

171 FERC ¶ 61,105
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Neil Chatterjee, Chairman;
Richard Glick, Bernard L. McNamee,
and James P. Danly.

San Diego Gas & Electric Company

Docket No. ER20-1296-000

ORDER GRANTING WAIVER

(Issued May 8, 2020)

1. On March 13, 2020, San Diego Gas & Electric Company (SDG&E) submitted a request for a limited, one-time waiver of Appendix X, Section I of its Transmission Owner Tariff (TO Tariff), which requires SDG&E to submit an informational filing with the Commission by May 30, 2020. As discussed below, we grant SDG&E's waiver request.

I. Background

2. SDG&E owns the Sunrise Powerlink Transmission Project, which is a 120-mile, 500kV transmission line extending from SDG&E's Imperial Valley substation to load centers in western San Diego County. Citizens Sunrise Transmission LLC (Citizens Sunrise) leases 50% of the transfer capability of a 30-mile segment of the Sunrise Powerlink Transmission Project known as the Border East Line.¹ SDG&E operates and maintains the Border East Line for Citizens Sunrise for a charge, which is derived based on a formula rate set forth in Appendix X of the SDG&E TO Tariff. Appendix X, in turn, is based on the costing methodology reflected in SDG&E's current TO formula rate mechanism contained in Appendix VII of its TO Tariff. According to SDG&E, Appendix X provides that the Citizens Sunrise Border East Line Rate shall consist of the following five cost components: (1) Direct Maintenance Expense; (2) Non-Direct Expenses; (3) Other Specific Expenses; (4) True-Up Adjustment; and (5) Interest True-Up Adjustment. SDG&E also states that the applicable charge is specified annually on the basis of certain recorded costs reflected in an Appendix X informational filing that SDG&E is required to file on or before May 30 each year.²

¹ *Citizens Sunrise Transmission LLC*, 138 FERC ¶ 61,129 (2012).

² Transmittal at 2.

II. Waiver Request

3. SDG&E explains that, following the Commission's disposition of SDG&E's offer of settlement of its Fifth Transmission Owner Formula (TO5 Formula),³ it will make a filing under section 205 of the Federal Power Act (FPA) proposing to implement its TO5 Formula in Appendix VII and amend its Appendix X formula rate to: (1) conform to the TO5 Formula; and (2) include protocols consistent with those in place in Appendix VII of its TO Tariff, including the use of consistent milestones. In light of the fact that it will be implementing these future tariff revisions, SDG&E argues that good cause exists to grant a limited, one-time waiver of the May 30, 2020 deadline in its currently-effective TO Tariff requiring it to submit an informational filing showing the Citizens Border East Line Rate for the period June 1, 2020 through May 31, 2021.⁴

4. SDG&E argues that its waiver request satisfies the Commission's four factors for granting requests for waiver. First, SDG&E asserts that it has acted in good faith, as the request seeks waiver of a requirement to submit an informational filing that will be superseded during the rate effective period by the more substantial FPA section 205 filing noted above that will modify Appendix X to conform to the TO5 Formula and establish protocols. Thus, SDG&E argues that granting the waiver will conserve Commission, SDG&E, and stakeholder resources.⁵

5. Second, SDG&E states that its request is limited in scope, as the waiver request is for a one-time obligation to submit its last informational filing before SDG&E proposes tariff revisions that will align the timeline for Appendix X informational filings with other appendices in its TO Tariff.⁶

6. Third, SDG&E states that granting the waiver will solve a concrete problem by easing the burden of submitting an informational filing that will only be superseded during the rate effective period by the more substantial FPA section 205 filing noted above.⁷

³ On March 23, 2020, the Commission issued an order approving SDG&E's offer of settlement concerning its TO5 Formula in Docket No. ER19-221-002. *San Diego Gas & Elec. Co.*, 170 FERC ¶ 61,240 (2020).

⁴ Transmittal at 1.

⁵ *Id.* at 3.

⁶ *Id.*

⁷ *Id.* at 4.

7. Fourth, SDG&E states that granting the waiver will not have undesirable consequences and will not harm third parties, as any over- or under-collections resulting from deferring the recalculation of rates to be reflected in the informational filing will be trued up in the FPA section 205 filing SDG&E will make later this year.⁸

III. Notice and Responsive Pleadings

8. Notice of SDG&E's filing was published in the *Federal Register*, 85 Fed. Reg. 16,092 (Mar. 20, 2020), with interventions and protests due on or before April 3, 2020. The California Public Utilities Commission filed a notice of intervention. Southern California Edison Company and the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, California filed timely motions to intervene. No protests were filed.

IV. Discussion

A. Procedural Matters

9. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2019), the notice of intervention and timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

B. Substantive Matters

10. We grant SDG&E's waiver request. The Commission has previously granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.⁹

11. We find that the circumstances of SDG&E's unopposed waiver request satisfy these criteria. First, we find that SDG&E acted in good faith in requesting a one-time waiver of the May 30 deadline to submit an informational filing under Appendix X of its currently effective TO Tariff. As SDG&E explains, permitting a one-time waiver of the May 30 deadline will conserve resources while SDG&E prepares the implementation of its TO5 Formula, which will supersede the rate provided in the May 30 informational filing.

⁸ *Id.*

⁹ See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

12. Second, we find that SDG&E's request is of limited scope, because SDG&E is requesting a one-time waiver of a single informational filing detailing a rate that will soon be superseded by a new rate, and granting the requested waiver will allow future tariff amendments to go into effect with the least amount of disruption.

13. Third, we find that the waiver will solve a concrete problem by allowing SDG&E to incorporate the information required for the May 30 filing as part of its forthcoming FPA section 205 filing rather than submitting an informational filing that would only be superseded soon after by that future section 205 filing.

14. Fourth, we find that the waiver will not have undesirable consequences, such as harming third parties. As SDG&E explains, the waiver will not adversely affect Citizens Sunrise, any third parties, or other customers, as any over- or under-collections resulting from deferring the recalculation of rates to be reflected in the informational filing will be trued up in the section 205 filing SDG&E will make later this year.

The Commission orders:

SDG&E's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.