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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Certificate of Public Convenience and Necessity Concerning the Devers-Palo Verde No. 2 Transmission Line Project.

Application 05-04-015
(Filed April 11, 2005)

JOINT RULING OF ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE DIRECTING AMENDMENT OF PETITION FOR MODIFICATION

Summary

On May 14, 2008, Southern California Edison Company (SCE) filed a Petition to Modify (Petition) Decision (D.) 07-01-040. That decision grants a Certificate of Public Convenience and Necessity (CPCN) to SCE to build the Devers-Palo Verde No. 2 (DPV2) transmission line that spans from Southern California to Arizona¹ based on the Commission finding that the line would create economic benefits for the ratepayers of California. Thus far, SCE has been unable to secure regulatory approval to construct the Arizona portion of DPV2. In anticipation of such approval at some future date, SCE now seeks authority to construct the California portion of DPV2 prior to receipt of the regulatory approvals needed to construct the Arizona portion of DPV2.

¹ The decision authorizes construction of both DPV2 and the Devers-Valley No. 2 line, which will, for simplicity, be referred to collectively as DPV2 for purposes of this Ruling.

The original DPV2 CPCN was granted based upon the economic benefits generated by a transmission line connecting both California and Arizona. SCE's Petition fails to provide facts to demonstrate that ratepayer benefits accrue: (1) if only the California portion of DPV2 is constructed, or (2) if construction of the Arizona portion of DPV2 is constructed far beyond the time frame estimated in the original CPCN decision. Consequently, this ruling holds that SCE shall, within 45 days from this ruling, amend its May 14, 2008 Petition to provide this missing information and therefore demonstrate that construction of the California portion of DPV2 will serve the public interest.

Our consideration of SCE's Petition, the response of The Utility Reform Network (TURN), the response of the Division of Ratepayer Advocates (DRA), and the Reply of SCE suggest several paths, that if supported by facts, could demonstrate that starting construction of the California portion of DPV2 in advance of authorization for the Arizona portion is in the public interest and the Commission should therefore modify D.07-01-040. SCE, for example, could use the existing record on costs and benefits to demonstrate that the benefits of a California-only transmission line continue to exceed its costs, thereby demonstrating that facts critical to D.07-01-040's grant of a CPCN still apply.

Alternatively, SCE, for example, could amend its filing to demonstrate that other factors provide a rational basis for concluding that constructing the California portion of DPV2 at this time is in the public interest. SCE, for example, could show that projected growth of renewable energy north of Blythe creates a need for new transmission capacity within California to relieve anticipated congestion and that the resulting transmission charges will be reasonable.

Although SCE need not pursue either of the paths outlined above, the amended petition, in any case, should demonstrate that the record in this proceeding supports a conclusion that construction of a project with estimated costs over \$500 million in the face of regulatory uncertainty associated with the Arizona Corporation Commission's (ACC) decision to deny approval of the DPV2 line in Arizona is a reasonable course of action.

Additionally, in its amended petition, SCE should clarify what facts and law support its argument that the addition of 10.9 GW of new power in the Mohave Desert, which would be interconnected to the California portion of DPV2, does not constitute a connected action requiring further California Environmental Quality Act (CEQA) review.

Background

On May 14, 2008, SCE filed its Petition asking that "the Commission authorize SCE to construct DPV2 facilities in California to allow SCE to access potential new renewable and conventional gas-fired generation in the Blythe, California area."² More specifically, the Petition asks for authorization to construct the California portion of DPV2 (including the Devers Valley No. 2 line) at this time, without concurrent ACC approval to construct the Arizona portion of the line. Based on the Petition, construction of the California portion of DPV2 would include an estimated \$90 million for Devers-Valley No. 2, an estimated \$267 million for the line from Devers substation to the California Border, and an estimated \$102 million for the Midpoint Substation (this is a new request) for an estimated total of \$459 million. Construction of the remaining Arizona portion

² SCE Petition at 1.

would cost an estimated \$188 million. As noted, these costs are estimates and it is unclear whether they are “all in” estimates and whether they are in current or discounted dollars.

On June 13, 2008, TURN and DRA filed responses to SCE’s Petition. TURN supports SCE, concluding that “it is reasonable to grant the petition for modification.”³ TURN does not address the economics of this new proposal, but instead focuses on environmental concerns. TURN’s response states that TURN has resolved the environmental issues with SCE and states that SCE “is willing, in its reply to this response, to provide additional and/or revised proposed language for OP 7 that would make it clear that the petition is not seeking to avoid any required environmental review ...”⁴ TURN concludes that “hearings should not be necessary.”⁵

DRA raises concerns over SCE’s proposal, arguing that “the prospect of bifurcating the DPV2 into a ‘California phase’ and an ‘Arizona phase’ raises the question of whether doing so changes the attributes of the project to such an extent that a new cost-effectiveness analysis should be submitted to support the essentially ‘new’ or substantially different proposed project.”⁶ DRA expresses concern that a California-only project could be a “bridge to nowhere.”⁷

³ TURN Response at 3.

