UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Inquiry Regarding the Commission's Electric Transmission Incentive Policy	))	Docket No. PL19-3-000

INITIAL COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY

Southern California Edison Company ("SCE") respectfully submits these comments in response to the Federal Energy Regulatory Commission ("Commission") Notice of Inquiry Regarding the Commission's Transmission Incentive Policy ("NOI").[1] The Commission seeks information and stakeholder views regarding whether, and if so how, it should modify transmission incentives available to electric utilities consistent with Section 219 of the Federal Power Act.

SCE, a wholly owned subsidiary of Edison International, is an investor-owned utility, subject to the Commission's jurisdiction. The policies that are implemented as a result of this NOI concerning the determination and availability of transmission incentives will have a direct effect on SCE. Thus, SCE submits these comments to assist the Commission with its evaluation of existing policies as well as the development of new and beneficial policies to support transmission investment to the ultimate benefit of our customers and transmission customers throughout the nation. In these comments, SCE responds to issues raised by questions set out in the NOI.

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[1] *Inquiry Regarding the Commission's Transmission Incentive Policy,* 166 FERC ¶ 61,208 (2019).

I. OVERVIEW

SCE appreciates the opportunity to comment on the Commission's Incentives NOI, which solicits comments about electric transmission incentive policy. SCE has elected not to respond to all the NOI questions, but provides comments on the following four general areas:

- The Commission should ensure that transmission incentives are durable;
- The Regional Transmission Organization/Independent System Operator ("RTO/ISO") adder continues to appropriately incentivize participation in an RTO/ISO;
- Projects approved through a regional planning process – including interconnection facilities/upgrades funded and constructed by an incumbent transmission owner to interconnect a competitively bid project – should receive 100% abandoned plant and construction work in progress ("CWIP") for the life of the project;
- Utilities should be permitted to request incentives for projects – and portfolio investments – that meet grid resilience needs.

These proposals, discussed below, will further encourage investment in necessary transmission, provide additional benefits to customers, and ensure that rates are just and reasonable.

II. THE COMMISSION SHOULD REVISE ITS POLICIES TO ENSURE TRANSMISSION INCENTIVES ARE DURABLE FOR THE LIFE OF THE PROJECT

Pursuant to Section 219 (b) of the Federal Power Act, the Commission was required to implement transmission incentives to provide a return on equity to attract new investment in transmission facilities, including related transmission technologies.[2] In practice, providing a transmission incentive draws the attention of investors to invest in a particular type of investment by offering a greater return or decreasing the potential risks of a particular investment. However, for the incentive to fully achieve the desired results, it must be durable. If an incentive is withdrawn or otherwise curtailed, investors will incorporate the potential of termination of the incentive in their analysis, decreasing the efficacy of the incentive overall

[2] Incentives NOI, at P 5.

for similarly situated or comparable transmission investments. Therefore, the Commission must ensure that the transmission it seeks to incent is not undercut by limitations on the ability of a transmission owner (and therefore investors) to fully receive the benefit of that incentive for the life of the project.

One of the most effective incentives for a utility to invest in a time and capital intensive transmission project is the ability to earn a return on equity ("ROE") incentive on that investment. An incentive adder is awarded by the Commission for risks associated with a project that are not accounted for in the base ROE. That is, project incentives incent investment in transmission facilities that benefit consumers by ensuring reliability or reducing the cost of delivered power by reducing transmission congestion.[3] However, an example of when an incentive has been curtailed prior to full depreciation of a project is when the Commission subjects a project specific ROE adder, when combined with the base ROE and applicable RTO/ISO adder, to the cap of the zone of reasonableness on a project by project basis. While the determination of base ROE is to ensure that that a utility receives returns that satisfy the *Hope and Bluefield* standards,[4] the investment in a specific project is outside of those requirements. As such, while applying a proper zone of reasonableness to the base ROE is consistent with the basis of determining the ROE, applying the zone of reasonableness to the Order 679 project-specific ROE adders lessens the efficacy of the incentive and reduces the likelihood that utilities will invest in extremely difficult and risky transmission projects.

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[3] Promoting Transmission Investment through Pricing Reform ("Order 679"), 116 FERC ¶ 61,057 (2006).

[4] As set forth by the Supreme Court in a series of legal decisions, including *Hope* and *Bluefield*, the ROE authorized for a regulated utility must (1) be sufficient to ensure confidence in the financial soundness of the utility, (2) be adequate to permit the utility to be creditworthy, (3) allow the utility to attract capital, and (4) be comparable with returns on investments of similar risk. *See Federal Power Comm'n v. Hope Natural Gas Co*., 320 U.S. 591, 603 (1944) ("Hope"); *Bluefield Water Works and Improvement Co. v. Public Service Commission of the State of West Virginia*, 262 U.S. 679, 692 (1923) ("Bluefield").

