

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

101 FERC ¶ 61,404
Docket No. ER03-142-000

ORDER ACCEPTING FOR FILING AND SUSPENDING
PROPOSED TARIFF AND CONTRACT AMENDMENTS
AND ESTABLISHING HEARING AND SETTLEMENT
JUDGE PROCEDURES

(Issued December 31, 2002)

1. On November 1, 2002, Southern California Edison Company (SoCal Edison) filed revisions to its Transmission Owner Tariff (TO Tariff) and contract amendments to certain Existing Transmission Contracts (ETC) to: (1) update the Reliability Services¹ (RS) charge for TO customers and (2) assess the RS charge to its ETC customers with loads in SoCal Edison's historic control area. For the reasons set forth below, the Commission suspends the revisions to the TO Tariff and amendments to certain ETC for the limited basis of inquiry into the proper allocation of the RS costs and whether the ETC customers provide any reliability service, establishes a hearing where the proper allocation may be addressed, but holds the hearing in abeyance pending settlement judge procedures. The Commission also denies the requests for rejection of this filing on Mobile-Sierra grounds. This order is in the public interest because it implements a reduction to RS charges under SoCal Edison's TO Tariff and permits an investigation into the proper allocation of RS charges to ETC customers.

¹Reliability Services include services obtained from: Reliability Must-Run (RMR) units and local Out of Market calls.

Background

2. Beginning August 1, 2001, pursuant to the terms of a settlement of a RS rate proceeding,² SoCal Edison has recovered RS costs through stated per KWh rates derived based on projected test year costs that are charged to retail customers with loads in SoCal Edison's historic control area taking service under the CAISO Tariff and SoCal Edison's TO Tariff.³
3. SoCal Edison's RS rate⁴ includes a balancing account mechanism that ensures that these rates neither overcollect nor undercollect RS costs by requiring SoCal Edison to revise its RS rates annually through a filing to be effective for service rendered on and after January 1 of the next year (RS True-Up Filing) and to incorporate any under or overcollections in the derivation of the RS rate for the next calendar year.
4. Additionally, the RS Settlement provided that SoCal Edison would file a revised RS rate⁵ upon the earlier of: 1) 60 days following a final Commission decision in Pacific Gas and Electric Company's (PG&E) RS rate proceeding (PG&E RS case)⁶, Docket No. ER00-2360, et al., or 2) November 1, 2002. On August 5, 2002, a Commission decision was issued in the PG&E RS case, thereby requiring SoCal Edison to file a revised RS rate by October 4, 2002. However, the RS Settlement was modified with the consent of all parties to require that SoCal Edison file its revised RS rate by November 1, 2002, requesting an effective date of January 1, 2003. The instant filing reflects SoCal Edison's compliance with this requirement.

²Settlement Agreement in Docket No. ER01-315-000, which was approved by the Commission by letter order dated September 12, 2001. See 96 FERC ¶ 61,260 (2001) (RS Settlement).

³From the inception of the California Independent System Operator Corporation's (CAISO) operation through July 31, 2001, SoCal Edison recovered charges for Reliability Services billed to it by the CAISO as a Participating Transmission Owner (Participating TO) entirely from its retail end-use customers through a ratemaking mechanism authorized by the California Public Utilities Commission (CPUC).

⁴Appendix VI to SoCal Edison's TO Tariff.

⁵The RS Settlement denoted this as a "Generally-Triggered Reliability Services Successor Mechanism."

⁶Opinion No. 459, 100 FERC ¶ 61,160 (2002).

SoCal Edison's Filing

5. In this filing, SoCal Edison proposes to maintain basic elements of the currently-effective RS rate mechanism. These elements include the balancing account mechanism, the requirement for an annual update of the RS rates, and an assessment of RS rates to SoCal Edison's retail customers and the derivation of an RS rate for wheeling services for any prospective wholesale Wheeling customers. Accordingly, SoCal Edison has derived new TO rates and a Wheeling RS rate that reflect these elements. In addition, consistent with the Commission's findings in the PG&E RS case, SoCal Edison also proposes to assess the RS charge to three ETC customers. Finally, SoCal Edison has proposed to modify the definition of Reliability Services in its TO Tariff to reflect the inclusion of generation units required to manage intrazonal congestion. SoCal Edison requests the revised tariff sheets and contract amendments to be made effective January 1, 2003.

