

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION

RESOLUTION E-3829

May 22, 2003

R E S O L U T I O N

Resolution E-3829. Southern California Edison (SCE) requests authorization to deviate from SCE Rule 9, Section B and SCE Rule 16, Section B.2 in order to install an additional billing meter at Golden Cheese Company of California. An additional billing meter will require an amendment to the Power Purchase Agreement and Incorporated Interconnection Facilities Agreement between SCE and Corona Energy Partners, Ltd., who is the co-generator serving Golden. Also, SCE's List of Contracts and Deviations will be modified to reflect the rule deviations listed above. Approved.

By Advice Letter (AL) 1699-E filed on April 4, 2003.

SUMMARY

This Resolution approves Southern California Edison's (SCE) proposed tariff revisions to add Golden Cheese Company to the List of Contracts and Deviations. The Advice Letter 1699-E seeks California Public Utilities Commission ("CPUC" or the "Commission") approval of the following: (1) a deviation from SCE's Rule 9, Section B, Reading of Separate Meters Not Combined; (2) a deviation from SCE's Rule 16, Section B.2, Number of Meters; (3) an amendment to the Power Purchase Agreement and incorporated Interconnection Facilities Agreement between SCE and Corona Energy Partners, Ltd.; and (4) the modification of SCE's List of Contracts and Deviations.

The Advice Letter was protested by the City of Corona on April 23, 2003. We deny the request of the City of Corona.

BACKGROUND

Golden Cheese Company of California (Golden) is one of the largest fully integrated cheese and whey processing facilities in the United States and is located in Corona, Riverside County, California. The plant produces an average

of 550,000 pounds of cheese daily and when in full operation, consumes 5.5 million pounds of milk per day. This consumption constitutes almost 5 percent of California's milk supply. Golden directly employs approximately 300 people. Energy for the plant is supplied primarily by a 49MW cogeneration facility operated by Corona Energy Partners Ltd. (Corona). The cogeneration facility is located adjacent to the Golden Cheese plant.

Due to Golden's increased plant production, Golden was faced with inadequate power supply during the summer months. Golden requested a second service extension and meter from SCE, but was denied. After unsuccessful attempts to acquire additional power, Golden resorted to providing the incremental power by leasing diesel generators. Unlike the summers of 2001 and 2002, air quality regulators are not permitting the use of these diesel generators to meet Golden's incremental power needs during the summer months of 2003.

Corona is a qualifying facility (QF) within SCE's service territory. A power purchase agreement (PPA) was entered into on May 31, 1985, under which SCE would purchase energy from Corona. The cogeneration facility went online on May 21, 1988 and serves both Golden and SCE. Corona is not willing to sell additional power to Golden, concerned that doing so would harm its ability to meet its obligations to SCE under the QF agreement.

Because Golden is no longer able to meet its incremental load with diesel generators, there is uncertainty as to where Golden can obtain incremental power. A method to resolve this uncertainty was proposed by Corona to SCE: "Corona Energy indicated that, while it is not willing to commit to serve Golden's load directly, it is willing to consent to separate accounting of Golden's incremental load, which shall be separately metered, such that SCE may serve the incremental load under SCE's existing retail account with Golden through Corona Energy's interconnection facilities." Corona also stipulated that "this arrangement would be acceptable to Corona Energy on condition that SCE is willing to mathematically credit Corona Energy's account under the PPA for Golden's incremental load such that the kWh from Corona Energy's generation, net of all Corona Energy and Golden load other than the Golden's incremental load, will be deemed delivered to SCE by Corona Energy and is purchased by SCE from Corona Energy, under the terms of the PPA." (SCE AL 1699-E, p.2)

SCE suggests the installation of a second billing meter (M2) downstream from the existing meter (M1) that will operate as a sub-meter. The sub-meter will

measure all demand and energy consumed exclusively by the incremental load. The addition of a second meter requires the current PPA between SCE and Corona to be modified. Therefore, SCE shall serve Golden's incremental load and be deemed to purchase Corona Energy's generation, under the terms of the PPA.

Golden submitted two letters in support of Advice Letter 1699-E. The first letter, dated April 22, 2003, reiterated the importance of approving the Advice Letter on an expedited basis. The letter also summarizes the operation of the Golden plant, providing an overview of the inputs consumed by the plant and the types of products manufactured. Golden states "failure to approve the Advice Letter could interrupt or curtail Golden's energy supply, which in turn would cause severe economic disruption." The second letter, dated April 23, 2003, provides details of these economic disruptions. The following impacts were listed:

- Potential layoff of up to 100 employees
- Reduced production of cheese from 550,000 lbs./ day to 300,000 lbs./ day
- Reduction of shipments of all products from 1,200,000 lbs./ day to 600,000 lbs./ day
- Reduced milk/cream intake from 100 local dairies 5.5 million lbs./ day to 3.0 million lbs./ day

Golden also confirms that air quality regulators will not be permitting the use of diesel generators "to meet its incremental power needs on a standby basis this summer." Both SCE and Golden seek the approval of this Advice letter on an expedited basis, and although it filed a protest, the City of Corona also "urges the Commission to approve the Advice Letter as quickly as possible."

