoCal Edison's commitment to upfront funding of network upgrades necessary to complete the EITP.²¹ The Commission also found that the contingency related to SoCal Edison's commitment to upfront fund network upgrades posed a significant obstacle to the financial closing of the EITP and that the deadlines imposed by the ARRA posed further risk to the completion of the EITP.²²

¹⁷ *Id.* P 66.

¹⁸ *Id.* P 65, 68.

¹⁹ *Id.* P 79.

²⁰ *Id.* P 85.

²¹ *Id.* P 82.

²² *Id.* P 83.

15. In addition to granting SoCal Edison's request for recovery of 100 percent of prudently-incurred abandoned plant costs if the EITP is canceled for reasons beyond SoCal Edison's control, the Commission unconditionally granted SoCal Edison's request for inclusion of 100 percent of CWIP in rate base.²³ The Commission found that the inclusion of CWIP in rate base helps to provide upfront regulatory certainty, rate stability, and improved cash flow, reducing the pressures on an applicant's finances caused by investing in transmission projects.²⁴ Accordingly, after considering the relative size of SoCal Edison's investment in the EITP, as compared to its current transmission rate base, the Commission found authorization of the CWIP incentive to be appropriate to assist in the construction of new transmission facilities.²⁵

16. The Commission granted SoCal Edison's 100 percent of CWIP in rate base pursuant to our long-standing regulatory authority, based on public policy considerations, not pursuant to the requirements of FPA section 219 as implemented by Order No. 679.²⁶ The Commission found that due to the exigent ARRA deadlines and our unconditional grant of the abandoned plant incentive, SoCal Edison will likely be obligated to commit funds for the upfront funding of the EITP network upgrades at an earlier time than would otherwise have been the case. The resultant pressure on SoCal Edison's finances influenced our decision to grant the 100 percent of CWIP in rate base incentive.²⁷

17. In the October 2010 Order, the Commission also granted the CPUC's request for rehearing of the EITP Incentives Order and denied SoCal Edison's requested additional ROE adder beyond the 50-basis points previously approved for continued CAISO membership.²⁸ In denying SoCal Edison's requested additional ROE adder in the context of the Commission's public policy analysis, we found that the risks SoCal Edison faces in connection with the EITP are less than the risks associated with other more speculative transmission projects. Factors reducing SoCal Edison's risk for the EITP included the fact that generators had already executed large generator interconnection agreements and those large generator interconnection agreements have been accepted for filing by the

²³ *Id.* P 92.

²⁴ *Id.* P 88 (citation omitted).

²⁵ *Id.* P 89.

²⁶ *Id.* P 95.

²⁷ *See id.* P 91, 92.

²⁸ *Id.* P 99.

Commission. In addition, the Commission found that SoCal Edison has mitigated some of the risks inherent in its upfront financing of the project through milestones and other procedures included in the large generator interconnection agreements.²⁹

2. Order Denying Request for Clarification or Rehearing of the October 2010 Order

18. On November 29, 2010, the Western Independent Transmission Group (WITG) filed a request for clarification or, in the alternative, rehearing of the October 2010 Order. WITG asked the Commission to clarify that: (1) its grant to SoCal Edison of abandoned plant approval and CWIP incentives was based on the unique and exigent circumstances related to obtaining ARRA funding; or, alternatively; (2) all transmission previously denied incentive rate treatment may reapply for incentives under FPA section 205. If the Commission did not grant WITG's requested clarification, then WITG requested rehearing of the Commission's decision as unduly discriminatory and arbitrary and capricious.

19. On December 6, 2010, Brightsource Energy filed a request for expedited action on WITG's request for clarification or rehearing. On December 29, 2010, the Commission issued its order denying WITG's request for clarification or rehearing.³⁰

V. Discussion

1. ROE Adder

20. The CPUC sought rehearing of the EITP Incentives Order, arguing that it was arbitrary and capricious for the Commission to grant a 100-basis point ROE adder for the EITP without identifying particular risks and challenges associated with the project and articulating a link between the ROE incentive sought and the investment made, per the CPUC's interpretation of Order No. 679-A.³¹

21. SoCal Edison requested clarification of the EITP Incentives Order concerning the ROE adder. Specifically, SoCal Edison asked the Commission to clarify that the ROE

²⁹ *Id.* P 97.