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Investors, when considering the risk in investing in transmission compared to a less risky investment, have an expectation that with a project that involves additional risk they will be continue to be compensated for that risk for the life of the project. However, a company's zone of reasonableness may change after an incentive is granted, or the Commission's ROE methodology may be modified in a way that results in recovery of the incentive being reduced or altogether eliminated. This undercuts investors' expectations and in turn undermines the efficacy of Order 679 incentives. To solve this problem the Commission should set as clear policy that only the base ROE will be limited by an appropriate zone of reasonableness.[5]

In the alternative, if the Commission chooses to continue to apply the zone of reasonableness to project-specific ROE adders, then the Commission should consider the impact project specific incentives have on the total return a utility realizes based on its entire ratebase, rather than on a project by project basis. Therefore, rather than truncating the allowed return on each individual project at the top end of the zone of reasonableness, the Commission should allow utilities to demonstrate whether the company's "all-in ROE" for its total ratebase including all project-specific incentives, falls below the upper end of the zone of reasonableness. Of the utility's effective "all-in ROE" falls below this threshold, no action would be needed.

III. THE RTO/ISO ADDER CONTINUES TO APPROPRIATELY INCENTIVIZE PARTICIPATION IN AN RTO/ISO

The Commission should continue to offer a 50 basis point incentive adder for participation in an RTO/ISO because participation provides significant benefits for customers,

[5] *Public Utilities Com'n of California v. FERC*, 367 F.3d 925 (2004) ("[A]s a general matter, the Commission may take non-cost factors into account in setting rates. Such factors include incentives to further other statutory policies, such as ensuring energy availability, even if those incentives create returns more generous than cost-based ratemaking (cites omitted).").

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as previously recognized by the Commission,[6] and also subjects the participating transmission owner to increased risks that should be compensated. The benefits to customers of SCE's participation in the CAISO include transmission system planning to meet reliability standards, resiliency goals, and managing of market issues. Moreover, the CAISO makes optimal use of all available transmission, provides market participants with tools to protect against transmission congestion, produces a least-cost dispatch of resources based on market bids and reliability requirements, continuously monitors market and grid conditions and implements market power mitigation when appropriate, provides for comprehensive market monitoring and much more.

SCE also faces added risks from its participation in the CAISO. For example, the CAISO has proposed tariff amendments or discussed proposals that allocated costs to Scheduling Coordinators (as defined in the CAISO Tariff) and Transmission Owners, such as SCE, without ensuring that such costs were in turn recoverable from customers and/or without providing a clear indication of who should ultimately bear these costs. For example, the CAISO's original rules concerning congestion cost responsibility for Existing Transmission Contracts did not allow SCE to collect all costs.[7] Other proposals have been discussed that would hold the transmission owner responsible for congestion and other market uplift costs

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[6] Order 679 at P 331 ("We also clarify that, as explained earlier, entities that have already joined, and that remain members of, an RTO, ISO, or other Commission-approved Transmission Organization are eligible to receive this incentive. The basis for the incentive is a recognition of the benefits that flow from membership in such organizations and the fact continuing membership is generally voluntary.").

[7] This issue was not resolved until the CAISO implemented its nodal market proposal as filed in Dkt. ER06-615.

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associated with transmission outages.[8] In the ensuing Commission litigation, the staffs of SCE's regulators and SCE's various customer classes are often at odds with one another, increasing the likelihood that SCE will be unable to recover the costs.

Lawsuits or complaints against the CAISO for negligence, tariff violations, or other wrongdoing could result in costs for Scheduling Coordinators and transmission owners such as SCE because of the CAISO's non-profit status. Another concern is that CAISO Tariff and Transmission Control Agreement provisions greatly limit the CAISO's liability. Participation in the CAISO also exposes SCE to additional risk relating to abandonment due to CAISO transmission planning. For example, in the 2016-2017 CAISO Transmission Plan,[9] the CAISO reassessed the need for the a transmission project – previously approved in 2013 – based upon a lower energy and demand forecast resulting from behind the meter photovoltaic generation.[10] The CAISO found that the economic savings were not presently sufficient to justify the cost of the project and recommended that no further development action of the project be taken until its review was completed. In addition, in that same 2016-17 Transmission Plan,[11] the CAISO performed a review of previously approved projects as a result of changes in load forecasts and determined that thirteen other transmission projects were no longer required based on reliability and local capacity requirements, and

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[8] For example, p. 12 of the 2015 Stakeholders Initiative Catalog includes a suggestion to allocate CRR shortfalls due to transmission outages to Transmission Owners. *See* 2015 Stakeholder Initiatives Catalog, Jan. 23, 2015, http://www.caiso.com/Documents/Final_2015StakeholderInitiativesCatalog.pdf

[9] 2016-2017 Transmission Plan, *California ISO*, March 17, 2017, Board Approved, *available at* http://www.caiso.com/Documents/Board-Approved_2016-2017TransmissionPlan.pdf.

