

UNITED STATES OF AMERICA 105 FERC ¶ 61,080
FEDERAL ENERGY REGULATORY COMMISSION

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

Southern California Edison Company

Docket No. ER03-1243-000

ORDER ACCEPTING FOR FILING REVISED
INTERCONNECTION FACILITIES AGREEMENT

(Issued October 22, 2003)

1. In this order, the Commission accepts for filing an unexecuted Amended and Restated High Desert Power Project Interconnection Facilities Agreement (Amended IFA) between High Desert Power Project, LLC (High Desert) and Southern California Edison Company (SCE), to become effective August 26, 2003, as requested. This action benefits customers because it assures that the terms, rates and conditions for interconnection service are just and reasonable, and provides the parties with a reasonable means to ensure the reliable operation, protection and integrity of the transmission system.

I. Background

2. On August 25, 2003, SCE filed with the Commission the Amended IFA. High Desert leases and operates an 830 MW power plant in Victorville, California that delivers energy to the California Independent System Operator- (CalISO) controlled grid (High Desert Project).¹ The Amended IFA will supersede the High Desert Power Project Interconnection Facilities Agreement between SCE and High Desert's predecessor, which was accepted by the Commission (Original IFA).²

3. The Original IFA specifies the terms for SCE to install, own, operate and maintain the facilities necessary to interconnect the High Desert Project and for High Desert's

¹ The High Desert Project began generating test power in January 2003 and began commercial operation in April 2003.

² Letter Order Accepting the Interconnection Facilities Agreement between SCE and High Desert's predecessor (April 23, 2002). High Desert's predecessor assigned its rights under the Original IFA to High Desert.

predecessor to pay for these facilities. The Commission accepted the Original IFA and directed SCE to modify it to provide that High Desert's predecessor would receive transmission credits with interest for system upgrades.³ SCE filed the required revision to the Original IFA, which the Commission accepted by letter order.

4. Following High Desert's initial interconnection application, it told SCE that the equipment for the High Desert Project was being changed and that the interconnection capacity being requested was increasing from 830 MW to 850 MW. SCE completed the requisite studies and determined that additional facilities would be required to increase the interconnection capacity to 850 MW.

5. High Desert requested that SCE file the Amended IFA unexecuted because two issues remain in dispute: (1) the One-Time Costs Associated with System Facilities, and (2) the refund of Interconnection Facilities Charges.

6. SCE requests waiver of the Commission's 60-day prior notice requirement⁴ to allow an August 26, 2003 effective date, one day after the date SCE filed the Revised IFA.

II. Notices, Interventions, Protests, and Answers

7. Notice of SCE's August 25, 2003 filing was published in the Federal Register, 68 Fed. Reg. 52,761 (2003), with comments, protests and interventions due on or before September 15, 2003. A timely motion to intervene and protest was filed by High Desert. On September 29, 2003, SCE filed an answer to High Desert's protest.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁵ the timely, unopposed motion to intervene and protest filed by High Desert serve to make it a party to this proceeding.

9. Rule 213(a) (2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2003), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept SCE's answer and will, therefore, reject it.

³ Id. at 2.

⁴ 18 C.F.R. § 35.3 (2003).

⁵ 18 C.F.R. § 385.214 (2003).

B. One-Time Costs

10. Under the Revised IFA, One-Time Costs are “[a]ll costs determined by [SCE] to be associated with the installation of Interconnection Facilities, Capital Additions, or System Facilities which are not capitalized in accordance with Accounting Practice...”⁶ Accounting Practice is defined in the Revised IFA as “[g]enerally accepted accounting principles and practices applicable to electric utility operations.” Commission regulation Part 101 specifies the accounting principles and practices that public utilities must follow.⁷

1. SCE’s Arguments

11. SCE argues that its estimated expenses to physically relocate existing transmission network facilities in order to accommodate the High Desert Project are One-Time Costs that should not be subject to transmission credits because under the Commission’s accounting practices, SCE cannot recover these costs from its transmission customers in transmission rates.⁸ SCE argues that such costs are the customer’s responsibility and that it is simply acting as a contractor to the customer because these costs cannot be included in ratebase. The Commission’s accounting practice requires the costs to be expensed. Moreover, SCE states that One-Time Costs cannot be reflected in forecast rate case expenses, since such costs are not recurring expenses.

