

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Southern California Edison Company

Docket Nos. ER04-435-010
ER04-435-012
ER05-612-000
(not consolidated)

ORDER GRANTING IN PART AND REJECTING IN PART REHEARING, SETTING
MATTERS FOR HEARING, AND ON CLARIFICATION AND COMPLIANCE

(Issued July 6, 2005)

1. Southern California Edison Company (Edison) requests rehearing of the Commission's February 18, 2005 Order accepting in part and rejecting in part Edison's revisions to its Wholesale Distribution Access Tariff (WDAT), its proposed Large Generator Interconnection Agreement (WDAT LGIA), and its proposed Large Generator Interconnection Procedures (WDAT LGIP).¹ This order grants in part and rejects in part the request for rehearing and sets certain matters associated with Edison's WDAT LGIP and WDAT LGIA for hearing. In addition, this order also rejects Edison's revised interconnection procedures filed in compliance with the February 18 Order and a filing made on February 18, 2005. This order benefits customers by standardizing the terms and conditions for interconnection service within Edison's service territory.

¹ *Southern California Edison Co.*, 110 FERC ¶ 61, 176 (2005) (February 18 Order).

Background

2. On December 23, 2004, Edison made a compliance filing with Order Nos. 2003 and 2003-A² for its WDAT. Edison requested several variations from the Commission's *pro forma* interconnection rules, some under the consistent with or superior to standard and some based on regional reliability standards. Edison requested several changes to reflect that the nature of service under its WDAT is different than service under an open access transmission tariff. The February 18 Order accepted several of Edison's proposed revisions and rejected several others of Edison's proposed revisions.

3. On March 18, 2005 Edison filed a request for rehearing and clarification of the February 18 Order (Rehearing Request). Specifically, Edison states that the Commission erred in (1) not clearly articulating its reason for rejecting the majority of Edison's proposed revisions, (2) rejecting Edison's modifications that it claims reflect the unique nature of its WDAT, (3) rejecting Edison's changes that it claims are clear errors and inconsistencies in the *pro forma* LGIP and LGIA, (4) rejecting Edison's proposed modification concerning wind power factor, and (5) rejecting Edison's proposed modification to section 21.2.2 of the WDAT. Edison also requests clarification, or in the alternative, rehearing, as to whether the Commission rejected Edison's addition of miscellaneous terms to the study agreements appended to the WDAT LGIP, and if the Commission intended that the terms "Distribution System" and "Wholesale Distribution System" refer to different sets of facilities and/or different systems. Each argument is discussed below.

4. On February 18, 2005, in Docket No. ER05-612-000, Edison submitted revisions to its WDAT LGIP and LGIA, in compliance with Order No. 2003-B (February 18 Filing). In this filing, Edison either made the conforming Order No. 2003-B change or argued why its non-conforming changes were "consistent with or superior to" the *pro forma* LGIA and/or LGIP.

5. On April 22, 2005, Edison filed a revised tariff as directed by the February 18 Order in Docket No. ER04-435-012 (April 22 Filing).³ The April 22 Filing incorporated

² *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 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs., ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, 111 FERC ¶ 61,401 (2005); *see also* Notice Clarifying Compliance Procedures, 106 FERC ¶ 61,009 (2004).

³ Filing in compliance with the February 18 Order and Order Nos. 2003, 2003-A, 2003-B.

the changes in its February 18 Filing. Edison asserts that the bulk of the modifications proposed are those changes that the Commission accepted in the February 18 Order. Edison states that it has complied with the February 18 Order to the fullest extent possible, but contends that it cannot file a *pro forma* WDAT LGIP and WDAT LGIA that contain provisions that do not work in the context of its distribution system. Further, Edison states that it is seeking deviations only for its own WDAT LGIP and WDAT LGIA on recognition that its distribution system is different from the general case. The changes that Edison proposes fall into 3 categories, which it defines as changes required: (1) because of the specific nature of Edison's distribution system; (2) because of the relationship between Edison's distribution system and the CAISO; and (3) to correct substantive errors that would place Edison, its electrical system, or its ratepayers at substantially increased undue risk. Many of the proposed changes relate to issues that Edison has sought rehearing of in ER04-435-010. Since Edison incorporated the changes it proposed in its February 18 Filing in Docket No. ER05-612-000 into its April 22 Filing, Edison argues that this action rendered the February 18 Filing moot.