[10] *Id.*, p. 104.

[11] *Id.*

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deliverability assessments.[12] Another transmission project was cancelled in 2016[13] because the CAISO deemed the project unnecessary after reassessing its need several years into development. SCE had to abandon the project for reasons beyond its control, even though it had already incurred significant costs in attempting to license and develop the project.

Therefore, given the significant benefits provided to customers and the risks faced by transmission owners for joining, the Commission should continue to provide the 50 basis point RTO/ISO participation adder for continued RTO/ISO participation by transmission owners.

A. Voluntary ISO/RTO Participation

Question No. 66 of the NOI asks whether voluntary participation should remain a requirement for RTO/ISO incentives.[14] Such participation should not be a requirement because the incentive eligibility should focus upon the key underlying policy justifications for the incentive: benefits to customers and risks to transmission owners as discussed above. These are the critical factors that should be accorded significant weight when determining eligibility. Moreover, as the Commission has exclusive jurisdiction over participation in an RTO/ISO through Commission jurisdictional tariffs,[15] all participation in RTO/ISOs—

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[12] *Id.* at p. 102.

[13] Dkt. ER16-1025. *See, Southern California Edison Co.*, 155 FERC ¶61,169 (2016) (Coolwater-Lugo).

[14] NOI at p. 34 ("Q66) In Order No. 679, the Commission found that "the basis for the incentive is a recognition that benefits flow from membership in such organizations and the fact that continuing membership is generally voluntary. Should voluntary participation remain a requirement for receiving RTO/ISO incentives?").

[15] *See, e.g.*, *Transmission Agency of N. Cal. v. Sierra Pac. Power Co.*, 295 F.3d at 918 (2002) (quoting *New England Power Co. v. New Hampshire*, 455 U.S. 331, 340 (1982) (holding that Part II of the FPA, codified at 16 U.S.C. §§ 824-824m (2000), delegates to FERC "exclusive authority to regulate the transmission and sale at wholesale of electric energy in interstate commerce."); *California Indep. Sys. Operator Corp.*, 139 FERC ¶ 61,198, 62,363 (2012)

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including whether an electric utility has a right to join or withdraw from an RTO/ISO—is subject to this Commission's jurisdiction.[16] Accordingly, a requirement to voluntarily participate is simply dependent upon this Commission's rules and regulations and not directly related to the value and risks provided by RTO/ISO participation.

In fact, Order No. 679 acknowledges that the incentive is a recognition that membership is *generally* voluntary, and does not state that membership *must* be voluntary.[17] Order No. 679 explicitly rejected proposals to prohibit the incentive adder where a transmission owner is ordered to join an ISO by statute.[18] And, there is no reasonable policy-distinction between a requirement to join an ISO and a requirement to continue to remain in an ISO.[19] Thus, the Commission should evaluate eligibility pursuant to Order No. 679 based upon a case-specific analysis that considers all of an electric utility's relevant circumstances. The voluntary nature of participation should not be determinative.

("The TCA is the agreement among the CAISO and Participating Transmission Owners that establishes the terms and conditions under which the transmission owners place certain transmission facilities and entitlements under the CAISO's operational control, thereby becoming P[articipating] TOs.").

[16] For example, agreements regarding ISO/RTO membership are subject to FERC jurisdiction and they control entities' right to join or withdraw from an ISO/RTO. *E.g.*, Louisville Gas & Elec. Co., 114 FERC ¶ 61,282 at P 65 (2006).

[17] Order No. 679 at P 331 ("The basis for the incentive is a recognition of the benefits that flow from membership in such organizations and the fact continuing membership is generally voluntary.").

[18] Order No. 679 at P 316; Order No. 679-A at P 83.

[19] The Ninth Circuit identified the distinction between an order to joint and an order to continue participation but concluded that Order No. 679 did not address the impact of a continued participation requirement because no party to the Order No. 679 proceedings raised the issue. *See CPUC v. FERC*, 879 F.3d 966 at 975 (2018).