⁶ Revised IFA § 4.19.

⁷ 18 C.F.R. Part 101 (2003).

⁸ SCE points to Part 101 of the Commission’s Rules and Regulations:

Electric Plant Instructions

10.C. (1) When a minor item of property which did not previously exist is added, the cost thereof shall be accounted for in the same manner as for the addition of a retirement unit, ...if a substantial addition results, other wise the charge shall be to the appropriate maintenance expense account.

10.C. (3) When a minor item of depreciable property is replaced independently of the retirement unit of which it is a part, the cost of replacement shall be charged to the maintenance account appropriate for the item,....

Operating Expense Instructions

2. A. - Items (4) Rearranging and changing the location of plant not retired.

(7) Net cost of installing, maintaining, and removing temporary facilities to prevent interruptions in service.

(8) Replacing or adding minor items of plant which do not constitute a retirement unit. (See electric plant instruction 10.)

12. SCE argues that the specific One-Time Costs in dispute are only those expenses associated with the relocation of existing transmission network facilities. SCE recognizes that the relocation will not reclassify such facilities from network facilities to non-network facilities; however, the expenses incurred to relocate such facilities were caused solely by the addition of the High Desert Project. Consequently, SCE argues that transmission credits are inappropriate for these One-Time Costs.

2. High Desert's Arguments

13. High Desert requests that the Commission direct SCE to provide credits for the One-Time Costs associated with relocating System Facilities. It maintains that one-time relocation costs are considered network facility costs for which credits are required under Commission policy. Commission policy requires credits for all network facility costs and treats relocation costs as an element of network facility costs for which credits are required.⁹

14. Further, High Desert asserts that the Commission's "or" pricing policy, which "permits the pricing of transmission service to reflect the greater of the network's average cost (with the expansion cost rolled in) or the incremental cost of expansion," expressly requires credits for relocation costs.¹⁰ Commission precedent holds that the fact that network facilities are "reconfigured, relocated or upgraded does not somehow transform them into non-network facilities."¹¹

15. Finally, High Desert concedes that SCE's desire to recover relocation expenses in its revenue requirement is understandable. However, even if SCE is unable to obtain transmission rate relief, such failure does not justify it charging High Desert a rate that violates the Commission's policy against the direct assignment of network facility costs.

3. Commission Decision

16. We reject SCE's argument as being contrary to Commission interconnection pricing policy and, for ratemaking purposes, we will not treat this type of cost any differently than we have in the past. Our review indicates that the only costs at issue are

⁹ High Desert Protest at 5, citing Entergy Gulf States, Inc., 98 FERC ¶ 61,014, reh'g denied, 99 FERC ¶ 61,095 at P 16 (2002) (Entergy). In Entergy, the Commission ordered the utility to which the generator was interconnecting to provide transmission credits for network facilities, including the reconfiguration or relocation of 230 kV and 69 kV facilities related to the interconnection of a generator to Entergy's transmission grid.

¹⁰ Id., citing, Duke Energy Hinds LLC, et al., 102 FERC ¶ 61,068 at P 22 (2003).

¹¹ Id. at 6, citing Tampa Electric Co., 99 FERC ¶ 61,192 at 61,796 (2002).

the incidental labor and miscellaneous expense items associated with relocating network facilities. While SCE has not quantified these costs, the Commission assumes that it represents a small amount of the total cost of the interconnection. SCE argues that such costs are a “One-Time” expense that is not captured in its rates. We disagree. While these are “One-Time” costs in the sense that they will be incurred only once for this project, the relocation of facilities is done on a routine basis by utilities. The associated costs are a legitimate cost-of-service item. While it is true that the cost of a particular facility’s relocation is a one-time event, it is incorrect to argue that all such relocation costs are not recoverable in rates. Because such costs are continuous in the normal course of doing business, the Commission allows a representative test year expense projection. The exception to this rule is in the event the expense item is extraordinary in nature and magnitude. SCE has not indicated that the relocation costs are extraordinary. Therefore, SCE must provide transmission credits with interest.

