

155 FERC ¶ 61,169
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Southern California Edison Company

Docket No. ER16-1025-000

ORDER ON ABANDONMENT COST RECOVERY FILING AND ESTABLISHING
HEARING AND SETTLEMENT JUDGE PROCEDURES

(May 19, 2016)

1. On February 26, 2016, Southern California Edison Company (SoCal Edison) filed a request under section 205 of the Federal Power Act (FPA)¹ to recover in its Transmission Owner Tariff (TO Tariff) formula rate the prudently-incurred abandoned plant costs associated with the Coolwater-Lugo Transmission Project (Coolwater-Lugo Project). In this order, we find that the Coolwater-Lugo Project was abandoned for reasons beyond SoCal Edison's control and, therefore, we grant SoCal Edison's request to recover the prudently-incurred project costs associated with its abandonment in its formula rate.² While we grant SoCal Edison's request to recover costs associated with the abandonment of the Coolwater-Lugo Project, we find that SoCal Edison has not demonstrated that its requested level of abandoned plant costs is just and reasonable. Accordingly, for reasons set forth below, we accept and suspend the filing for a nominal period, effective January 1, 2016, subject to refund, and establish hearing and settlement judge procedures.

¹ 16 U.S.C. § 824d (2012).

² Cf. *Southern Cal. Edison Co.*, 134 FERC ¶ 61,181 (2011) (Incentives Order) (granting SoCal Edison's request for recovery of 100 percent of prudently-incurred costs if the Coolwater-Lugo Project (then called the South of Kramer Project) is abandoned for reasons beyond SoCal Edison's control).

I. Petition

2. In its transmittal letter, SoCal Edison explains that on December 9, 2010, it filed a petition for declaratory order with the Commission requesting rate incentives for four major transmission projects, including the Coolwater-Lugo Project in Docket No. EL11-10-000. On March 11, 2011, the Commission granted the incentives requested by SoCal Edison.³ Specifically, the Commission granted recovery of 100 percent of Construction Work In Progress and 100 percent of prudently-incurred abandoned plant costs if the Coolwater-Lugo Project was cancelled or abandoned for reasons beyond SoCal Edison's control. The Commission also found that the Coolwater-Lugo Project constituted network facilities eligible for rolled-in rate treatment.

3. In the instant filing, SoCal Edison states that, based upon results of the California Independent System Operator Corporation's (CAISO) interconnection studies, the Coolwater-Lugo Project was needed to provide transmission capacity and an additional path for power to flow from the Kramer Junction area to the Lugo Substation to alleviate the 220 kV transmission bottlenecks between the Coolwater Switchyard and the Lugo Substation, and along the Lugo-Pisgah transmission corridor.⁴ SoCal Edison adds that the Coolwater-Lugo Project was designed to facilitate the interconnection of renewable generation projects in the CAISO queue, to accommodate future load serving the Town of Apple Valley, California, and the City of Ridgecrest, California, and to facilitate additional system reliability on SoCal Edison's transmission system.

4. SoCal Edison states that during the pendency of its Certificate of Public Convenience and Necessity (CPCN) application, which it filed on August 28, 2013, the California Public Utilities Commission (CPUC) and CAISO received a letter from NRG California South LP, the owner of the Coolwater Generating Station, giving notice to the CPUC that Units 1, 2, 3, and 4 of the Coolwater Generating Station would be shutdown, effective January 1, 2015, with a decision on the final date of permanent retirement to be made sometime thereafter. According to SoCal Edison, the Coolwater Generating Station had a total generating capacity of 636 megawatts and historically used a majority of the available transmission capacity in the area. Additionally, SoCal Edison states that three local thermal electric generators were retired around the same time.⁵

5. SoCal Edison states that on March 17, 2015, CAISO provided comments to the CPUC stating that it had conducted a reassessment of network upgrades identified in

³ *Id.* PP 98-102.

⁴ SoCal Edison Filing, Ex. SCE-4 (Testimony of Thomas A. Burhenn) at 8-9.