6. Specifically, SoCal Edison proposes to amend ETCs it has with Arizona Electric Power Cooperative⁷, the Cities of Azusa, Banning, Colton, and Riverside, California and California Department of Water Resources to reflect the allocation of RS charges. However, it appears that, consistent with SoCal Edison's position that ETCs who are Participating TOs will not be subject to the RS charges, the amendments to the ETCs of Azusa, Banning and Riverside are filed only as a precautionary matter in case these cities do not become Participating TOs.⁸ With respect to its ETCs with the California cities, SoCal Edison requests waiver of the Order No. 614 requirements at this time. In support of this waiver request, SoCal Edison states that it is in the process of preparing revisions to these agreements which will fully comply with Order No. 614 and that it intends to file amended and restated agreements prior to January 1, 2003.

⁷SoCal Edison has filed, pursuant to Order No. 614, an Amended and Restated Firm Transmission Service Agreement.

⁸The City of Azusa filed with the Commission a Transmission Revenue Requirement (TRR) and accompanying Transmission Owner (TO) tariff in Docket No. EL03-14-000; the City of Banning filed its TRR and TO tariff in Docket No. EL03-21-000; and the City of Riverside filed its TRR and TO tariff in Docket No. EL03-20-000. By order issued December 23, 2002, 101 FERC ¶ 61,352, the Commission set these cities' TRRs and TO tariff's for settlement judge proceedings.

Notice and Responsive Filings

7. Notice of SoCal Edison's Filing was published in the Federal Register, 67 Fed. Reg. 69,521 (2002), with comments, interventions, and protests due on or before November 22, 2002.

8. Timely motions to intervene, raising no substantive issues were filed by the CAISO, the Cities, the City of Vernon, California (Vernon), the California Electricity Oversight Board (CEOB), the Modesto Irrigation District (Modesto), the M-S-R Public Power Agency (M-S-R) and the Cities of Santa Clara, California (Santa Clara) and Redding, California (Redding) (collectively, Cities/ M-S-R), and the Transmission Agency of Northern California (TANC).

9. A timely notice of intervention with comments was filed by the CPUC.

10. Motions to intervene and protests were filed by CDWR and the Metropolitan Water District of Southern California (Metropolitan).

11. An untimely motion to intervene was filed by Pacific Gas and Electric Company (PG&E).

12. SoCal Edison filed an answer to the protests.

Discussion

13. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁹ the timely unopposed motions to intervene and notice of intervention serve to make those who filed them parties to this proceeding. The Commission will accept PG&E's late motion to intervene since granting it at this stage of the proceeding will not prejudice any party. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 213(a)(2) (2001), prohibits answers to protests unless otherwise permitted by the decisional authority. However, we find that good cause exists to allow SoCal Edison's answer because it assists us in our decision-making process.

⁹18 C.F.R. § 385.214 (2002).

A. Revisions to the TO Tariff

14. SoCal Edison's proposed RS charges for service to its TO tariff customers for calendar year 2003 result in a reduction in the stated rates to both the retail End-Use Customers and the RS Wheeling rate. Specifically, SoCal Edison projects a revenue decrease of approximately \$11.6 million to its existing retail customers.¹⁰

15. Metropolitan and CDWR have not raised objections to SoCal Edison's forecast of RS costs for 2003 but have raised other issues related to the allocation of RS costs. CDWR argues that SoCal Edison should not be permitted to revise the definition of Reliability Services to include intrazonal congestion costs because the CAISO has not yet filed for inclusion of these costs. CDWR also argues that SoCal Edison's formula rates for the recovery of RS costs are not specific enough for a knowledgeable party to be able to calculate for itself what charge will be produced by the formula. Metropolitan argues that SoCal Edison's rationale for recovering RS costs from transmission customers is inconsistent with cost-causation. Metropolitan further argues that there is a significant disparity in the treatment of Participating TOs and non-Participating TOs under the CAISO Tariff that mitigates against treating RS service as one that provides grid-wide benefits.

