

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Nora Mead Brownell, and Suedeen G. Kelly.

Southern California Edison Company

Docket No. ER06-259-000

ORDER ACCEPTING AND SUSPENDING PROPOSED CHANGES AND
ESTABLISHING HEARING AND SETTLEMENT JUDGE PROCEDURES

(Issued January 26, 2006)

1. In this order, we accept for filing the proposed revisions by Southern California Edison Company (Edison) to its Transmission Owner Tariff (TO Tariff) as well as to certain Existing Transmission Contracts, and suspend the requested changes for five months, to become effective June 1, 2006, subject to refund. We also establish hearing and settlement judge procedures.

Background

2. On November 30, 2005, Edison tendered for filing revisions to its Transmission Owner Tariff, FERC Electric Tariff, Second Revised Volume No. 6, and to certain Existing Transmission Contracts (ETCs) to reflect a change to Edison's current Reliability Services rates; Edison revises the Reliability Services rates annually through a filing to be effective for service rendered on and after January 1 of each year. Edison requests an effective date of January 1, 2006. In its filing at issue here, Edison contends that it experienced higher Reliability Services costs throughout 2005 than were expected, resulting in an increased under-collected balance in Edison's Reliability Services Balancing Account (RSBA) of approximately \$90 million, a balancing account mechanism that ensures that Edison's Reliability Services rates neither over- or under-collect the Reliability Services costs incurred by Edison. Edison proposes to revise its TO Tariff to update the Reliability Services Rates charged to End-Use customers, ETC customers, and Wheeling customers. Edison is seeking to recover a Reliability Services revenue requirement of \$263,208,713.

3. According to Edison, the California Independent System Operator Corporation (CAISO) incurs reliability-related costs in support of transmission services provided by the CAISO. The CAISO charges these costs to Participating Transmission Owners, including Edison. Edison then passes these CAISO charges through to its customers under Edison's TO Tariff. Edison states that, as a result of the Amendment No. 60 and

Operating Procedure M-438, there are now four components of Reliability Services costs. These costs include: 1) Reliability Must-Run (RMR); 2) Out of Market (OOM); 3) Must-Offer Obligation (MOO); and 4) Operating Procedure M-438 (M-438).

4. In an order dated September 12, 2001, the Commission approved a settlement which established Edison's Reliability Services Rate Schedule to recover RMR and OOM costs.¹ In the instant filing, Edison forecasts 2006 RMR and OOM Reliability Services costs to be approximately \$75 million and \$0, respectively.²

5. On May 11, 2004, the CAISO filed Amendment No. 60 to the CAISO Tariff. Amendment No. 60 constituted a comprehensive proposal by the CAISO to revise provisions relating to the implementation of the Commission-approved Must-Offer Obligation (MOO). On July 7, 2004, the Commission accepted Amendment No. 60 and established hearing procedures.³ Edison states that the MOO Services cost forecast is now \$94.4 million, consisting of anticipated 2006 costs of \$74.4 million and a CAISO rebill for the July 17, 2004 through September 30, 2004 period of \$20 million.

6. On August 24, 2004, the CAISO posted a new Operating Procedure, M-438, which is designed to allow Load Serving Entities to assist the CAISO in reliably operating the grid. Edison forecast M-438 Services costs for 2006 to be approximately \$4 million.

7. On June 28, 2005, Edison filed a mid-year Reliability Services rate revision that proposed to increase the Reliability Services revenue requirement from \$85 million to \$155 million. In an order issued on August 24, 2005, the Commission accepted Edison's proposed Reliability Services rates, but made them effective on August 28, 2005 subject to the outcome of other ongoing Reliability Services rate proceedings.⁴

Notice of Filing and Responsive Pleadings

8. Notice of Edison's filing was published in the *Federal Register*, 70 Fed. Reg. 74,798 (2005), with interventions and protests due on or before December 21, 2005.

9. On December 21, 2005, Pacific Gas and Electric Company, the M-S-R Public Power Agency, the Public Utilities Commission of the State of California, the Transmission Agency of Northern California, and the California Electricity Oversight

¹ See *Southern California Edison Company*, 96 FERC ¶ 61,260 (2001).

² See Testimony of Barton J. Hanson at 17-18.