³⁰ *Southern California Edison Co.*, 133 FERC ¶ 61,254 (2010) (December 2010 Rehearing Order).

³¹ CPUC January 19, 2010 Rehearing Request, Docket No. EL10-1-001, at 5-6 (citing Order No. 679, FERC Stats. & Regs. ¶ 31,222 (2006), *order on reh'g*, Order No. 679-A, FERC Stats. & Regs. ¶ 31,236, *order on reh'g*, 119 FERC ¶ 61,062 (2007)).

adder should be utilized in calculating the CWIP balance as part of the FPA section 205 filing necessary to include 100 percent of CWIP for the EITP under SoCal Edison's CWIP balancing account mechanism.

22. Six Cities filed an answer to SoCal Edison's request for clarification. Six Cities' answer did not directly address the issue of whether to include the approved ROE incentives in calculating CWIP balances as raised by SoCal Edison in its request for clarification. Instead, Six Cities argued that SoCal Edison should not be allowed to reflect 100 percent of CWIP associated with the EITP in rate base until SoCal Edison receives approval in CAISO's transmission planning process.

Commission Determination

23. The October 2010 Order granted the CPUC's request for rehearing and rejected additional ROE adders for the EITP other than the 50 basis-point for SoCal Edison's participation in CAISO.³² Nevertheless, the Commission disagreed with the CPUC's assertions that the EITP Incentives Order was arbitrary and capricious, improperly applied the nexus test under Order No. 679-A, or failed to explain adequately the risks and challenges associated with conditional grant of a reduced ROE adder of 100-basis points. The Commission pointed out that the EITP Incentives Order contains "detailed discussions of the EITP's scope and effect, as well as the various risks and challenges facing the EITP; and appropriately applied the nexus test under Order No. 679-A."³³ Having granted the CPUC's request for rehearing and denied SoCal Edison's request for an additional ROE adder, we find that SoCal Edison's request for clarification regarding the ROE adder has been rendered moot.

2. Transmission Planning Process Approval

24. The M-S-R Parties asked the Commission to clarify or grant rehearing to confirm that in order to comply with the condition set forth in the EITP Incentives Order, SoCal Edison must obtain approval of the EITP through the CAISO transmission planning process.³⁴ Highlighting the differences between CAISO's transmission planning process and its LGIP, the M-S-R Parties argued that SoCal Edison's reliance on approval of the

³² October 2010 Order, 133 FERC ¶ 61,108 at P 96-99.

³³ *Id.* n.99. *See also* EITP Incentives Order, 129 FERC ¶ 61,246 at P_39-43, 79-82, 84.

³⁴ M-S-R Parties January 19, 2010 Request for Clarification or, in the Alternative, Request for Rehearing, at 4.

EITP through CAISO's LGIP does not satisfy the Commission's incentive policies under Order No. 679.

25. In response to the M-S-R Parties' request for clarification that approval of the EITP through CAISO's generator interconnection process would not satisfy the condition imposed in the EITP Incentives Order, SoCal Edison argued that it was premature to determine the issue based on the showing presented by the M-S-R Parties.³⁵ SoCal Edison argued that the Commission should evaluate the filing seeking to satisfy the condition only after such a filing is made.