16. Responding to CDWR's concerns regarding the addition of intrazonal congestion charges to the definition of RS costs, SoCal Edison argues that this definition clarifies which services qualify as RS service, including intrazonal congestion. Regarding CDWR's formula rate concerns, SoCal Edison states that it is not using a formula rate to assess RS costs, and thus, CDWR's argument should be dismissed. Also, SoCal Edison argues that Metropolitan's protest that the recovery of RS costs from wheeling customers is inconsistent with cost-causation has already been rejected by the Commission in the PG&E RS case.

17. SoCal Edison's TO Tariff includes, under section 3.78, a definition of Reliability Services. This definition determines the costs billed by the CAISO to Participating TOs pursuant to the ISO Tariff. Our review indicates that SoCal Edison's addition to the definition of generation units required to manage intrazonal congestion has not yet been filed with or approved by the Commission for use in the definition of RS costs. Therefore, its inclusion in the definition is rejected as premature. SoCal Edison is

¹⁰SoCal Edison does not project revenues for Wheeling customers inasmuch as no service to this group was provided in 2002.

therefore directed to revise section 3.78 of its TO Tariff to remove the inclusion of language related to intrazonal congestion.

18. Regarding CDWR's formula rate arguments, we find that with the exclusion of the intrazonal congestion costs, SoCal Edison's projected costs are consistent with the costs billed to SoCal Edison by the CAISO and recovered in prior rate proceedings. We also note that SoCal Edison is using stated rates to assess RS costs. Therefore, CDWR's argument is rejected. Lastly, our review indicates that the Commission, in Opinion No. 459, has already determined that an integrated transmission grid is a cohesive network moving electricity in bulk and that RS costs should be paid by all users of the grid because of grid-wide benefits.¹¹ Thus, there is no need to revisit this issue in the instant proceeding.

19. Our review also indicates that SoCal Edison's projection of RS costs for calendar year 2003 are reasonable and no party has objected to these projections.

A. Motions to Reject Amendments

20. CDWR filed a motion to reject SoCal Edison's proposal to amend the SoCal-CDWR ETC because it is in violation of the Mobile-Sierra doctrine and it does not meet the filing requirements of Part 35 of the Commission's regulations. Additionally, Metropolitan requests that the Commission reject SoCal Edison's RS filing and require SoCal Edison to provide an unbundling of rates in its ETCs and a full cost of service analysis supporting any RS charges under CDWR's ETC. Alternatively, CDWR and Metropolitan request that the Commission suspend the filing for the maximum 5-month period.

21. In its answer, SoCal Edison notes that CDWR previously argued for rejection of an amendment filed by SoCal Edison to the same ETC based on Mobile-Sierra grounds pursuant to Section 21.2 of the contract and the Commission rejected CDWR's request for rejection.¹² SoCal Edison explains that its contract with CDWR only restricts changes for rate redeterminations related to transmission service. SoCal Edison argues that under Section 21.3 of the contract,¹³ it is permitted to amend its ETC with CDWR

¹¹101 FERC ¶ 61,139.

¹²See Southern California Edison Co., 83 FERC ¶ 61,208 (1998).

¹³Under Section 21.3, SoCal Edison's section 205 filing rights are protected,

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for new services, such as RS service, and corresponding charges. With respect to unbundling of rates, SoCal Edison states that its ETC and TO Tariff rates are already unbundled and do not include generation-related RS charges.

22. CDWR's and Metropolitan's requests to reject the filing are denied. Our review of the ETC between SoCal Edison and CDWR indicates that the contract language does not bar SoCal Edison from amending its contract in order to recover the RS charges. Additionally, we agree with SoCal Edison that its ETC and TO Tariff rates are already unbundled. Finally, our review indicates that SoCal Edison's filing satisfactorily complies with Part 35 of our regulations.