NOTICE

Notice of AL 1699-E was made by publication in the Commission's Daily Calendar. SCE states that a copy of the Advice Letter was mailed and distributed in accordance with Section III, Paragraph G, and Section X, Paragraph A of General Order 96-A.

PROTESTS

SCE's AL 1699-E was protested by the City of Corona (the "City") on April 23, 2003. The City "protests, comments, but requests conditional approval of Southern California Edison's Advice Letter 1699-E." The City protests that "the

waiver of Rule 16 is unnecessary, and that the waiver be conditioned to require SCE to allow Golden to return to its previous contract status with SCE at no charge or penalty.” The City further elaborates “SCE’s request for waiver of Rules 9 and 16, and amendment to the PPA, should be conditioned on Golden’s ability to obtain its power from (the City of) Corona.”

To provide electricity to Corona businesses and residents, the City has constructed a 65MW generating facility. On December 20, 2001, the City applied to SCE for an interconnection to the proposed Corona-Golden Substation and service under Wholesale Distribution Access Tariff (WDAT). SCE denied the application twice and the City of Corona filed a complaint at the Federal Energy Regulatory Commission (FERC). In its November 25, 2002 Order, the FERC found that “(the City of) Corona has met the standards for interconnection order under Section 210(c).” Also, the FERC stated “because (the City of) Corona’s request meets the requirements of Section 210, it will grant Corona’s request for an order directing Edison to interconnect.”

According to the City, although SCE is complying with FERC’s Order on the interconnection, SCE maintains that the City of Corona is not eligible for distribution services. This issue is still pending at the FERC. The City argues that “SCE has now changed its mind about whether it can provide power to Golden” and suggests that “it is more likely that SCE recognized the FERC’s impending order to provide WDAT services as well as interconnection to (the City of) Corona.”

The City of Corona further requests that “the Commission, in its order conditionally approving the advice filing, clarify that Rule 16 does not require a “one enterprise – one meter” interpretation and, therefore, waiver of Rule 16 is unnecessary.”

In summary, the City of Corona “believes that when SCE ultimately interconnects (and energizes the interconnect) pursuant to the FERC order, Golden should have the right to return to its previous contract status with SCE, at no charge or penalty, and obtain its electricity needs from (the City of) Corona. While Section 5.3 (Termination) of SCE’s proposed Amendment No.5 will provide that option, (the City of) Corona asks the Commission to explicitly make this option a condition of the waiver.”

On May 2, 2003, SCE responded to the protest filed by the City. SCE states “the focus should be on providing much needed relief to Golden and not on Corona’s various electricity-related activities.” In response to the City’s request for allowing Golden to “return to its previous contract status with SCE, at no charge or penalty, and obtain its electricity needs from Corona, if Golden so desires...”, SCE states “nowhere in the advice filing does SCE in any way attempt to restrict future action by Golden. SCE proposes to serve Golden’s added load under the applicable retail tariffs, without added restriction. Golden will therefore be treated the same as any other similarly situated retail customer and, as such, will be subject to all applicable rates, rules, charges and restrictions, without exception. Since SCE is not requesting in this advice filing that any extraordinary service restrictions be placed on Golden, no relief from any such restrictions is required.” SCE also clarifies that “SCE’s contract is with Corona Energy, not Golden.”

SCE maintains that a deviation from Rule 16 is required. Rule 16(B)(2) states that “Normally only one meter will be installed for a single residence or a single non-residential enterprise on a single Premises.” The reason for deviating from Rule 16 does not fall under the four exceptions, so therefore SCE must seek Commission approval.

Lastly, SCE notes “the important point is that the FERC litigation is wholly irrelevant to Advice 1699-E.” Also, since “Corona has no opposition to the relief requested, nor does any other party, and thus the relief requested by Advice 1699-E should be granted.”

DISCUSSION

Energy Division has reviewed AL 1699-E. The relevant facts that lead to approval of this advice letter are discussed below.

In response to an Energy Division data request, SCE provided information on energy and capacity payments for 2002 to Corona Energy under the existing PPA and also payments received from Golden. Based on estimated energy purchases and sales if the advice letter were approved, Energy Division anticipates a netting effect of increased payments to Corona Energy and increased sales to Golden Cheese. Therefore, there will be no significant revenue impact from the approval of this advice letter.

Moreover, approving these tariff deviations and contract amendments clearly serves the public interest. In particular, approval will obviate the need to shut down the separate production line, which employs 100 people. Also, when one considers the vital role that food processing plays in the California economy, the impact on employment of a disruption to production could readily offset 500 jobs. Finally, we note that Golden Cheese will pay Edison the full cost of this additional power and idling its own diesel generators complies with relevant environmental law. In summary, approving this advice letter is clearly in the public interest: it saves jobs, covers costs, and complies with environmental laws.