Commission Determination

26. We conclude that the October 2010 Order essentially granted the M-S-R Parties' request for clarification or rehearing, rendering further consideration of the request moot. In the EITP Incentives Order, the Commission conditioned the grant of incentives on SoCal Edison obtaining approval for the EITP in CAISO's transmission planning process.³⁶ On compliance, SoCal Edison attempted to rely on the LGIP, in particular, the three executed large generation interconnection agreements that were the subject of the interconnection system impact studies the Commission had previously found were not sufficiently comprehensive to satisfy the FPA section 219 requirement in the absence of qualifying for the rebuttable presumption under Order No. 679.³⁷ The October 2010 Order found that SoCal Edison had not satisfied the condition imposed by the EITP Incentives Order.³⁸ In reaching its determination, the Commission declared:

We find that SoCal Edison's reliance in its Compliance Filing on the LGIP is insufficient to satisfy the requirements of Order No. 679 because, in and of itself, the LGIP does not constitute the kind of open and transparent regional process contemplated by Order No. 679 for the purpose of qualifying for a rebuttable presumption that the requirements of FPA section 219 have been satisfied.³⁹

27. Consequently, because the October 2010 Order essentially granted M-S-R Parties' request for clarification or rehearing, further consideration of this request is moot.

³⁵ SoCal Edison February 3, 2010 Response to Requests for Clarification at 4.

³⁶ October 2010 Order, 133 FERC ¶ 61,108 at P 28.

³⁷ *Id.* P 64-65.

³⁸ *Id.* P 64.

³⁹ *Id.* P 66.

3. Challenging Subsequent Filings

28. TANC asked the Commission to clarify that interested persons would be allowed to challenge any subsequent filing made by SoCal Edison to demonstrate that SoCal Edison had secured approval of the EITP through CAISO's transmission planning process.

29. In response to TANC's requested clarification, SoCal Edison stated that it expected the Commission would treat its filing to satisfy the condition in the EITP Incentives Order the same way it treats any other compliance filing, and that such filing would be subject to notice and comment.

Commission Determination

30. The October 2010 Order found that SoCal Edison did not demonstrate approval of the EITP through CAISO's transmission planning process.⁴⁰ Given the Commission's rejection of SoCal Edison's arguments regarding compliance with the condition specified in the EITP Incentives Order, TANC's request for clarification regarding the manner in which the Commission would process SoCal Edison's compliance filing is rendered moot.

4. "But For" Test

31. In addition, TANC argued that the Commission should reject the incentives granted to SoCal Edison because the incentives are not necessary for SoCal Edison to complete the EITP and because the granted incentives will result in what TANC characterizes as unnecessary higher costs to transmission customers. TANC argued that the Commission's incentive policy under FPA section 219, as reflected in Order No. 679, is designed to stimulate investment in transmission. TANC asserted that the Commission failed to take into account evidence that SoCal Edison's investment in the EITP is entirely driven by state regulatory obligations under California's RPS targets, i.e., SoCal Edison is obligated to build the EITP to meet its service obligations in compliance with California's RPS targets. TANC contended that, as a result of these RPS obligations, SoCal Edison needs no further incentive or support to develop the EITP. TANC further argued that SoCal Edison had not demonstrated the need for financial incentives in order for it to construct the EITP.

32. Based on these arguments, TANC submits that awarding SoCal Edison incentives in connection with the EITP is not justified under the Commission's incentives policy and will require transmission customers to bear unnecessary additional transmission costs

⁴⁰ *Id.* P 64.

without a commensurate benefit. According to TANC, the grant of incentives to SoCal Edison in connection with the EITP is contrary to Commission policy, FPA section 219 and a violation of the Commission's precedent under FPA section 205.⁴¹

33. SoCal Edison's response to requests for clarification argued that the Commission should deny TANC's request to reject the requested incentives because, in TANC's view, the incentives are not necessary for SoCal Edison's completion of the EITP and because they will result in unnecessary higher costs to transmission customers. SoCal Edison highlighted the fact that it had stated in its Petition that it would be unable to provide upfront financing for the EITP without the requested incentives and that if SoCal Edison does not provide financing, the generators may be unable to secure financing or otherwise advance their projects. SoCal Edison also noted that the Commission in Order No. 679-A explicitly rejected a "but for" test in connection with requests for incentives.⁴²