B. Revisions to ETCs

23. SoCal Edison has filed contract amendments, consistent with the decision in the PG&E RS case, to assess a charge for RS to ETC customers with loads in SoCal Edison's historic control area. SoCal Edison also includes in its filing contract amendments to ETCs with the Cities of Azusa, Banning and Riverside, California.

24. As a preliminary matter, we note that SoCal Edison has developed its RS rate to ETCs based on the Contract Demands (CDs) associated with only the three ETC customers that are not becoming Participating TOs. Accordingly, we reject the contract amendments to the Cities of Azusa, Banning and Riverside, California inasmuch as the RS rate development does not include their respective CDs. We also note that these three ETC customers are in the process of becoming Participating TOs and, as such, the RS rates will not apply to them.

25. CDWR and Metropolitan have raised numerous issues regarding the assessment of RS charges under CDWR's ETC. CDWR asserts that undisputed evidence establishes that it already pays for long term voltage support and other RMR costs in fees it pays the CAISO as a Scheduling Coordinator and, thus, it would be charged twice for these services if it is charged RS rates. CDWR also asserts that its ETC with SoCal Edison requires CDWR to provide extensive reliability support to SoCal Edison. In addition, Metropolitan disputes SoCal Edison's argument that ETC customers cannot self-provide reliability service based on the predicate that only RMR resources can provide such service and states that this interpretation eliminates the opportunity for self-provision of such service.

¹³(...continued)
except as provided in Section 21.2.

26. Metropolitan states that the methodology proposed by SoCal Edison to recover RS costs from its ETC customers discriminates among similarly situated customers, and that SoCal Edison has presented no reasonable basis for its use of disparate cost methodologies for recovery of RS costs from its retail and ETC customers. Specifically, Metropolitan and CDWR argue that SoCal Edison's use of contract demand for allocation of RS costs to ETCs is inconsistent with SoCal Edison's allocation of RS costs to retail customers based on a 12CP load basis and, as such, unreasonable since the maximum transmission entitlements of ETC customers bear no relationship to load.

27. Metropolitan argues that SoCal Edison has not supported the inclusion of a franchise fee factor of 0.8087% in the development of the RS rate for ETC customers.

28. In its answer, SoCal Edison states that it is only recovering RS costs that the Commission already authorized the CAISO to collect and if CDWR believes that these charges are duplicative, they should file a complaint with the Commission against the CAISO. SoCal Edison also states that the CAISO Tariff does not permit self-provision of RS.

29. SoCal Edison responds to the CDWR's and Metropolitan's concerns regarding allocation methodology by stating that it selected the allocation methodology that it believes best reflects the FERC-mandated principle that all customers bear RS costs while recognizing the differences among the customers. SoCal Edison states that its allocation methods are policy issues that do not warrant a hearing.

30. SoCal Edison responds to Metropolitan's argument regarding the inclusion of a franchise fee factor in the RS rate by stating that franchise fees represent the costs SoCal Edison pays to cities for the right to install and maintain transmission and distribution facilities within such cities. SoCal Edison argues that in order for it to fully recover its costs, it must recover franchise fees in rates for all services it provides, including RS service. Finally, SoCal Edison notes that the Commission has previously addressed and allowed the assessment of franchise fees to all transmission customers, both wholesale and resale.¹⁴

31. Our review indicates that CDWR's protest regarding potential double recovery of costs through the assessment of the RS rate is a matter that should be addressed in the instant hearing rather than in a separate complaint against the CAISO. That is, we find that if these ETC customers should be excluded from the RS charges because they

¹⁴Southern California Edison Co., 54 FERC ¶ 61,320 (1991).