Finally, given the benefits described above that are provided to customers by organized markets and the risks that a transmission owner faces in joining, the Commission should continue to provide the RTO/ISO adder to transmission owners participating in markets, because to curtail this incentive after a transmission owner joins sends a message to those utilities that may be considering joining an RTO/ISO that this incentive is not durable and they should not factor it into their determination of whether or not to take the risks associated with joining in order to gain the benefits offered to customers. At a time when there is renewed consideration and interest in RTO/ISOs from some utilities throughout the country, withdrawal or curtailment of this incentive may impact the potential future expansion of RTOs and ISOs, and the benefits attendant in such expansion.

IV. PROJECTS APPROVED THROUGH A REGIONAL PLANNING PROCESS SHOULD RECEIVE 100% ABANDONED PLANT RECOVERY AND BE ALLOWED TO RECEIVE CWIP FOR THE LIFE OF THE PROJECT

SCE recommends the Commission retain the abandoned plant and CWIP incentives and further suggests that the Commission should automatically provide CWIP and 100% abandoned plant for all projects approved in a Commission-approved regional planning process and facilities needed to interconnect competitively bid transmission projects, subject to a Section 205 filing by the transmission owner and the Commission's determination of prudence for any abandonment costs.[20] Automatic preapproval of CWIP treatment in many cases reduces costs to customers over the life of the project. Projects selected in regional

[20] The abandoned plant incentive should be applicable when a project is abandoned for reasons beyond the control of the public utility.

planning process, and then ultimately cancelled for reasons beyond the transmission owner's control, should not face recovery risk of prudently incurred costs since the decision-making authority to approve the project as well as the abandonment of the project were not under the direct control by the transmission owner.

Approval of 100% abandoned plant for projects selected in regional planning processes that are later abandoned due to reasons beyond the transmission owner's control is beneficial and justified because project abandonment risk can impede major, cost-effective transmission upgrades that are in ratepayers' interests. Investors may be reluctant to invest in large, expensive transmission projects that could be cancelled for reasons beyond the transmission owner's control before the investor earns any revenue from the project. As a result, developers of projects facing abandonment risk—a risk that, by definition, is major and uncontrollable—will pay more for capital. Approval of an incentive to automatically allow recovery of 100% of prudently incurred costs associated with for these projects is therefore justified for reasons of fairness to a transmission owner's investors. As mentioned above, if a project is selected in a regional planning process and then later after the transmission owner has expended funds developing the project, the RTO/ISO determines due to changes in load forecasts a project is no longer needed, the transmission owners' investors must now bear half the costs of abandonment when the abandonment was due to circumstances they could not affect or control.

Moreover, if a project is approved in an RTO/ISO planning process, the abandoned plant recovery should be for cost incurred during the life of the project—and not foreclose the utility from recovering abandoned plant costs that were incurred prior to the order approving the abandoned plant incentives. To do otherwise, is to discourage investment in activities

(such as licensing and studies) for projects and programs the Commission seeks to encourage. Of note, recovery of costs will still require a Section 205 showing by the utility to ensure the costs incurred were prudent. Thus the process contains safeguards to protect customers from facing inappropriate costs.

Even if the Commission chooses not to automatically grant 100% abandoned plant for projects approved by an RTO/ISO subject to a Section 205 showing by the transmission owner of prudence, it should revise 100% abandoned plant policy (at least for projects approved in a regional planning process) to allow 100% abandoned plant recovery for the entire life of project, rather than just for cost incurred subsequent to the date of Commission approval, for projects receiving the incentive.

Preapproval of abandoned plant is similarly appropriate for interconnection facilities, including upgrades, that will be funded and constructed by an incumbent transmission owner to interconnect a competitively bid project selected in a Regional Planning Process. Seeking 100% abandoned plant treatment for these interconnection projects on a case-by-case basis is relatively costly given Commission fees and filing preparation costs and also places a burden both on the Commission and transmission owners. Moreover, given that the only reason for constructing such an interconnection facility is to accommodate a project selected by a Regional Planning Process, it stands to reason that the interconnection facilities should viewed as complying with the same Regional Planning Process and therefore receive abandoned plant treatment. And as with other projects, recovery of the specific costs should remain subject to review under section 205, as under the current incentives policy. Thus, customers will continue to have a process to ensure only prudently incurred cost are recovered through rates.