Commission Determination

34. We reject TANC's suggestion that we should not allow incentives for the EITP because, in TANC's view, the incentives are not necessary for SoCal Edison to complete the EITP. We also disagree that any additional costs associated with the incentives granted in connection with the EITP will result in "unnecessary higher costs" to SoCal Edison's transmission customers. In adopting Order No. 679, the Commission explicitly rejected imposition of a "but for" test – i.e., the Commission rejected the proposition that incentives should not be granted unless, "but for" the grant of incentives, the project would not be built. However, the Commission does require applicants to show some nexus between the incentives requested and the investment being made.⁴³ In this instance, we found that SoCal Edison made the necessary showing of a nexus between the incentives requested and the investment being made.

⁴¹ TANC's argument implicitly argues that the incentive rates awarded to SoCal Edison for the EITP project are not just and reasonable or are unduly discriminatory or preferential. See TANC January 19, 2010 Request for Rehearing, Docket No. EL10-1-001, at 7.

⁴² SoCal Edison Answer to Requests for Clarification at 2, *citing* Order No. 679-A, FERC Stats. & Regs. ¶ 31,236 at P 25-26.

⁴³ See *Promoting Transmission Investment through Pricing Reform*, Order No. 679, FERC Stats. & Regs. ¶ 31,222 at P 48 (2006).

5. Conditional Grant of Incentives

35. State Water Project argued that the Commission erred by conditionally approving incentives for the EITP without an adequate demonstration that the EITP would ensure reliability or reduce the cost of delivered power by reducing transmission congestion. State Water Project asserted that in the EITP Incentives Order, the Commission correctly found that the EITP had not been vetted through a regional transmission planning process, and thus is not entitled to the rebuttable presumption provided under Order No. 679 that the project is needed to maintain reliability or reduce congestion.⁴⁴ State Water Project also agreed with the Commission's finding that SoCal Edison had not provided independent evidence that would satisfy the requirements of Order No. 679. According to State Water Project, the Commission's conditional grant of incentives to SoCal Edison was contrary to Commission policy and regulation, notwithstanding the conditional nature of that grant of incentives.

Commission Determination

36. State Water Project's suggestion that the Commission erred by conditionally approving incentives for the EITP pursuant to the requirements of Order No. 679 has likewise been rendered moot by the issuance of the October 2010 Order. As discussed in the October 2010 Order, SoCal Edison did not meet the condition specified in the EITP Incentives Order and, therefore, was not eligible for obtaining rate incentives pursuant to section 219 of the FPA as implemented by Order No. 679.⁴⁵ Because the conditional approval of incentives as authorized in the EITP Incentives Order has been superseded by the October 2010 Order, State Water Project's request for rehearing on those issues is moot.⁴⁶

6. Network Integration Facilities

37. State Water Project also argued that the Commission's determination in the EITP Incentives Order finding that the EITP constitutes network integrated facilities is not supported by substantial evidence. According to State Water Project, the fact that CAISO has only performed system impact studies on three of the projected eleven

⁴⁴ State Water Project Request for Rehearing at 5-6.

⁴⁵ October 2010 Order, 133 FERC ¶ 61,108 at P 64.

⁴⁶ See *Green Energy Express LLC*, 130 FERC ¶ 61,117, at P 34-38 (2010) (Commission order denying rehearing and upholding the Commission's determination to condition approval of an abandoned plant cost recovery incentive under FPA section 219 on a project obtaining approval in CAISO's transmission planning process.).

projects comprising the EITP indicates that the EITP facilities are generator interconnection facilities, which State Water Project distinguishes from network integrated facilities.

38. According to State Water Project, because the EITP facilities are generator interconnection facilities, their funding should be established by reference to the provisions of Order No. 2003.⁴⁷ State Water Project pointed out that under Order No. 2003, the interconnecting entity is “normally to be assessed the initial charge of the facilities and subsequently may be reimbursed by the ratepayers over a five-year period.”⁴⁸

39. State Water Project argued that the Commission relied on faulty reasoning to conclude that the EITP will constitute network integrated resources. According to State Water Project, the fact that the EITP’s transmission line will replace an existing 115 kV line is an insufficient basis upon which to conclude that the EITP facilities will be network integrated. State Water Project argued that the 115 kV line in question is a subtransmission line and that the nature of the existing line should not determine the nature of the proposed line, whether or not the existing line serves network purposes.