⁵ SoCal Edison Filing, Transmittal Letter at 4.

previous generator interconnection studies and that sufficient capacity was available and the Coolwater-Lugo Project was no longer needed. Following CAISO's comments, on May 21, 2015, the CPUC dismissed SoCal Edison's CPCN application without prejudice.⁶

6. SoCal Edison asserts that its request to recover abandoned plant costs complies with the incentives granted by the Commission in the Incentives Order. Specifically, SoCal Edison asserts that abandonment of the Coolwater-Lugo Project was beyond its control and that the \$37.069 million in project costs were prudently-incurred. SoCal Edison also argues that these costs were reasonably identified and tracked, consistent with the scope of costs identified in the Incentives Order. Finally, SoCal Edison asserts that these costs have not been otherwise recovered as part of another Commission-approved rate and amortizing the recovery of the abandoned plant costs over a 12-month period through SoCal Edison's formula rate will result in just and reasonable rates.⁷

7. SoCal Edison contends that the reasons for which it has now abandoned the Coolwater-Lugo Project were beyond its control. According to SoCal Edison, it was ordered by the CPUC to cease its efforts to license the Coolwater-Lugo Project due to a significant material change to the electric grid caused by the closure of the Coolwater Generating Station and three other local thermal electric generators. SoCal Edison states that these retirements freed up sufficient deliverability capacity for the Mojave Solar Project, thereby causing CAISO to conclude that SoCal Edison's construction of the network upgrades was now unnecessary.⁸

8. SoCal Edison seeks 100 percent recovery of the abandoned plant costs in the amount of \$37.069 million, which includes \$24.01 million in direct expenditures, \$4.55 million in project management, project development and project support costs, \$1.24 million in divisional overhead costs, and \$7.27 million in corporate overhead costs. SoCal Edison contends that the costs for the Coolwater-Lugo Project were prudently incurred. SoCal Edison seeks abandoned plant recovery for costs associated with engineering, environmental and cultural survey work, geotechnical boring efforts, new tower design and testing, as well as conduct planning coordination work with a neighboring utility, the United States military, three local airports, and various other stakeholders that would be impacted by the Coolwater-Lugo Project.⁹

⁶ *Id.* at 5.

⁷ *Id.* at 2.

⁸ *Id.* at 5-6.

⁹ *Id.* at 7-8.

9. SoCal Edison notes that Schedule 12 of its formula rate provides for recovery of abandoned plant costs in the base transmission revenue requirement (TRR) for those projects for which the Commission has approved abandoned plant cost recovery. The annual abandoned plant amortization expense would be equal to the total amount of Commission-approved abandoned plant costs, in this case proposed to be \$37.069 million. SoCal Edison seeks authorization to amortize the abandoned plant costs over a 12-month period because, as SoCal Edison explains, in the past, intervenors have requested that a one-year amortization period be used in order to limit the carrying charges that transmission customers must pay on the abandoned plant amount.¹⁰

10. SoCal Edison requests that the Commission accept its proposed treatment for reflecting abandoned plant costs for the Coolwater-Lugo Project in its formula rate beginning on January 1, 2016. However, SoCal Edison also explains that under its proposal, rate levels would not change until 2018.¹¹

II. Notice of Filing and Responsive Pleadings

11. Notice of SoCal Edison's filing was published in the *Federal Register*, 81 Fed. Reg. 12,897 (2016), with interventions and comments due on or before March 18, 2016. A notice of intervention was filed by the CPUC. Timely motions to intervene were filed by the Golden State Water Company, Six Cities,¹² and the California Department of Water Resources State Water Project. Timely motions to intervene and comments were filed by the Los Angeles Department of Water and Power (LADWP), the M-S-R Public Power Agency (M-S-R), and Modesto Irrigation District (Modesto).¹³ On April 4, 2016, SoCal Edison filed an answer to the comments.

12. LADWP and M-S-R state that they do not generally oppose SoCal Edison's request for recovery of the abandonment costs for the Coolwater-Lugo Project, but raise concern with respect to the \$8.51 million in overhead costs that SoCal Edison proposes to recover as part of its abandonment filing. LADWP and M-S-R contend that SoCal Edison provides minimal support for how overhead costs were allocated to the Coolwater-Lugo Project. According to LADWP and M-S-R, SoCal Edison does not

¹⁰ *Id.* at 9.

¹¹ *Id.* at 10; Ex. SCE-1 (Testimony of Daniel J. Allstun) at 16.

¹² Six Cities consist of the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California.