Notice and Responsive Pleadings

6. Notice of Edison's February 18 Filing was published in the *Federal Register*, 70 Fed. Reg. 10,393 (2005), with comments, protests, and interventions due on or before March 11, 2005. The Transmission Agency of Northern California (TANC) filed a timely motion to intervene. The Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (Cities) filed a timely motion to intervene and protest.

7. Notice of Edison's April 22 Filing was published in the *Federal Register*, 70 Fed. Reg. 23,861 (2005), with comments, protests, and interventions due on or before May 13, 2005. None was filed.

Discussion

Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make those who filed them parties to this proceeding.

Request for Rehearing of the February 18 Order

9. In this order, the Commission grants in part and rejects in part the request for rehearing and sets certain matters associated with Edison's WDAT LGIP and WDAT LGIA for hearing.

10. Edison argues that the Commission's rejection of most of its proposed modifications with little explanation is arbitrary and capricious. It argues that the changes to the *pro forma* LGIP and LGIA were made primarily to allow the procedures and agreements to function properly within the context of Edison's Distribution System, as identified in its WDAT.

11. For example, Edison requests rehearing of the Commission's rejection of its proposed modifications to article 4.1 of the WDAT LGIA concerning the type of interconnection service offered by Edison under its WDAT. Edison argues that its proposal described the actual interconnection service under the WDAT by deleting certain inapplicable concepts under the Commission's definition of Energy Resource Interconnection Service (ERIS) and deleting the entire concept of Network Resource Interconnection Service (NRIS). The Commission concluded:

[I]t appears that there is no difference between Edison's generic interconnection service and Energy Resource Interconnection Service (ERIS) as contained in the Commission's *pro forma* LGIA. At a minimum, Edison must demonstrate that ERIS will not meet their needs. Edison failed to do so in its filing. In addition, as to the *pro forma* Network Resource Interconnection Service (NRIS), just because Edison may not need it for the time being is not a justification for not including *pro forma* NRIS in its tariff. Therefore, we reject the proposed revisions to [article] 4.1 of the [*pro forma*] LGIA.⁴

Edison argues that ERIS is not the same as the interconnection service provided under its WDAT because ERIS is an "as-available" service, whereas WDAT service requests are always honored. It contends that the concept of non-firm service does not exist on Edison's Distribution System and that its proposed changes are necessary to accurately inform the interconnection customer of the nature of the service it will be receiving. In addition, Edison argues that the *pro forma* LGIP and LGIA gives the interconnection customer a choice between ERIS and NRIS service, whereas customers do not have this choice under the WDAT.

12. Edison has raised material issues of fact as to whether or not its proposed changes to the *pro forma* LGIP and LGIA, which it claims are consistent with or superior to the *pro forma* LGIP and LGIA. For instance, Edison has raised material issues of fact as to whether section 4.1 of the WDAT LGIA concerning the type of interconnection service offered by Edison under its WDAT is consistent with or superior to the *pro forma* LGIP and LGIA. The Commission grants rehearing of this issue and sets for hearing the

⁴ February 18 Order at P 40

proposed changes to the *pro forma* LGIP and LGIA, which Edison claims were made primarily to make it function properly within the context of Edison's Distribution System,⁵ i.e. what it considers Category 2 and 3 changes, including the proposed changes to section 4.1 .

13. Edison also argues that the Commission erred in rejecting numerous proposed changes made to reflect the fact that Edison owns and operates its Distribution System within the California Independent System Operator Corp. (CAISO) controlled grid. For example, Edison states that it proposed changes to include reference to the fact that metering under the WDAT is performed in accordance with the CAISO tariff, i.e. what Edison identified as Category 4 changes, including the modifications to *pro forma* LGIA article 7.1 which states that access to meter data will be provided in accordance with the CAISO tariff.

14. We will also grant rehearing and set all Category 4 changes for hearing. Edison has raised material issues of fact as to whether or not these proposed changes are consistent with or superior to the *pro forma* LGIP and LGIA.

15. Edison also objects to the Commission's rejection of changes intended to clarify the *pro forma* LGIP and LGIA, including Edison's proposals to: (1) use one defined term to identify the agreement, (2) change the recitals to identify Edison as one of the parties entering into the WDAT LGIA, (3) delete terms not used in the *pro forma* LGIA or LGIP, (4) make lower case any capitalized terms not defined in the *pro forma* LGIA or LGIP, (5) move certain provisions from the WDAT LGIA to the WDAT LGIP where Edison contends it does not makes sense to include such provisions in the WDAT LGIA, (6) insert timelines for the interconnection customer to choose the option to build, and (7) to correct typographical errors and clarify what it considers unclear. It contends that the Commission cannot reject "necessary changes" in order to maintain the exact text of a *pro forma* document.