40. State Water Project argued that instead of following the Commission’s interconnection policies and procedures, SoCal Edison, at the behest of interconnection customers, agreed to fund the interconnection project. State Water Project further argued that, rather than providing repayment of funding to an interconnection customer over a five-year period, SoCal Edison has sought “immediate ratepayer funding.”⁴⁹ According to State Water Project, the appropriate process for funding the EITP is not Order No. 679, but rather the interconnection policy established under Order No. 2003.⁵⁰

⁴⁷ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh’g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh’g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh’g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff’d sub nom. Nat’l Ass’n of Regulatory Util. Comm’rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

⁴⁸ State Water Project Request for Rehearing at 10 (*citing* Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 676, 693-703).

⁴⁹ *Id.* at 13.

⁵⁰ *Id.* at 13-14 (*citing* Order No. 2003, FERC Stats. & Regs. ¶ 31,146).

Commission Determination

41. We are not persuaded by State Water Project's argument that the EITP facilities do not constitute network integrated facilities. State Water Project fails to recognize the basis upon which we concluded that the EITP constitutes network integrated facilities. The number of system impact studies performed is less important than the nature of the facilities in question. As the Commission pointed out in the October 2010 Order, the existing 115 kV line that is being replaced as part of the EITP is currently classified as a network facility.⁵¹ State Water Project does not dispute the Commission's finding and provides no evidence or rationale from which we can conclude that the nature of the facility will change upon its upgrade to 220 kV.

42. More importantly, State Water Project does not dispute our finding that the proposed EITP facilities will connect to two points on the CAISO-controlled network and will, therefore, be part of a looped transmission system, thereby permitting CAISO to rely upon capacity from the EITP in its operation of the grid.⁵² Accordingly, contrary to State Water Project's contention, we re-affirm our determination in the October 2010 Order that the EITP, as proposed by SoCal Edison, will constitute network facilities.

43. Furthermore, State Water Project's concern regarding potential cost shifting as a result of our finding that the EITP facilities are network facilities is misplaced. As discussed above, State Water Project asserted that the generation interconnection policy of Order No. 2003, rather than Order No. 679 incentive policy, should govern rate treatment of the EITP. In reality, SoCal Edison's upfront funding of network upgrades is entirely consistent with Order No. 2003⁵³ and is provided in CAISO's *pro forma* large generator interconnection agreement.⁵⁴ Order No. 2003 defined network upgrades as facilities that are required and are at or beyond the point of interconnection.⁵⁵ Pursuant to

⁵¹ October 2010 Order, 133 FERC ¶ 61,108 at P 89.

⁵² *Id.* (citation omitted).

⁵³ *See, e.g.*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 720.

⁵⁴ *See, e.g.*, Conformed Fifth Replacement CAISO Tariff, Appendix U, § 3.4.

⁵⁵ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 65.

Order No. 2003, cost recovery for network upgrades is shared by all transmission customers through their inclusion of these costs in the transmission provider's transmission access charge.⁵⁶

44. The Commission finds that the rate treatment/cost allocation for network facilities under the EITP Incentives Order is consistent with Order No. 2003.

The Commission orders:

The Commission denies the requests for clarification or rehearing filed by State Water Project, M-S-R Parties, TANC and SoCal Edison, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

⁵⁶ *Id.* P 696 (“[T]he Commission continues in this Final Rule its current policy, as modified below, of requiring a Transmission Provider that is not an independent entity to provide transmission credits for the cost of Network Upgrades needed for a Generating Facility interconnection.”). Although an independent entity, CAISO chose to conform to the policy applicable to non-independent entities.