For these reasons the Commission should grant abandoned plant covering the entirety of projects that are selected in a regional planning process and also to facilities that are interconnecting a competitive transmission project selected in a regional planning process. Additionally, the Commission should automatically grant CWIP to projects selected in a regional planning process as this in many cases reduces costs to customers over the life of the project.

V. THE COMMISSION SHOULD ALLOW UTILITIES TO REQUEST INCENTIVES FOR PROJECTS – AND PORTFOLIO INVESTMENTS – TO MEET GRID RESILINCE NEEDS

Question 34 of the Incentives NOI states, "*Should transmission projects that enhance resilience be eligible for incentives based upon their reliability-enhancing attributes*? SCE's short answer to this question is "yes" because grid resilience is a significant issue that has emerged since Order 679 was adopted. At the time Order 679 was adopted (2006), the Commission indicated that "the issue of whether there is a need for new transmission investment that is sufficient to justify transmission incentives was put to rest by section 219."[21] While the Commission is appropriately looking for comments on how to improve its current transmission incentives policy in this NOI, it is important to recognize that the Commission's fundamental Order 679 conclusion of the need for new transmission investment still holds today. However, the critical areas that transmission investment needs to address have evolved since Order 679 was issued in 2006. In Order 679, the Commission allowed, when justified, an incentive-based ROE to all public utilities for new investments in transmission facilities that benefit consumers by ensuring *reliability or reducing the cost of*

[21] Order 679 at P 14.

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delivered power by reducing transmission congestion.[22] As the Commission recognized in its Resilience Order,[23] *grid resilience* challenges need to be addressed because "affordable and reliable electricity is vital to the country's economic and national security."[24] Of note, the term "grid resilience" was not even mentioned in Order 679.

Grid resilience needs vary throughout the country. For some areas, hurricanes, flooding, tornadoes or winter storms may pose the greatest concerns for resilience. In other areas, seismic activity or mudslides may be of greatest concern. Moreover, some resilience concerns such, as cybersecurity, physical security and electromagnetic disturbances, may be common among all regions.

The Commission should enhance its transmission incentives policy to permit utilities to seek approval for transmission incentives on projects that address grid resilience needs. SCE notes that resilience concerns, and the tools to address them, are continuously evolving. Thus, addressing immediate resilience concerns will often go above and beyond simply meeting existing reliability criteria.[25]

Regarding the type of incentive permitted for grid resilience projects, the Commission should determine the level of the ROE adder on a case-by-case basis when an application for

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[22] Order 679 at P 91.

[23] *Grid Reliability and Resilience Pricing,* 162 FERC ¶ 61,012 (2018) at P1 ("The resilience of the bulk power system will remain a priority of this Commission.").

[24] FERC News Release, Jan. 8, 2018, Docket Nos. AD18-7-000, RM18-1-000, *available at* https://www.ferc.gov/media/news-releases/2018/2018-1/01-08-18.asp#.XQQcJChKhPY

[25] CIP Standards confront the rapidly evolving landscape of cyber and physical security threats. It is therefore critical that NERC's CIP Standards serve as the floor, and not the ceiling, of responsive action for which responsible entities are authorized to take to address underlying reliability needs. As cyber and physical security threats emerge and evolve, responsible entities must be able to respond with investment in protective measures which are tailored to mitigate or neutralize those threats.

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an incentive-based ROE is filed with the Commission. This is consistent with the approach the Commission has employed to date for reliability and transmission congestion relief projects and it has been found to be just and reasonable.[26] Resilience incentives should be allowed for both specific projects (such as a new transmission line to address a resilience need) as well as portfolio investments (*e.g.,* blanket projects that may address resilience on multiple existing transmission facilities).

VI. CONCLUSION

SCE appreciates the opportunity to comment on the NOI and respectfully requests the Commission carefully consider the proposals contained herein.

Respectfully submitted,

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[26] Order 679-A, 117 FERC ¶ 61,345 at FN 19 ("In contrast to a base-level ROE that reflects the financial and regulatory risks of an investment, an "incentive" has been more typically associated with specific basis point additions to a base ROE to satisfy discrete policy objectives (cites omitted). Section 219 addresses both situations. In addition to requiring the Commission to establish, by rule, incentive rate treatments to promote transmission investment generally, section 219 also requires the Commission to establish incentive-based rates to encourage transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities. Thus, Congress intended for us to establish an ROE sufficient to reflect financial and regulatory risks and also to consider discrete ROE incentives for, among other things, participation in transmission organizations, projects with particular benefits to reliability or reducing congestion, new technologies and efficiency enhancements.") (emphasis added).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Rosemead, California this 26th day of June, 2019.

/s/ Norman Goss
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Document Content(s)