C. Refund of Interconnection Facilities Charge Payments

17. The second disputed issue involves High Desert’s request that SCE refund monthly Interconnection Facilities Charge payments collected to date under the Original IFA related to facilities that were originally classified as Interconnection Facilities, but are now classified by SCE as System Facilities.

1. SCE’s Arguments

18. SCE states that the level of this charge and its effective date were accepted by the Commission, without being made subject to refund, in Docket No. ER02-1073-000. No party, including High Desert’s predecessor, protested the initial filing in that docket or the subsequent compliance filing.

19. SCE states that it has agreed to reduce the Interconnection Facilities Charge prospectively consistent with the reclassification of facilities beginning on the effective date of the Revised IFA.¹² SCE argues that it would be inappropriate for the Commission to order it to provide refunds of this accepted charge, as High Desert requests.

¹² Under the Revised IFA, the monthly Interconnection Facilities Charge is reduced from \$28,722.96 to \$1,945.87 (0.36% x \$540,520) and the total estimated payments by High Desert for all the facilities associated with interconnection of the High Desert Project have increased from \$12,352,592 to \$13,007,676. A table showing the estimated change in the Interconnection Facilities Charge revenues to be received by SCE during the next twelve months is provided as Attachment A to SCE’s filing letter.

2. High Desert's Protest Arguments

20. High Desert argues that because SCE was on notice before it began imposing the Interconnection Facilities Charge that many of the facilities classified as Interconnection Facilities were actually System Facilities, SCE should not have applied the Interconnection Facilities Charge to facilities that were not properly classified as Interconnection Facilities. High Desert asserts that SCE implies that Commission guidance regarding the classification of certain Interconnection Facilities was not available as of January 31, 2002, the date the Original IFA was executed.¹³ However, on January 11, 2002, the Commission issued Entergy, which clarified the Commission's policy regarding classification of network facilities.¹⁴

21. High Desert also states that the Original IFA defined the Interconnection Facilities Charge as applicable only to Interconnection Facilities. However, most of the facilities classified as Interconnection Facilities (*i.e.*, direct assignment facilities) in the Original IFA should have been classified as System Facilities (*i.e.*, network facilities) under the Commission's policy in effect at the time the Original IFA was executed. High Desert states that SCE now agrees that as of August 26, 2003, the Interconnection Facilities Charge should apply only to facilities that are correctly classified as Interconnection Facilities.

3. Commission Decision

22. While we require the Revised IFA to conform to the Commission's interconnection pricing policy, we will not require SCE to refund High Desert the Interconnection Facilities Charge imposed under the Original IFA. High Desert did not protest, and the Commission accepted, the Original IFA. While the Commission did require the Original IFA to be revised to provide for credits for network facilities, it did not require reclassification of particular facilities from interconnection (directly assignable) facilities to network facilities, and High Desert did not raise that issue at the time. In fact, under the Original IFA, some of the High Desert Project facilities were misclassified as Interconnection Facilities for which High Desert was assessed an Interconnection Facilities Charge.

23. Section 19.2 of the Original IFA gives the parties the rights to propose modifications to the IFA in the future under FPA Sections 205 and 206.¹⁵ If High Desert wanted to prospectively reclassify certain facilities, for Interconnection Facilities Charge purposes under the Original IFA, it had recourse through Section 206 of the FPA, and not

¹³ High Desert Protest at 7.

¹⁴ Entergy, 98 FERC at 61,023.

¹⁵ 16 U.S.C. § 824e (2000).

through this protest.¹⁶ Therefore, we deny High Desert's protest with respect to this issue.

The Commission orders:

SCE's Revised IFA is hereby accepted for filing, consistent with the discussion in the body of this order, effective August 26, 2003.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.

¹⁶ See Entergy Services, Inc., 104 FERC 61,084 at P 21 (2003). In the Entergy proceeding, ExxonMobil's requested that the Commission direct Entergy to reclassify the Original Transmission Facilities as network upgrades rather than direct assignment facilities. The Commission ruled that ExxonMobil's request was, in effect, a complaint and should be separately filed as a complaint and not included as part of its protest in this proceeding. Id. at P 13.