provide reliability service under these contracts, the costs associated with this potential outcome should be allocated to SoCal Edison's control area customers rather than all CAISO customers. This finding is consistent with the CAISO's current Transmission Access Charge rate design which does not transition to a single grid-wide rate until December 31, 2010. Our review also indicates that it is reasonable for SoCal Edison to recover franchise fees in the development of RS charges to ETC customers since the Commission previously granted them the right to recover these fees for wholesale transmission customers. Regarding SoCal Edison's allocation method, we find that based on the record before us, we are unable to decide this issue. Therefore, we will set for hearing the issue of the proper method to allocate RS costs to ETC customers. Since the allocation method will impact the derived rates for both the TO Tariff and ETC customers, we will suspend both rates. Accordingly, we find the proposed TO Tariff amendments may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we accept the proposed TO Tariff and ETC amendments for filing, suspend them for a nominal period to be effective January 1, 2003, subject to refund, and establish a hearing concerning SoCal Edison's proposed allocation methodology.

32. In West Texas Utilities Company, 18 FERC ¶ 61,189 (1982), we explained that when our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in West Texas, we would generally impose a nominal suspension. Here our examination indicates that the proposed rates may not yield substantially excessive revenues. Accordingly, the revised rates shall become effective, subject to refund, on January 1, 2003.

33. While we are setting certain issues for a trial-type evidentiary hearing, we encourage the parties to make an effort to settle their dispute before hearing procedures are commenced. We believe this case is a good case for settlement. To aid the parties in their settlement efforts, the hearing will be held in abeyance and a settlement judge shall be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹⁵ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in this proceeding; otherwise the Chief Judge will select a judge for this purpose.¹⁶

¹⁵18 C.F.R. § 385.603 (2002).

¹⁶If 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 5 days of this order. A list of Commission judges and a summary of their background and experience is

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34. The Commission notes that the proposed amended ETC rate sheets reference the RS rate stated in SoCal Edison's TO Tariff. The Commission requires that each rate schedule contain the rate which is being provided in the agreement. However, as noted above in Paragraph 6, SoCal Edison requests waiver of the Order No. 614 redesignation requirements at this time with respect to the ETC agreements with the Cities as SoCal Edison is in the process of preparing revisions to these agreements. We note that on December 20, 2002, SoCal Edison filed restated agreements with the Cities in Docket No. ER03-301-000. Therefore, SoCal Edison's waiver request of Order No. 614 is now moot. However, we will require SoCal Edison to file an amendment to its agreements with Arizona Electric Power Cooperative, CDWR, and the City of Colton to include the stated rate for RS service.¹⁷

The Commission orders:

(A) SoCal Edison's proposed TO Tariff amendments and RS Tariff are hereby accepted for filing and nominally suspended, to become effective on January 1, 2003, subject to refund.

(B) SoCal Edison is hereby directed to submit a compliance filing, as discussed in the body of this order, within fifteen (15) days of the date of this order.

(C) Intervenors' requests for rejection of SoCal Edison's filing are hereby denied.

(D) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603, 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 to consider the proposed TO Tariff and ETC amendments. The settlement discussions are to be limited to an examination of the proper allocation of RS costs to ETCs and whether the ETC customers provide any reliability service that would exclude payment of RS costs. To the extent consistent with this order, the designated settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable.

¹⁶(...continued)
available at <http://www.ferc.gov/legal/oalj/bio/judges.htm>.

¹⁷The amended and restated agreements should also include the definition of Reliability Services under which the RS rate is derived.

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(E) Within sixty (60) days of the date of this order, the settlement judge shall issue a report to the Commission. The settlement judge shall issue a report every sixty (60) days thereafter, apprising the Commission of the parties' progress toward settlement.

(F) If the settlement discussions fail, an administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding, to be held within approximately fifteen (15) days of the settlement judge's report to the Commission, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, including a date for submission of SoCal Edison's case-in-chief, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) SoCal Edison will be informed of the rate schedule designations to its TO Tariff and ETCs upon acceptance of the compliance filing ordered herein.

By the Commission.

(S E A L)

Linwood A. Watson, Jr.,
Deputy Secretary.