¹³ Modesto states that it supports and adopts, as its own, the arguments raised by LADWP and M-S-R.

demonstrate how certain values are calculated and fails to identify the amount of the allocator for the various types of overhead costs it has included in its request.¹⁴

13. LADWP and M-S-R state that the proportion of overhead costs allocated for the Project in the instant filing represents a 23 percent share of the total costs represented in the present abandonment filing which is nearly three times the amount represented in previous cases submitted by SoCal Edison. For example, LADWP and M-S-R note that overhead costs represented only 8.5 percent and 8.9 percent of the total costs for SoCal Edison's 2014 request to recover costs for the abandoned above-ground facilities in Segment 8A of the Tehachapi Project¹⁵ and 2012 request to recover costs for the abandoned portion of the Devers Palo-Verde II Project,¹⁶ respectively.¹⁷

14. LADWP and M-S-R further assert that the allocation of corporate overhead costs appears to be particularly excessive. LADWP and M-S-R note that a 4.7 percent allocator was used in SoCal Edison's 2014 abandonment filing for the Tehachapi Project. Based on the workpapers submitted by SoCal Edison in the instant proceeding, LADWP and M-S-R state that they calculate that a 24.4 percent corporate overhead allocator is used, which represents an increase of more than five times the allocation rate used in SoCal Edison's Tehachapi Project abandonment filing. For these reasons, LADWP and M-S-R contend that the Commission should reject the instant abandonment filing as unjust and unreasonable.¹⁸

15. In its answer, SoCal Edison asserts that the overhead costs in this proceeding are higher than overhead costs in its prior abandoned plant proceedings because of the higher level of direct costs incurred by SoCal Edison for the Coolwater-Lugo Project and the composition of those direct costs (SoCal Edison labor, non-labor, and materials). SoCal Edison explains that its overhead costs are divided into corporate overhead, which supports all SoCal Edison capital projects, and division overhead, which, in this case, is allocated monthly based on the type of transmission and distribution work being supported that month. Corporate overheads include four elements: capitalized

¹⁴ LADWP and M-S-R Comments at 6-7.

¹⁵ See Southern Cal. Edison Co., Filing, Docket No. ER14-1857 (filed May 1, 2014).

¹⁶ See Southern Cal. Edison Co., Filing, Docket No. ER12-239 (filed Oct. 28, 2011).

¹⁷ LADWP and M-S-R Comments at 7-8.

¹⁸ *Id.* at 8-9.

administrative and general; ad valorem tax; injuries and damages; and taxes associated with pension and benefits and payroll. SoCal Edison explains that its accounting system calculates and assigns corporate overheads monthly to capital projects based on the capital expenditures recorded that month to individual work orders.¹⁹

16. SoCal Edison states that the level of corporate overheads recorded for specific work orders is a function of the specific costs recorded to that work order in a given month, the concurrent level of total company work order activity in that month, and the amount of recorded expense that is to be capitalized in that month. SoCal Edison adds that the most significant of the corporate overhead components for the Coolwater-Lugo Project was pension and benefits/payroll tax, which totaled \$5,482,100, making up 75 percent of the total corporate overhead costs. SoCal Edison asserts that the Coolwater-Lugo abandoned plant cost is composed of a much higher amount of SoCal Edison labor because the work consisted of California licensing-related activities, which largely involved internal SoCal Edison personnel.²⁰

17. SoCal Edison argues that the difference in corporate overheads stated as a percentage of abandoned costs for the Coolwater-Lugo Project, versus the Tehachapi Project and the Devers Palo-Verde II Project, is largely the result of a difference in the type of work performed that was ultimately abandoned in each proceeding. SoCal Edison explains that, in those cases, expenditures were mainly associated with third party construction contractors and materials.²¹ SoCal Edison contends that contractor expenses do not receive an allocation of SoCal Edison's pension and benefits and payroll tax overhead costs. SoCal Edison concludes that the higher dollar and percentage allocations of overhead costs to the Coolwater-Lugo Project is due to greater use of SoCal Edison personnel, which appropriately triggered more pension and benefits and payroll tax allocation.²²

¹⁹ SoCal Edison Answer at 5.

²⁰ *Id.* at 6-8.

²¹ *Id.* at 8.

²² *Id.* at 8-9.

