

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Southern California Edison Company) Docket No. EL11-10-000

**THE LARGE-SCALE SOLAR ASSOCIATION’S MOTION
TO INTERVENE, COMMENTS AND OPPOSITION TO
MOTIONS TO CONSOLIDATE**

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. §§ 385.212 and 385.214 (2010), and the Commission’s Notice of Petition for Declaratory Order dated December 17, 2010, the Large-scale Solar Association (“LSA”) hereby moves to intervene and submits comments in support of Southern California Edison Company’s (“SCE”) request for abandoned plant recovery in connection with SCE’s proposed expansion of certain transmission facilities that will allow for the interconnection of renewable generation projects to the California Independent System Operator (“CAISO”) grid, and the treatment of the transmission facilities as network facilities.

LSA also requests the Commission to reject the motions to consolidate¹ this proceeding with various dockets initiated by filings by SCE in Docket Nos. ER11-2204-000, ER11-2316-000, ER11-2177-000, ER11-2411-000, ER11-2322 and by the CAISO in Docket Nos. ER11-2318-000, ER11-2368-000 and ER11-2369-000 (together, the “LGIA Dockets”). As described below, Movants have failed to adequately support their

¹ “Motion to Intervene, and Motion to Consolidate of the California Municipal Utilities Association,” filed Dec. 21, 2010; “Motion for Leave to Intervene Out-of-Time and Answer Supporting Consolidation of the Transmission Agency of Northern California,” filed Dec. 23, 2010 (together, “Movants”).

requests to consolidate this proceeding with the LGIA Dockets. Accordingly, the Commission should reject the motions to consolidate.

In support hereof, LSA states as follows:

I. Communications

In addition to the undersigned counsel for LSA, the following person should be placed on the Commission's official service list in the captioned proceeding:

Shannon Eddy, Executive Director
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II. Background

On December 9, 2010, SCE filed a petition pursuant to Section 207 of the Federal Power Act ("FPA") requesting the Commission to issue a declaratory order granting incentives in connection with SCE's proposed expansion of the Colorado River Substation ("Colorado River Substation Expansion"); the Whirlwind Substation ("Whirlwind Substation Expansion"); the South of Kramer transmission project ("South of Kramer"); and the West of Devers transmission project ("West of Devers") (collectively, "Transmission Projects"). Petition at 1. SCE requests the Commission to grant it authority "(1) to recover 100% of its prudently incurred costs if the Transmission Projects are cancelled or abandoned for reasons beyond SCE's control, and (2) to recover 100 percent of the Transmission Projects' network transmission Construction Work in Progress ("CWIP") in transmission rate base during the construction period." Petition at 3. SCE explains that the "Transmission Projects will allow for the interconnection and delivery of needed renewable generation projects seeking funding through the American

Reinvestment and Recovery Act (“ARRA”),” and that the projects “will provide the electrical facilities necessary to deliver over the CAISO grid in excess of 3700 MW of new solar and wind generation proposed by independent power producers.” Petition at 1. SCE states that it is seeking narrowly-tailored incentive-based transmission rate treatments for the Transmission Projects, which have been identified and approved as needed network facilities through the CAISO’s generation interconnection process. Petition at 3. SCE also requests the Commission to declare that the Transmission Projects are network facilities and are therefore eligible for rolled-in rate treatment. Petition at 2.

Because the Whirlwind Substation was included in the Tehachapi Renewable Transmission Project (“Tehachapi”), which was previously awarded rate incentives in the Commission’s order in Docket No. EL07-62-000, SCE requests the Commission to declare that the proposed expansion of the Whirlwind Substation be deemed to be included in the scope of the Commission’s earlier order granting incentives for Tehachapi. Petition at 1-2.

SCE has committed to provide upfront financing for the Transmission Projects “conditioned upon SCE’s receipt of a Commission order unconditionally approving the 100 percent abandoned plant recovery incentive requested.” Petition at 7.

III. Motion to Intervene

LSA represents twelve of the nation’s largest developers and providers of utility-scale solar generating resources. Collectively, LSA’s members, whose technologies and models span both photovoltaic and solar thermal applications, have contracted to provide over 5 GW of clean, sustainable solar power to utilities in the Western United States. In addition, LSA members are engaged in the development, construction and/or operation of

renewable generation projects that will interconnect with the Transmission Projects. As such, LSA and its members may be directly affected by the outcome of this proceeding, and the interests of LSA are not adequately represented by any other party. Hence, LSA's timely motion to intervene in this proceeding is in the public interest, and LSA requests that it be made a party to this proceeding with all the rights of a party thereto.

IV. Comments

LSA strongly supports SCE's petition for an order granting SCE's request for 100 percent abandoned plant recovery and authorization to treat the Transmission Projects as network facilities. LSA members are developing renewable energy generation projects using new technologies that promise to advance California's and the nation's renewable energy goals. Up-front financing costs can be a crippling burden for generation developers, who have a higher cost of capital than a franchised public utility like SCE, and ultimately make costs more expensive for ratepayers. Recognizing the commercial reality, and to further California's policy to encourage the development of renewable generation as well as ratepayers' interests in keeping costs reasonable, SCE has conditionally agreed to provide the up-front financing for the Transmission Projects, subject to, among other things, assurances from the Commission that SCE will be permitted to recover its costs if the Transmission Projects are cancelled for reasons beyond SCE. SCE's funding of the Transmission Projects will be more cost-effective for ratepayers, who ultimately bear the costs. SCE financing also will remove a difficult hurdle for financing network upgrades needed to integrate renewable resources into the CAISO-controlled grid, enabling California and the administration to better achieve their respective renewable energy goals.

