

171 FERC ¶ 61,106  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

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

Citizens Sunrise Transmission LLC

Docket No. ER20-1315-000

ORDER GRANTING WAIVER

(Issued May 8, 2020)

1. On March 16, 2020, Citizens Sunrise Transmission LLC (Citizens Sunrise) submitted a request for a limited, one-time waiver of Paragraph 8 of Appendix III of its Transmission Owner Tariff (TO Tariff), which requires Citizens Sunrise to file an informational filing with the Commission by May 30, 2020. As discussed below, we grant Citizen Sunrise's waiver request.

**I. Background**

2. Citizens Sunrise, a wholly owned subsidiary of Citizens Energy Corporation, has a 30-year leasehold interest in a portion of the transfer capability of the Border East Line of San Diego Gas & Electric Company's (SDG&E) Sunrise Powerlink Project (Project),<sup>1</sup> which has been under the California Independent System Operator Corporation's operational control since July 3, 2012. According to Citizens Sunrise, its rate for the Project has two components: (1) the Transmission Capital Cost Revenue Requirement, which is fixed for the life of the lease; and (2) the Transmission Operating Cost Revenue Requirement, which is determined by a formula rate and changes from year to year and reflects Citizens Sunrise's operating costs for the Project. Citizens Sunrise further explains that the amount that SDG&E bills Citizens Sunrise for operating costs is determined by Appendix X to the SDG&E TO Tariff. Citizens Sunrise states that currently, both Citizens Sunrise's TO Tariff Appendix III and SDG&E's TO Tariff

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<sup>1</sup> *Citizens Sunrise Transmission LLC*, 138 FERC ¶ 61,129 (2012). The Sunrise Powerlink Transmission Project is a 120-mile, 500kV transmission line and associated upgrades extending from SDG&E's Imperial Valley substation to load centers in western San Diego County. The Border East Line is a 30-mile segment between the Imperial Valley substation and the San Diego County border.

Appendix X operate on a June 1 to May 31 rate year, with informational filings made on or before May 30, 2020. Neither tariff included formula rate protocols.<sup>2</sup>

## II. Waiver Request

3. Citizens Sunrise explains that SDG&E plans to amend its Appendix X, to move from the June 1 to May 31 rate year to a calendar year rate year, and to introduce formula rate protocols.<sup>3</sup> Citizens Sunrise states that it expects to amend its tariff directly following the Commission's action on SDG&E's Fifth Transmission Owner Formula (TO5 Formula) settlement in Docket Nos. ER19-221-000 and -001 and anticipates filing its first informational filing under the amended tariff on October 31, 2020.<sup>4</sup> Accordingly, Citizens Sunrise argues that good cause exists to grant a limited, one-time waiver of the May 30 deadline to allow Citizens Sunrise to keep its TO Tariff filings aligned with those of SDG&E.<sup>5</sup>

4. Citizens Sunrise asserts that its waiver request satisfies the Commission's four factors for granting requests for waiver. First, Citizens Sunrise asserts that it has acted in good faith. Citizens Sunrise explains that its waiver request is similar to the request SDG&E has sought in Docket No. ER20-1296-000 and is premised on the same rationale, namely, that the requirement to submit an informational filing will be superseded during the rate effective period by Federal Power Act (FPA) section 205 filings by SDG&E and Citizens Sunrise. Citizens Sunrise states that permitting a one-time waiver of the May 30, 2020 deadline will allow both SDG&E and Citizens Sunrise the time needed to amend their respective tariffs, transition to a calendar year rate year, and implement formula rate protocols. Citizens Sunrise further states that transitioning to a calendar rate year will also allow it to align its TO Tariff deadlines with its affiliate, Citizens Sycamore-Penasquitos Transmission, LLC (Citizens Sycamore).<sup>6</sup>

5. Second, Citizens Sunrise states that its request is limited in scope, as the waiver is for a single deadline in order to allow future tariff amendments to go into effect with the

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<sup>2</sup> Transmittal at 2.

<sup>3</sup> SDG&E, Waiver Request, Docket No. ER20-1296-000 (Mar. 13, 2020).

<sup>4</sup> On March 23, 2020, the Commission issued an order approving SDG&E's offer of settlement concerning its TO5 Formula rate in Docket No. ER19-221-002. *San Diego Gas & Elec. Co.*, 170 FERC ¶ 61,240 (2020).

<sup>5</sup> Transmittal at 2.

<sup>6</sup> *Id.* at 3.

least amount of disruption, and that the waiver request will not eliminate the filing of the informational filing, but merely delay it from May 30, 2020 to a later date in the year.<sup>7</sup>

6. Third, Citizens Sunrise states that granting the waiver will solve a concrete problem as SDG&E's Appendix X rate is the largest component of the Citizens Sunrise informational filing, and therefore Citizens Sunrise will lack the information necessary to populate its informational filing, assuming the Commission grants SDG&E's waiver request.<sup>8</sup>

7. Fourth, Citizens Sunrise states that granting the waiver will not have undesirable consequences and will not harm third parties as the introduction of formula rate protocols is a clear ratepayer benefit, and the true-up mechanism (including interest) contained in Appendix III will ensure ratepayers are held harmless for any delays in submitting the informational filing.<sup>9</sup>

### **III. Notice and Responsive Pleadings**

8. Notice of the filing was published in the *Federal Register*, 85 Fed. Reg. 16,333 (Mar. 23, 2020), with interventions and protests due on or before April 6, 2020. 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 timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

#### **B. Substantive Matters**

We grant Citizens Sunrise's waiver request. The Commission has previously granted waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 4.

<sup>9</sup> *Id.*

of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.<sup>10</sup>

10. We find that the circumstances of Citizens Sunrise's unopposed waiver request satisfy these criteria. First, we find that Citizens Sunrise acted in good faith in requesting a one-time waiver of the May 30 deadline to submit an informational filing under Appendix III of its currently-effective TO Tariff. As Citizens Sunrise explains, permitting a one-time waiver of the May 30 deadline will allow both SDG&E and Citizens Sunrise the time needed to amend their respective tariffs, transition to a calendar year rate year, and implement formula rate protocols. In addition, transitioning to a calendar year rate year will allow Citizens Sunrise to align its TO Tariff deadlines with those of its affiliate, Citizens Sycamore, thereby streamlining the process for preparing necessary filings for both entities.

11. Second, Citizens Sunrise's request is of limited scope because it is requesting a one-time waiver of a single deadline in order to allow future tariff amendments to go into effect with the least amount of disruption.

12. Third, granting the waiver will solve a concrete problem by allowing Citizens Sunrise to submit an informational filing when it has the necessary information to populate such an informational filing, ensuring that Citizens Sunrise's rate process remains in sync with that of SDG&E's Appendix X.

13. Finally, granting the waiver will not have undesirable consequences, such as harming third parties. As Citizens Sunrise explains, the true-up mechanism (including interest) contained in Appendix III will ensure ratepayers are held harmless for any delays in filing the informational filing. In addition, the waiver will thereby eliminate the potential for undesirable consequences stemming from a mismatch between Citizens Sunrise's and SDG&E's tariffs.

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<sup>10</sup> See, e.g., *Midcontinent Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,059, at P 13 (2016).

The Commission orders:

Citizens Sunrise's waiver request is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Kimberly D. Bose,  
Secretary.