SCE correctly notes “the FERC litigation (between SCE and the City of Corona) is wholly irrelevant to Advice 1699-E.” The Commission sees no purpose in addressing this issue here. Also, as stated by SCE, since “SCE’s contract is with Corona, not Golden,” the City of Corona’s request that “the waiver (of Rule 16) be conditioned to require SCE to allow Golden to return to its previous contract status with SCE at no charge or penalty” is misplaced.

Installation of a second meter at Golden’s site is clearly a deviation from Rule 16, which states “normally only one meter will be installed for a single-family residence or a single non-residential enterprise on a single Premises.” Four exceptions are listed, but SCE believes that none of the exceptions are applicable in this case. Filing for approval to deviate from this Rule is appropriate.

If the deviation from Rule 16 is approved, it follows that a deviation from Rule 9 should also be approved. Rule 9 states “For the purpose of billing, each meter upon the customer’s premises will be considered separately, and the readings to two or more meters will not be combined.” In this particular case, the readings from the two meters will be used together to determine energy delivery and payments. The new meter will be a sub-meter of the existing meter and both will be located on Golden’s site. It is necessary and practical to deviate from Rule 9.

Energy Division has reviewed the proposed Amendment No. 5 to the Power Purchase Agreement between SCE and Corona Energy. The PPA has been amended to reflect the addition of the sub-meter. The meter readings will be used for the purposes of “determining Corona Energy’s compliance with its obligations to SCE under the PPA, as well as SCE’s payments to Corona Energy under the PPA.

SCE's proposal filed in AL 1699-E seeks deviations from Rules 9 and 16 in order to serve the incremental load of Golden. SCE has also proposed an amendment reflecting an agreement between SCE and Corona Energy, which will effectively supply and measure energy to Golden. Considering the above points, AL 1699-E should be approved.

COMMENTS

Public Utilities Code (PU) section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

All parties in the proceeding have stipulated to reduce the 30-day waiting period required by Public Utilities Code section 311(g)(1). The draft resolution was mailed to parties for comment pursuant to PU Code section 311(g)(1). SCE filed comments on May 9, 2003, Golden filed comments on May 12, 2003 and the City of Corona filed comments on May 13, 2003. SCE filed reply comments on May 16, 2003.

In their comments, both SCE and Golden strongly support draft Resolution E-3829 and raised no new matters. The City of Corona also "urges the Commission to approve the Draft Resolution as quickly as possible." But the City maintains that the waiver of Rule 16 is unnecessary and the "finding that SCE needs Commission approval to deviate from Rule 16 is incorrect." Reply comments filed by SCE clarify issues that refute the assertions of Corona. SCE elaborates the reasons why the exceptions under Rule 16 are not applicable to Golden and therefore a second service extension would require a deviation. SCE also correctly notes that the issue of "exit fees" is outside the scope of this draft Resolution. The City has not identified any errors in the draft Resolution, and no changes have been made based on comments filed.

FINDINGS

1. On April 4, 2003, SCE filed AL 1699-E requesting deviation from Rules 9 and 16, and therefore allowing the installation of a second sub-meter at Golden.

SCE also requests amendments to be made to the current PPA between SCE and Corona Energy.

2. On April 21 and 23, 2003, Golden Cheese Company submitted letters in support of the advice letter.
3. On April 23, 2003, the City of Corona protested AL 1699-E and requested that it be approved on the conditions that Golden Cheese be allowed to return to its previous contract status with SCE at no charge or penalty and allow Golden to obtain its electricity needs from the City of Corona.
4. On May 2, 2003, SCE responded to the protest filed by the City of Corona.
5. Installation of a second sub-meter at the Golden Cheese plant will allow the measurement of Golden's incremental load. Golden's incremental load will be served by SCE under current retail tariffs. This in turn allows for SCE to provide power to serve Golden's incremental load and implement the mutually agreed accounting system between SCE and Corona Energy.
6. It is reasonable to approve the deviation from Rules 9 and 16, to allow the installation of a second sub-meter at Golden.
7. It is reasonable to amend the current PPA between SCE and Corona Energy. The amended PPA will calculate Corona's energy sold to SCE as generation from Corona, less Golden's load, but including the incremental load. Therefore modification to SCE's List of Contracts and Deviations is reasonable.

THEREFORE IT IS ORDERED THAT:

1. Southern California Edison Advice Letter 1699-E requesting Commission authorization to: deviate from Rules 9 and 16, and amend the current PPA between SCE and Corona Energy is approved.
2. Amendment No.5 to the PPA between SCE and Corona Energy is effective as of today.
3. Modification to SCE's List of Contracts and Deviations, as requested in AL 1699-E, is approved.
4. The City of Corona's requests, in particular, to clarify that Rule 16 does not require a "one enterprise – one meter" interpretation is denied.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on May 22, 2003; the following Commissioners voting favorably thereon:

WILLIAM AHERN
Executive Director

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners