

151 FERC ¶ 61,197
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
and Tony Clark.

South Carolina Electric & Gas Company

Docket Nos. ER13-107-008

ORDER ON COMPLIANCE

(Issued June 3, 2015)

1. On January 22, 2015, the Commission issued an order accepting in part, and rejecting in part,¹ the third compliance filing that South Carolina Electric & Gas Company (SCE&G) made to comply with the directives of the Second Compliance Order² and the local and regional transmission planning and cost allocation requirements of Order No. 1000.³ The Commission also denied requests for rehearing of the Second Compliance Order.

2. On February 23, 2015, SCE&G submitted, pursuant to section 206 of the Federal Power Act (FPA),⁴ revisions to Attachment K of its Open Access Transmission Tariff (OATT) to comply with the Third Compliance Order. For the reasons discussed below, we accept SCE&G's proposed OATT revisions, subject to conditions, and direct SCE&G

¹ *South Carolina Elec. & Gas Co.*, 150 FERC ¶ 61,036 (2015) (Third Compliance Order).

² *South Carolina Elec. & Gas Co.*, 147 FERC ¶ 61,126 (2014) (Second Compliance Order).

³ *Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 (2011), *order on reh'g*, Order No. 1000-A, 139 FERC ¶ 61,132, *order on reh'g and clarification*, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

⁴ 16 U.S.C. § 824e (2012).

to submit further revisions to its OATT in a further compliance filing due within 30 days of the date of issuance of this order.

I. Compliance Filing

3. In response to the Third Compliance Order, SCE&G submitted revisions to the regional transmission planning process in its OATT to comply with the Commission's directives, including modifications relating to the regional transmission planning requirements, nonincumbent transmission developer reforms, and cost allocation. SCE&G continues to coordinate with the South Carolina Public Service Authority (Santee Cooper), a non-public utility transmission provider, for purposes of regional transmission planning and an enrolled transmission provider in the South Carolina Regional Transmission Planning (SCRTP) process.⁵

4. Notice of SCE&G's compliance filing was published in the *Federal Register*, 80 Fed. Reg. 11,187 (2015), with interventions and protests due on or before March 16, 2015. None were filed.

II. Discussion

5. We find that SCE&G's compliance filing partially complies with the directives in the Third Compliance Order. Accordingly, we accept SCE&G's compliance filing to be effective April 19, 2013, subject to a further compliance filing due within 30 days of the date of issuance of this order.

A. Withdrawal Provision

1. Third Compliance Order

6. In the Third Compliance Order, the Commission directed SCE&G to remove the language that requires an enrollee to withdraw prior to "the execution of any agreement governing the construction of the project." Furthermore, the Commission directed SCE&G to revise its proposed withdrawal provision so that it provides a clear and definitive point in the process by which an enrollee must withdraw to avoid cost allocation, and to clarify what costs the withdrawing enrollee must continue to pay and what costs the withdrawing enrollee will not be required to pay. The Commission also

⁵ See SCE&G OATT Att. K § Appendix K-7. For purposes of this order, references to SCE&G's regional transmission planning process refer to the combined regional transmission planning process of SCE&G and Santee Cooper. SCE&G's OATT collectively refers to SCE&G and Santee Cooper as the Transmission Providers.

directed SCE&G to revise the following phrase in its withdrawal provision to be consistent with this clarification: “withdrawing enrollee is not responsible for regional or interregional costs allocated pursuant to this Attachment K associated with the planning cycle resulting in costs to which enrollee’s notice of withdrawal responds.”⁶

2. Fourth Compliance Filing

SCE&G proposes to revise the withdrawal provision in its OATT as follows:

An enrolled Transmission Provider wanting to terminate its enrollment in the SCRTP may do so by providing written notification of such intent to the other enrolled Transmission Providers [at] any time, at least 60 days prior to be the effective not sooner than 60 days after notice, date of such termination. ~~Santee Cooper and any other non-public utility transmission provider enrollee may withdraw from the SCRTP. In order to avoid regional or interregional cost allocation, such enrollee must withdraw prior to the execution of any agreement governing the construction of the project where the withdrawing enrollee has been identified as a beneficiary of the project and allocated costs associated with the project. The withdrawing enrollee will is not be responsible for regional or interregional costs for any project that has not yet been selected under allocated pursuant to this Attachment K for inclusion in the Regional Transmission Plan as of the time notice of withdrawal is provided associated with the planning cycle resulting in costs to which enrollee's notice of withdrawal responds. If Should a non-public utility transmission provider enrollee exercises its rights under this Section, any impacted project will be reevaluated, using the methods described in this Attachment K. [7]~~

⁶ Third Compliance Order, 150 FERC ¶ 61,036 at P 67.