Accordingly, consistent with prior precedent, the Commission should grant the abandoned plant recovery as requested by SCE in its petition.²

V. The Commission Should Deny Movants' Motions to Consolidate

LSA opposes the motions to consolidate this proceeding with the LGIA Dockets. As a matter of law, Movants have failed to adequately support their motions to consolidate. Matters presented to the Commission that “raise common issues of law and fact” may be consolidated “for purposes of settlement, hearing and decision.”³ The Commission, however, does not consolidate proceedings “that involve different questions of law and fact” or “different statutory provisions and standards.”⁴ Further, the Commission “typically consolidates proceedings only for purposes of hearing and decision.”⁵

The proceedings for which Movants request consolidation do not share “common issues of law and fact,” nor have Movants asserted any common issues of law and fact among the proceedings. That some of the facilities discussed in the instant proceeding are also discussed in the LGIA Dockets does not rise to the level of “common issue of fact” necessary to satisfy the Commission’s standard for consolidation. The instant proceeding, filed pursuant to section 207 of the FPA, raises issues of law and fact that are distinct from those in the instant proceeding filed under section 205 of the FPA. Further,

² See, e.g., *Southern California Edison Co.*, 129 FERC ¶ 61,246, at P 67 (2009), *order denying request for clarification or reh’g*, 133 FERC ¶ 61,254 (2010); *Southern California Edison Co.*, 112 FERC ¶ 61,014, at P 61, *reh’g denied*, 113 FERC ¶ 61, 143 (2005).

³ *American Elec. Power Serv. Corp.*, 97 FERC ¶ 61,103 (2001).

⁴ *Midcontinent Express Pipeline LLC*, 124 FERC ¶ 61,089 at P 27 (2008).

⁵ *Xcel Energy Operating Companies*, 129 FERC ¶ 61,201 at P 57 (2009).

each LGIA has unique issues, and the generation projects under the respective LGIAs are in different geographic areas and utilize different technologies.

Additionally, intervenors have not raised any genuine issues of material fact in this proceeding necessitating a hearing. An evidentiary, trial-type hearing is necessary only when genuine issues of material fact are in dispute that cannot be resolved on the basis of the written record.⁶ Movants have not presented any factual dispute that would necessitate a hearing in this proceeding. Rather, CMUA, supported by TANC, has simply recited (albeit incorrectly) the standard for consolidation and have asserted, without factual or legal support, that “[the] criteria support consolidation of the . . . proceedings.”⁷ Bare allegations, speculation, or mere disagreement do not rise to the level of disputing a material issue of fact.⁸ As a general rule, if the matters in one docket are not likely to be set for hearing, the Commission will deny requests to consolidate.⁹ Movants have shown no factual or legal reason for the Commission to set this proceeding for hearing, or to consolidate this proceeding with one that has been set for hearing.

Finally, consolidating this docket with the LGIA Dockets will delay the Transmission Projects and Commission acceptance of the LGIAs, which, in turn, will

⁶ See, e.g., *Southern Natural Gas Co.*, 97 FERC ¶ 61,039 (2001); *Duke Power Co. and Nantahala Power and Light Co.*, 43 FERC ¶ 61,021 (1988). The Courts of Appeals have uniformly embraced this standard. E.g., *Moreau v. FERC*, 982 F.2d 556 (D.C. Cir. 1993); *City of Seattle v. FERC*, 923 F.2d 713 (9th Cir. 1991); *Pennsylvania Pub. Util. Comm’n v. FERC*, 881 F.2d 1123 (D.C. Cir. 1989); *Cerro Wire & Cable v. FERC*, 677 F.2d 124 (D.C. Cir. 1982); *City of Seattle v. FERC*, 923 F.2d 713 (9th Cir. 1991); *Pennsylvania Pub. Util. Comm’n v. FERC*, 881 F.2d 1123 (D.C. Cir. 1989); *Cerro Wire & Cable v. FERC*, 677 F.2d 124 (D.C. Cir. 1982).

⁷ CMUA Motion at 4.

⁸ See, e.g., *Kansas Power & Light Co.*, 851 F.2d 1479, 1483-84 (D.C. Cir. 1988); *Public Service Co. of Indiana*, 42 FERC ¶ 61,243 at p. 61,785 (1988).

⁹ *Central Power and Light Co.*, 83 FERC ¶ 61,070 (1998); *Wisconsin Elec. Power Co.*, 90 FERC ¶ 61,346 (2000).

jeopardize the development timelines of renewable projects planning to interconnect to and utilize the Transmission Projects. As SCE explains in its petition, the “Transmission Projects will allow for the interconnection and delivery of needed renewable generation projects seeking funding through [ARRA],” as well as provide the electrical facilities necessary to transmit in excess of 3700 MW of renewable generation over the CAISO-controlled grid.¹⁰ Consolidating this proceeding, particularly where Movants have not presented any legal or factual support for their request for consolidation, will frustrate efforts to develop renewable generation.

Accordingly, the Commission should deny the Movants’ motions for consolidation.

VI. Conclusion

WHEREFORE, for the foregoing reasons, LSA respectfully moves for leave to intervene in the above-captioned proceeding and encourages the Commission to approve expeditiously SCE’s petition and request for abandoned plant recovery.

Respectfully Submitted,

/s/ Raymond B. Wuslich

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ATTORNEYS FOR
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January 10, 2011

¹⁰ Petition at 1, 23.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by electronic mail or U.S. mail upon each person designated on the official service list compiled by the Secretary in these proceedings.

Dated at Washington, D.C. this 10th day of January, 2011.

/s/ Margaret H. Claybour

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