⁵ The Commission sets for hearing Edison's Category 2 and 3 changes from its filing in Docket No. ER04-435-006. In that filing, Edison placed each of its proposed revisions into seven categories: (1) change "transmission" to "distribution, (2) change made to conform language to WDAT terminology, (3) change made to reflect differences between the nature of service(s) provided under *pro forma* OATT and WDAT, (4) change made to be consistent with the CAISO tariff and the provisions of the market within California, (5) change made to correct typographical errors, (6) change made to clarify language to be more precise, reducing potential for conflicts and disputes, (7) change made because term is not used in the *pro forma* LGIP/LGIA, (8) change made to enhance or ensure reliability.

16. We deny rehearing of the rejection of Edison's proposed typographical and editorial revisions to the *pro forma* LGIP and LGIA. The Commission has consistently rejected such changes and stated that typographical and editorial changes are more appropriately addressed in the rulemaking proceeding where they may be considered in a single proceeding and applied generically.⁶

17. Edison also requests rehearing of the Commission's determination that wind generators would be exempt from power factor requirements contained in *pro forma* LGIA article 9.6.1. In the February 18 Order, the Commission noted that in Order Nos. 2003 and 2003-A, it specifically exempted wind generators from certain provisions of Order Nos. 2003 and 2003-A, including the requirement to maintain a required power factor.⁷ By issuing its Final Rule on Interconnection for Wind Energy and Other Alternative Technologies in Docket No. RM05-4,⁸ the Commission has addressed this issue, therefore, Edison's request for rehearing on this issue is denied.

18. In the February 18 Order, the Commission also rejected Edison's proposed revision to section 21.2.2 of its WDAT. Edison proposed to remove the pricing provisions relating to the facilities required to interconnect generators. The Commission stated that Edison provided no explanation for changing the current mechanism used to derive Monthly Charges for Distribution for Generators. Edison had not demonstrated why it was appropriate to revise the current section 21.2.2 of the WDAT and eliminate applicability to Edison's current customers and why the Commission's *pro forma* LGIP and LGIA pricing mechanisms should not be applicable to future customers requesting Distribution Service for Generators.

19. Edison argues that it did justify removing the pricing provisions for interconnection facilities from the WDAT by stating that the interconnection agreement is the proper place to reference such charges. Edison states that WDAT customers are charged for the facilities that they use to provide Distribution Service, however, for Distribution Service for Generation, the monthly charge is only based on the cost of facilities that are directly assigned to the customer. Edison claims that those facilities can

⁶ See *e.g.*, *Nevada Power Company*, 107 FERC ¶ 61,256 (2004); *Arizona Public Service Company*, 107 FERC ¶ 61,257 (2004); and *Puget Sound Energy, Inc.*, 107 FERC ¶ 61,287 (2004).

⁷ See, *e.g.*, Order No. 2003-A at P 280, 407.

⁸ *Final Rule on Interconnection for Wind Energy and Other Alternative Technologies*, 111 FERC ¶ 61,353 (2005).

only be Interconnection Facilities and Distribution Upgrades which are the same facilities that are to be reflected in and paid for pursuant to the terms of the WDAT LGIA. Edison claims that it proposed this change so that recovery of these costs would not be provided for twice. In addition, Edison argues that it made this proposed change at the request of Commission staff as a result of a letter order issued on September 2, 2004 in Docket No. ER04-724-000.⁹

20. We deny Edison's request for rehearing of the Commission's rejection of the proposed change to section 21.2.2 of the WDAT. The September Letter Order did not request that Edison remove section 21.2.2 from the WDAT. As an initial matter, Docket No. ER04-724-000 involved a service agreement to provide Wholesale Distribution Service, between Edison and FPL Energy Green Power Wind, LLC (FPLE Green Power), under the WDAT. The service agreement specified certain charges for Distribution Services. In the September Letter Order, the Commission noted that section 21.2.2 of the WDAT specifically provides for a facilities charge for distribution service for generation, but that, instead of establishing a facilities charge in the service agreement, Edison proposed to assess a facilities charge under the terms set forth in the Interconnection Agreement with FPLE Green Power. The Commission stated that Edison had not adequately explained why it was departing from the specific requirements set forth in its WDAT and directed Edison to revise its service agreement with FPLE Green Power to include a customer charge calculated as set forth in section 21.2.2 of its WDAT. In addition, the Commission required that the Service Agreement establish a specific facilities charge calculated as set forth in section 21.2.2 of the WDAT rather than referencing a rate set forth in the Interconnection Agreement. The Commission merely required Edison to provide for charges in the service agreement that matched the charges required in the WDAT; it did not request that Edison remove section 21.2.2 from the WDAT.