⁴ *Id.*

⁵ *Id.*

⁶ DRA Response at 5.

⁷ *Id.* at 6.

Concerning the forecasted growth in generation in the Blythe area, DRA states that SCE offers “no evidence” that the potential new generators would otherwise be unable to connect to the California Independent System Operator (CAISO) grid or that the DPV2 facilities “need to be online by a certain date in order to provide service” to the renewable generation.⁸ DRA concludes that “the Commission should deny without prejudice SCE’s petition for modification at this time. SCE may then resubmit its petition when it can provide evidence of the timing and amount of actual development of resources in the Blythe area, and there is more certainty regarding resolution of the issues related to the permitting of DPV2 facilities in Arizona.”⁹

On June 12, the CAISO filed an *ex parte* notice reporting that the CAISO President and Chief Executive Officer Yakout Mansour wrote a letter to President Peevey supporting the SCE proposal, stating that a “phased approach is consistent with the CAISO Governing Board’s directive to SCE to proceed with permitting and construction of DPV2.”¹⁰

On June 23, 2008, SCE replied to TURN and DRA. To address TURN’s concern, SCE proposes new language “to clarify that SCE is not seeking to construct the DSWTP.”¹¹ Regarding DRA, SCE responds that it “has now

⁸ *Id.*

⁹ *Id.* at 7.

¹⁰ CAISO June 12, 2008 Letter, p. 1. This letter is included in SCE’s reply.

¹¹ SCE Reply at 4. The DSWTP is the Desert Southwest Transmission Project, a 500 kV line separate from DPV2, but in the same corridor, that would allow power from proposed new generation near Blythe to travel to Devers to interconnect with DPV1 and DPV2. Integration of the DSWTP with DPV2 would involve increases in the transfer

Footnote continued on next page

received interconnection requests representing 10,896 MW, including 8,386 MW of renewable generation and 1,210 MW of new conventional gas-fired generation and 1,300 MW of hydroelectric storage generation that is proposed in the Blythe area ...”¹² SCE does not provide any specific information about the projects it would interconnect, their contract status, the status of their interconnection requests, the status of other transmission lines in the same area, or how interconnection of these generation facilities would occur.

Discussion

At this time, SCE’s inability to obtain approval to construct the Arizona portion of DPV2 is the significant new fact that has triggered SCE’s Petition. Specifically, because of this new development, the Petition seeks Commission approval of the California portion of the transmission line, as well as authority to construct a new substation.

The Petition, however, fails to address adequately how the ACC’s denial of a CPCN affects the economic analysis that provided the basis for the Commission’s conclusion in D.07-01-040 that the project was in the public interest.

Under D.07-01-040, the primary rationale for the Commission’s approval of the transmission line is to bring the economic benefits of low cost Arizona power to California.¹³ D.07-01-040’s conclusion that approval of SCE’s

capability of DPV2 which would have unexamined environmental impacts. SCE’s Reply clarifies that DSWTP is not at issue in the Petition and would require additional environmental analysis if it were to be pursued and integrated with DPV2.

¹² *Id.* at 8.

¹³ D.07-01-040, *mimeo.* at 42-43.

application “is in the public interest”¹⁴ relies on the factual findings that the benefits provided by this transmission line exceed the costs of construction. Specifically, D.07-01-040 finds that “[t]he parties’ economic evaluations of DPV2 submitted in this proceeding demonstrate that DPV2 will provide significant economic benefits to CAISO-area ratepayers.”¹⁵ Finding of Fact 1 of D.07-01-040 states:

Our assessment of the economic benefits of the DPV2 project is based on its design and construction to provide 1,200 MW of transfer capability between southern California and Arizona, to be operated by the CAISO.¹⁶

Without the Arizona portion of this transmission line, these key findings fall, and – absent additional information – so does the rationale in D.07-01-040 for finding the transmission project in the public interest.

The Petition fails to address directly the fact that the ACC’s rejection of the transmission project not only delays the start of the project, but also creates uncertainty over if and when the Arizona portion will be built and whether California will realize the economic benefits projected for the California to Arizona project. Specifically, the Petition fails to examine whether a California-only project, or a project in which the Arizona portion is delayed by several years, remains in the public interest.