⁷ SCE&G OATT, Att. K, § III.B.

3. Commission Determination

7. We find that SCE&G's proposed revisions partially comply with the Commission's directives in the Third Compliance Order. As directed, SCE&G has removed the language that requires an enrollee to withdraw prior to "the execution of any agreement governing the construction of the project." However, in response to the directive that the OATT provide a clear and definitive point in the process by which an enrollee must withdraw to avoid cost allocation, SCE&G's proposed revisions clarify that a withdrawing enrollee will not be responsible for regional or interregional costs for any transmission project that has not yet been selected in the regional transmission plan for purposes of cost allocation as of the time notice of withdrawal is provided. Given that SCE&G's revised OATT provides that an enrolled transmission provider's withdrawal is not effective until at least 60 days after it has provided written notification of its intent to withdraw, the proposed provision does not comply with Order No. 1000 because it would exempt the withdrawing transmission provider from responsibility for costs that it is allocated while it is still enrolled in the transmission planning region, i.e. before its withdrawal is effective.⁸ We therefore require SCE&G to submit a further compliance filing, within 30 days of the date of issuance of this order, to modify its OATT to state "The withdrawing enrollee will not be responsible for regional or interregional costs for any project that has not yet been selected under this Attachment K for inclusion in the Regional Transmission Plan as of the time notice of withdrawal is effective."

8. In addition, consistent with the directives in the Second Compliance Order, the revised withdrawal provision must require that a withdrawing enrollee continue to pay any costs it is allocated pursuant to the regional or interregional cost allocation method for any transmission project that was selected in the regional transmission plan for purposes of cost allocation while it is enrolled, until the prudently incurred cost of the transmission facility has been recovered.⁹ Upon further review, we find that the part of the provision stating that any impacted transmission project will be reevaluated if a non-public utility transmission provider withdraws from the transmission planning region lacks the necessary specificity to make this clear. Therefore, we direct SCE&G to file, within 30 days of the date of issuance of this order, a further compliance filing to revise its OATT to state: "If a non-public utility transmission provider enrollee provides written notification of intent to withdraw to the other enrolled Transmission Providers to be

⁸ See, e.g., *Avista Corp.*, 148 FERC ¶ 61,212, at P 225-237 (2014) (finding that Order No. 1000 required that cost allocation be binding on enrolled transmission providers that are identified as beneficiaries).

⁹ See e.g. *Tampa Elec. Co.*, 148 FERC ¶ 61,172, at P 44 (2014).

effective not sooner than 60 days after notice, any impacted project that has not been selected under this Attachment K for inclusion in the Regional Transmission Plan prior to the effective date of the withdrawal will be reevaluated, using the methods described in this Attachment K.”

B. Cost Allocation for Transmission Facilities Selected in the Regional Transmission Plan for Purposes of Cost Allocation

1. Third Compliance Order

9. In the Third Compliance Order, the Commission directed SCE&G to revise its OATT to provide that both incumbent transmission providers and nonincumbent transmission developers may request regional cost allocation in accordance with Order No. 1000 for an unsponsored transmission project that transmission providers have identified through their regional analysis as a more efficient or cost-effective solution to address transmission needs.¹⁰

2. Fourth Compliance Filing

10. SCE&G proposes to add the following sentence to the section of its OATT that addresses the part of the regional transmission planning process that the transmission providers use to identify potential regional transmission projects analysis as a more efficient or cost-effective solution to address transmission needs:

Should the Transmission Providers propose a Regional Project under Section VII.C [Submitting a Regional Project for Initial Screening] that they do not intend to develop, a Qualified Developer¹¹ may request regional cost allocation in accordance with Section VII.D [Developer Request for Cost Allocation].¹²

¹⁰ Third Compliance Order, 150 FERC ¶ 61,036 at P 71.

¹¹ A Qualified Developer is defined as a transmission developer that has been selected as eligible to request cost allocation for a proposed regional transmission project pursuant to SCE&G’s qualification criteria. SCE&G OATT Att. K § II.E.