21. In addition, it is appropriate for the WDAT to contain the pricing mechanisms for WDAT service and Edison did not demonstrate why it is appropriate to revise the current section 21.2.2 of the WDAT and eliminate applicability to Edison's current customers.

22. In the February 18 Order, the Commission did not require Edison to include its Interconnection Handbook in the WDAT LGIP and WDAT LGIA. However, we now

⁹ *Southern California Edison Company*, 108 FERC ¶ 61, 218 (2004) (September Letter Order).

clarify that if certain sections of Edison's Interconnection Handbook impact rates, terms, and conditions of service, these provisions should be filed with the Commission.¹⁰

Requests for Clarification of the February 18 Order

23. Edison requests clarification of the Commission's rejection of Edison's proposed last sentence of WDAT section 15.1.¹¹ The Commission stated that this sentence is unnecessary, since the Commission's *pro forma* LGIP and LGIA provide procedures for mitigating the adverse impacts and determining cost responsibility. Edison requests clarification of how it would be protected under the *pro forma* LGIP and LGIA in the situation where a non-jurisdictional utility, which is a Distribution Customer under the WDAT, builds facilities on its own system that have effects on Edison's Distribution System, but would not be required to comply with the WDAT LGIP and LGIA provisions regarding Affected Systems. Edison requests that the Commission clarify whether the Commission would apply the same policies concerning Affected Systems that are in the *pro forma* LGIP and LGIA to a non-jurisdictional entity under its reciprocity authority. Edison states that if the Commission would ultimately authorize Edison, under the reciprocity doctrine, to charge such a Distribution Customer for facilities made necessary as a result of such customer's own actions with regard to its facilities that adversely affect Edison, then no rehearing is necessary. However, Edison states that if the Commission "believes that [Edison] is fully protected under the *pro forma* LGIP and LGIA, then [it] posits that such ruling is not based on the facts in evidence."¹²

24. Regarding the sentence previously rejected from section 15.1, in the February 18 Order, the Commission interpreted the sentence as addressing reliability concerns arising from the particular interconnection subject to an individual LGIA. We rejected the provision because the *pro forma* LGIP and LGIA are intended to identify any relevant upgrades needed to address reliability concerns and allocate in the LGIA the cost responsibility for addressing these concerns. We now understand that Edison is asking

¹⁰ See, e.g., *PJM Interconnection, L.L.C.*, 111 FERC ¶ 61,456 at P 18 n.7 (2005).

¹¹ That sentence states: "A Distribution Customer shall be required to mitigate any adverse impact on the reliability of the Distribution Provider's electric system caused by the interconnection of an Electric Generating Unit to the Distribution Customer's electric system, consistent with the requirements of the Tariff or the ISO Tariff LGIP, as applicable."

¹² Edison Request for Rehearing at 33-34.

the Commission to allow it to amend its WDAT to state that if a generator interconnects to a distribution customer's system (i.e., to the system of one of Edison's customers), the distribution customer must mitigate any reliability effects that may result on Edison's system. We again reject Edison's request. The language that Edison seeks to add is beyond the scope of Order No. 2003, which was intended to set the terms and procedures for interconnecting a generator. While Order No. 2003 undeniably addressed issues related to Affected Systems, those issues chiefly related to a generator's obligation to pay for upgrades that may arise on an affected system and the affected system's obligation to reimburse the generator. Because Edison proposes to establish a new requirement in its WDAT that will apply to neighboring systems, it is inappropriate to consider this provision in an Order No. 2003 compliance proceeding.

25. The Commission also rejected all modifications to the Appendices of the WDAT LGIP. Edison states that all of the *pro forma* study agreements are included as appendices to the *pro forma* LGIP and that it believes that the Commission mistakenly rejected certain of Edison's proposed modifications to the study agreements. Edison states that, based on Order No. 2003, it included numerous boilerplate provisions to govern all of the interconnection study agreements. It states that if the Commission intended to reject those revisions, Edison seeks rehearing of this rejection.