The Petition and the Reply imply a new justification for a California-only transmission line – that new projects, many using solar power and renewable

¹⁴ *Id.*, Conclusion of Law 7, *mimeo.* at 108.

¹⁵ *Id.*, Finding of Fact 6, *mimeo.* at 104.

¹⁶ D.07-01-040, Finding of Fact 1, *mimeo.* at 103.

energy, have a right to interconnect to the grid and SCE has an obligation to link up with this power. However, this justification is very different than that used by the Commission to approve the project.

SCE fails to provide facts or analysis as to how many of the new renewable projects are likely to reach fruition and how many will need transmission on DPV2. For example, consider the purchase power agreement between SCE and FSE Blythe 1, LLC (FSE) approved by this Commission on July 10, 2008.¹⁷ For this solar project, FSE plans to interconnect at the distribution system level and requires no transmission services. Similarly, the Commission approved the power purchase agreement between SCE and Blythe Energy Center for a 490 MW fossil fuel plant in the Blythe area, finding that a generator-funded 67 mile “gen-tie” was the only thing needed to connect the project to the transmission network and that there would be no impact on either SCE costs or general transmission rates.¹⁸

At this point, it is not clear whether or not further hearings are needed. SCE’s reply to DRA states that the Commission can approve the Petition *ex parte*, without additional hearings, based on the record in the proceeding. As a procedural matter, the Commission may have the authority to take such action, but such a determination is premature until SCE submits the missing information

We find that based on the Petition, the Response of TURN, the Response of DRA, and SCE’s Reply, the Commission lacks an adequate basis to grant SCE’s

¹⁷ Resolution E-4157 (July 10, 2008).

¹⁸ D.08-05-028, *mimeo.* at 5.

Petition as it currently stands. As a result, SCE shall, if it wishes to proceed with the immediate construction of the California portion of DPV2 and the Midpoint Substation, amend its Petition to provide a reasonable basis for such an approval.

Based on the multiple factors raised by SCE in its Petition, it may be possible for SCE to demonstrate:

1. That the economic benefits of a California-only DPV2 exceed the costs of construction;
2. That the requests for interconnection from those proposing generation facilities in the area served by the California portion of DPV2 necessitate its construction under law or are otherwise in the public interest to relieve forecasted congestion;
3. That the construction of the DPV2 line in California is necessary for California to meet the Renewable Portfolio Standards adopted by California statute and therefore should be built;
4. That the construction of the Arizona portion of the transmission line will be completed without major delay so that benefits associated with the project continue to exceed its costs; or
5. That in light of a prudent decision analysis that considers the probabilities of these disparate outcomes, construction of DPV2 in California at this time remains superior to a strategy of awaiting approval of the Arizona portion of the line.

In providing the requisite economic analysis, SCE should update the economic information on project costs and benefits. As stated above, SCE should demonstrate if its project costs are “all in” and whether they are in current or discounted dollars. Also, D.07-01-040 showed that the economic benefits of DPV2 rose with the costs of natural gas. Current market levels for natural gas far exceed those considered at the time of DPV2 CPCN approval. Additionally, to assist us in our analysis of a California-only project, SCE shall provide an estimate of the projected transmission rates for such a line, as well as

comparisons to the rates charged for comparable lines in California. SCE shall also explain its assessment of the risk that the Federal Energy Regulatory Commission might not allow recovery of all of its costs for such a project, and whether SCE will seek backstop cost recovery pursuant to Public Utilities Code Section 399.25 in such an event.

Finally, concerning CEQA review, although neither TURN nor DRA state that the amended project requires additional CEQA review, it is unclear how 10.9 GW of new power can be constructed in the Mohave Desert and connected to the DPV2 line without requiring any connected actions analysis with regard to DPV2. SCE should provide additional information in order to ensure CEQA compliance.

IT IS RULED that if Southern California Edison Company (SCE) wishes to initiate construction on the California portion of Devers-Palo Verde No. 2 before receiving regulatory approvals for the Arizona portion of this project, then it should file an amended Petition within 45 days from this ruling that, as discussed herein, addresses the economic costs and benefits associated with this amended project, demonstrates that the proposed action will be in the public interest, and explains why SCE believes that no further review pursuant to the California Environmental Quality Act is necessary on the amended petition.

Dated July 17, 2008, at San Francisco, California.

/s/ DIAN M. GRUENEICH
Dian M. Grueneich
Assigned Commissioner

/s/ TIMOTHY J. SULLIVAN
Timothy J. Sullivan
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated July 17, 2008, at San Francisco, California.

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