¹² SCE&G OATT Att. K § VII.A

SCE&G states that because the definition of Qualified Developer includes any entity, it is clear that both incumbent and nonincumbent transmission providers that are Qualified Developers may request regional cost allocation for such projects.¹³

3. Commission Determination

11. We find that SCE&G's proposed revision does not comply with the Commission's directives in the Third Compliance Order as it is unduly discriminatory and provides undue preference to incumbent transmission providers. SCE&G's proposal provides the incumbent transmission providers with the first opportunity to request regional cost allocation for any regional transmission project identified through their regional analysis of potentially more efficient or cost-effective transmission solutions. As the Commission stated in Order No. 1000, the regional transmission planning process must include a fair and not unduly discriminatory mechanism to grant an incumbent transmission provider or nonincumbent transmission provider the right to use the regional cost allocation method for unsponsored transmission facilities selected in the regional transmission plan for purposes of cost allocation.¹⁴ Therefore, we direct SCE&G to file, within 30 days of the date of issuance of this order, a further compliance filing to revise section VII.A of Attachment K to its OATT to delete the language it proposed and instead state: "To the extent the Transmission Providers or nonincumbent transmission developers seek regional cost allocation in accordance with Order No. 1000 for any regional solutions identified by the Transmission Providers, the Transmission Providers will submit such regional solutions for consideration in accordance with Section VII herein."

C. Regional Cost Allocation Principle 4

1. Third Compliance Order

12. In the Third Compliance Order, the Commission stated that SCE&G had, as directed in the Second Compliance Order, addressed whether the SCRTP transmission planning region has agreed to bear the costs associated with any required upgrades in another transmission planning region by explaining that it will not agree, as a general rule, to bear the costs associated with such upgrades, but will work with the constructing transmission owner in that region. However, the Commission directed SCE&G to revise its OATT to explain how the SCRTP transmission planning region will identify the consequences of a transmission facility selected in the regional transmission plan for

¹³ SCE&G Transmittal at 3.

¹⁴ Order No. 1000, 136 FERC ¶ 61,051 at P 336.

purposes of cost allocation for other transmission planning regions, such as upgrades that may be required in another region.¹⁵

2. Fourth Compliance Filing

13. SCE&G proposes to revise its OATT to state that the transmission providers will perform analyses to determine whether, throughout the ten year transmission planning horizon, a regional transmission project selected in the regional transmission plan for purposes of cost allocation could potentially result in reliability impacts to the transmission system(s) of another transmission planning region. SCE&G's revised OATT further states that if a potential reliability impact is identified, the transmission provider will coordinate with the other transmission planning region on any further evaluation.¹⁶ Additionally, SCE&G proposes to revise its OATT to state that the enrolled transmission providers have not agreed, as a general rule, to bear the costs associated with any upgrades needed in another transmission planning region in connection with transmission projects selected in the regional transmission plan for purposes of cost allocation.¹⁷

3. Commission Determination

14. We find that SCE&G's proposed OATT revisions comply with the Commission's directive in the Third Compliance Order, as they explain how the SCRTP transmission planning region will identify the consequences of a transmission facility selected in the regional transmission plan for purposes of cost allocation for other transmission planning regions. We also accept SCE&G's proposal to revise its OATT to state that the enrolled transmission providers have not agreed, as a general rule, to bear the costs associated with any upgrades needed in another transmission planning region in connection with transmission projects selected in the regional transmission plan for purposes of cost allocation. We note that to the extent there are processes in place to resolve issues arising from third party cost impacts, we encourage the continuation of voluntary arrangements, as well as the consideration of new opportunities to work together to address any such issues that might arise. Order No. 1000 was not intended to disrupt or impede any such arrangements.¹⁸

¹⁵ Third Compliance Order, 150 FERC ¶ 61,036 at P 74.

¹⁶ SCE&G OATT Att. K § VII.H.

¹⁷ SCE&G OATT Att. K § VII.H.

¹⁸ See *Cal. Indep. System Operator Corp.*, 146 FERC ¶ 61,198, at P 172 (2014).

D. Definition of Local and Regional Projects

15. In the Third Compliance Order, the Commission directed SCE&G to revise its OATT to state that a transmission project will be deemed materially different as compared to another transmission alternative(s) under consideration if the proposal contains significant geographic or electrical differences in the alternative's proposed interconnection point(s) *or* transmission line routing.¹⁹ In the fourth compliance filing, SCE&G proposes to make this revision. Accordingly, we find that SCE&G complies with the Commission's directive in the Third Compliance Order.

The Commission orders:

(A) SCE&G's compliance filing is hereby accepted, effective April 19, 2013, subject to a further compliance filing, as discussed in the body of this order.

(B) SCE&G is hereby directed to submit a further compliance filing, within 30 days of the date of issuance of this order, as discussed in the body of this order.

By the Commission. Commissioner Honorable is not participating.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹⁹ Third Compliance Order, 150 FERC ¶ 61,036 at P 42.

Document Content(s)

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