26. Order No. 2003 provided the following language in all of the study agreements appended to the *pro forma* LGIP:

Miscellaneous. The [] Study Agreement shall include standard miscellaneous terms including, but not limited to, indemnities, representations, disclaimers, warranties, governing law, amendment, execution, waiver, enforceability and assignment, that reflect best practices in the electric industry, and that are consistent with regional practices, Applicable Laws and Regulations, and the organizational nature of each Party. All of these provisions, to the extent practicable, shall be consistent with the provisions of the LGIP and the LGIA.

27. The Commission grants rehearing on this matter. The Commission did not intend to reject the miscellaneous provisions to the study agreements. These provisions, with the following exceptions, are consistent with the *pro forma* LGIP and LGIA and are, therefore, accepted. Edison should submit a further compliance filing within 30 days of the date of this order incorporating this change.

28. Edison proposed to insert a Dispute Resolution clause into the miscellaneous terms of the study agreements. This clause states that "[a]ny dispute, or assertion of a claim, arising out of or in connection with this Interconnection Feasibility Study Agreement, shall be resolved in accordance with Section 9 of the Tariff." However, this is not consistent with or superior to the dispute resolution procedures contained in article

27 of the *pro forma* LGIA. We direct Edison to modify this provision of the study agreements, within 30 days of the date of this order, to require any dispute to be resolved in accordance with article 27 of the *pro forma* LGIA or to track the language in article 27 of the *pro forma* LGIA.

29. In addition, Edison has proposed to insert a provision for Rules of Interpretation into the study agreements. It appears that Edison inadvertently did not complete this subsection to track the wording of article 30.3 of the *pro forma* LGIA. Edison's proposed subsection (3) of this provision states that "reference to any agreement (including this Section, or other provision hereof or thereof." We believe that Edison intended to track the language of article 30.3 (3) of the *pro forma* LGIA, which would have said "reference to any agreement (including this [] Study Agreement), document, instrument or tariff means such agreement, document, instrument, or tariff as amended or modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof." In addition, we note that subsection (6) has eliminated the words "or other provision hereof or thereof" from the end of that subsection. We direct Edison to modify these provisions of the study agreements accordingly, within 30 days of the date of this order.

30. Edison proposed to include a waiver provision in each of the interconnection study agreements. In addition to the language included in article 30.6 of the *pro forma* LGIA, Edison has proposed to add the following:

Any waivers at any time by any Party of its rights with respect to any default under this [] Study Agreement, or with respect to any other matter arising in connection with this [] Study Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this [] Study Agreement. Any delay, short of the statutory period of limitations, in asserting or enforcing any right under this [] Study Agreement shall not constitute or be deemed a waiver of such right.

This provision is different from, and appears to be inconsistent with, the waiver provision in article 30.6 of the *pro forma* LGIA, and Edison has not shown that it is "consistent with or superior to" that provision. We will require Edison to modify the waiver provision found in the interconnection study agreements to match that found in article 30.6 within 30 days of the date of this order.

31. Finally, Edison requests clarification of the Commission's directive to replace "Transmission" with "Wholesale Distribution." Edison contends that there are two main terms where this situation is applicable – "Transmission Provider" and "Transmission System." Edison contends that neither the WDAT definition of "Distribution Provider" nor "Distribution System" contains "Wholesale" in front of it. In addition, Edison also

requests clarification of the Commission's rejection of Edison's proposed modification of the definition of "Distribution System" to align the WDAT LGIP and LGIA definition to the term already contained in the WDAT.

32. The Commission reverses its decision on this matter and accepts Edison's proposed modification of "Transmission" to "Distribution" in order to more correctly correlate with its WDAT. We will require Edison to make this modification within 30 days of the date of this order.

Docket Nos. ER04-435-012 and ER05-612-000

33. Given that the Commission is granting rehearing in part and requiring Edison to make a further compliance filing, Edison's February 18, 2005 and April 22, 2005 compliance filings are rejected as moot.

The Commission orders:

(A) The request for rehearing and motion for clarification are granted in part, and denied in part, 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 the matters specified in the body of this order.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately fifteen (15) days from the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, NE, 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 and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

(D) Edison's February 18, 2005 and April 22, 2005 compliance filings are rejected as moot.

(E) Edison is directed to submit a further compliance filing within 30 days of the date of this order, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.