³ See *California Independent System Operator Corporation*, 108 FERC ¶ 61,022 (2004).

⁴ See *Southern California Edison Company*, 112 FERC ¶ 61,216 (2005).

Board filed timely interventions. Later, on December 29, 2005, the Northern California Power Agency filed a late motion to intervene. The Cities of Anaheim, Azusa, Banning, Pasadena, and Riverside, California (Cities) followed with a late motion to intervene on January 4, 2006.

10. The following parties filed timely interventions and protests: the City of Colton, California; Golden State Water Company (Golden State); the Metropolitan Water District of Southern California; the California Department of Water Resources State Water Project (SWP); and Arizona Electric Power Cooperative, Inc., together with Southwest Transmission Cooperative, Inc.

11. The protestors object to various aspects of Edison's proposal including, among other things, that Edison's proposed revisions should not be accepted based on an Initial Decision issued in the ongoing proceeding involving the CAISO's Amendment No. 60. Protestors argue that Edison must wait to file revisions to its TO Tariff until after the Commission issues a final order. Additionally, several protestors argue that proposed Reliability Services rates may be excessive and unjust and unreasonable because Edison does not take into consideration factors, such as transmission upgrades, that may reduce 2006 Reliability Services costs. Several protestors request that Edison's proposals be set for hearing and argue that a full five month suspension is justified because of the size of the proposed rate increase.

12. On January 5, 2006, Edison filed an answer to the protests. Edison also requested that the Commission deny the Cities' request for late intervention because the Cities' opposition to Golden State's protest is based solely on an issue that Edison argues is now moot.

13. On January 6, 2006, Golden State filed an answer to the Cities' late-filed motion to intervene. Golden State argues that the Cities' motion should be denied since the Cities have no other interest in the outcome of this proceeding except that of a now-moot issue in Golden State's protest.

14. On January 18, 2006, the SWP filed an answer to Edison's answer to the protests. The SWP states that the Commission should reject Edison's answer and only consider SWP's answer if the Commission fails to do so.

Discussion

Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F. R. § 385.214 (2005), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

Notwithstanding Edison's and Golden State's opposition, we are persuaded to grant Cities' late-filed motion to intervene, as well as NCPA's late-filed motion to intervene, given their interests in this proceeding, the early stage of this proceeding, and the absence of undue prejudice or delay.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2005), prohibits an answer to a protest or to an answer unless otherwise ordered by the decisional authority. We are not persuaded to accept answers filed by Edison (other than as to the Cities' late-filed intervention) and SWP and will, therefore, reject them both.

Hearing and Settlement Judge Procedures

17. Edison's proposed changes to its TO Tariff raise issues of material fact that cannot be resolved based on the record before us, and are more appropriately addressed in the hearing and settlement judge procedures ordered below.

18. Our preliminary analysis indicates that Edison's proposed changes to its TO Tariff have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, we will accept Edison's proposed changes for filing, suspend them for five months, make them effective June 1, 2006, subject to refund, and set them for hearing and settlement judge procedures.

19. In *West Texas Utilities Company*,⁵ the Commission explained that when its preliminary analysis indicates that the proposed rates may be unjust and unreasonable, and may be substantially excessive, as defined in *West Texas*, the Commission generally would impose a maximum suspension. In the instant proceeding, our preliminary analysis indicates that Edison's proposed rates may be substantially excessive. Therefore, we will suspend Edison's proposed changes for the maximum five-month period.

20. While we are setting these matters 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.⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding;

⁵ 18 FERC ¶ 61,189 (1982).

⁶ 18 C.F.R. § 385.603 (2005).

otherwise, the Chief Judge will select a judge for this purpose.⁷ 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 for commencement of a hearing by assigning the case to a presiding judge.

The Commission orders:

(A) Edison's proposed changes in its TO Tariff are hereby accepted for filing and suspended for a five-month period, to become effective June 1, 2006, subject to refund, as discussed in the body of this order.

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

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2005), 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 the 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.

(D) 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 the 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

⁷ 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 days of this order. The Commission's website contains a list of Commission judges and a summary of their background and experience (www.ferc.gov – click on Office of Administrative Law Judges).

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.

(E) 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, N.E., 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 to 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)

Magalie R. Salas,
Secretary.