III. Discussion

A. Procedural Matters

18. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

19. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2015), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept the answer filed by SoCal Edison because it has provided information that has assisted us in our decision-making process.

B. Substantive Matters

20. In the Incentives Order, the Commission granted SoCal Edison's request to recover 100 percent of its prudently-incurred abandoned plant costs if the Coolwater-Lugo Project was abandoned for reasons beyond SoCal Edison's control.²³ However, the Commission determined that, in order for SoCal Edison to recover these costs, SoCal Edison would have to show that its rates reflecting the abandoned plant costs were just and reasonable in a subsequent FPA section 205 filing.²⁴

21. We here conclude that SoCal Edison has demonstrated that it qualifies to recover 100 percent of the prudently-incurred project costs for the Coolwater-Lugo Project based on the facts and circumstances presented in this proceeding. We find that the shutdown of Units 1, 2, 3, and 4 of the Coolwater Generating Station, followed by the CPUC's and CAISO's separate determinations that the Coolwater-Lugo Project was no longer needed, resulted in SoCal Edison's abandonment of the Coolwater-Lugo Project and that these circumstances were beyond SoCal Edison's control.

22. With respect to the amortization period, we accept SoCal Edison's 12-month amortization proposal. This approach will reduce potential overall costs by avoiding years of carrying costs, and, accordingly, will reduce the impact on SoCal Edison's overall revenue requirement. However, while SoCal Edison has supported its request to recover the costs associated with its abandonment of the Coolwater-Lugo Project, the specific amount of overhead costs that SoCal Edison proposes to recover as prudently-incurred costs raises issues of material fact that cannot be resolved based upon the record before us and are more appropriately addressed in the hearing and settlement judge

²³ Incentives Order, 134 FERC ¶ 61,181 at P 100.

²⁴ *Id.* P 102.

procedures ordered below. Our preliminary analysis indicates that SoCal Edison's request to recover \$8.51 million of overhead costs associated with its abandonment of the Coolwater-Lugo Project has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we will accept SoCal Edison's prudently-incurred abandoned plant cost filing associated with the Coolwater-Lugo Project, suspend it for a nominal period, effective January 1, 2016,²⁵ subject to refund, and set the specific amount of overhead costs that SoCal Edison may recover for hearing and settlement judge procedures.

23. While we are setting SoCal Edison's overhead costs for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.²⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise, the Chief Judge will select a judge for this purpose.²⁷ The settlement judge shall report to the Chief Judge and the Commission within 30 days of the date of this order concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions or provide commencement of a hearing by assigning the case to a presiding judge.

²⁵ Under *West Texas Utilities Co.*, 18 FERC ¶ 61,189, at 61,374 (1982), the Commission explained that when its preliminary analysis indicates that the proposed rates may be unjust and unreasonable and may be substantially excessive, the Commission would generally impose a five-month suspension. In the instant filing, SoCal Edison is not proposing to modify the January 1, 2016 base TRR to reflect the abandoned plant; rather, SoCal Edison is seeking authorization to reflect this abandoned plant in its formula rate informational filing in 2017, which would affect the base TRR and associated rates beginning in 2018. Thus, the question of a nominal suspension or five-month suspension in this particular case is immaterial since the rate impact will not occur until 2018. See *Southern Cal. Edison Co.*, 137 FERC ¶ 61,252 (2011).

²⁶ 18 C.F.R. § 385.603 (2015).

²⁷ If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of the date of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Commission orders:

(A) SoCal Edison's request to recover abandoned plant costs is granted based on the specific circumstances presented in this case, as discussed in the body of this order.

(B) SoCal Edison's proposed request to recover the Coolwater-Lugo abandoned plant costs in its formula rate is hereby accepted, suspended for a nominal period, effective January 1, 2016, subject to refund, as discussed in the body of this order.

(C) 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 FPA, 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 hearing shall be held concerning SoCal Edison's proposed overhead costs. However, the hearing shall be held in abeyance to provide time for settlement judge procedures as discussed in Ordering Paragraphs (D) and (E) below.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates a settlement judge. If the parties decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(E) Within thirty (30) days of the date of this order, the settlement judge shall file a report with the Commission and the Chief Judge on the status of settlement discussions. Based on this report, the Chief Judge shall provide the parties with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the parties' progress toward settlement.

(F) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.