

Decision 82 09 019 SEP 8 1982

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking on the Commission's)
Own Motion to Establish)
Standards Governing the Prices,)
Terms, and Conditions of)
Electric Utility Purchases of)
Electric Power from Cogeneration)
and Small Power Production)
Facilities.)

OIR 2
(Petition for Modification
filed June 21, 1982)

ORDER MODIFYING DECISION 82-01-103 AND
DECISION 82-04-071 AND STRIKING STAFF PETITION

By petition for modification filed June 21, 1982, Southern California Edison Company (Edison) requests a modification of Decision (D.) 82-01-103 and D.82-04-071. Specifically, Edison requests an order that would permit Edison to incorporate, until December 31, 1982, the capacity payment schedule (Interim Capacity Payment Schedule) found in Edison's Interim Proposed Policy for Cogeneration and Small Power Production (Interim Proposal) effective August 1, 1980 to May 12, 1982, into all power purchase agreements with qualifying cogenerators and qualifying small power producers (Qualifying Facilities) who signed letters of intent with Edison prior to May 12, 1982, but had not signed a final agreement by that date. No party opposes Edison's petition.

In support of its petition Edison argues that it has been negotiating in good faith with Qualifying Facilities with the mutual understanding that the capacity payment schedule used in the final agreement would be the Interim Capacity Payment Schedule found in Edison's Interim Proposal effective August 1, 1980 to May 12, 1982.

Edison contends that it and Qualifying Facilities have expended significant financial resources performing engineering and economic studies based upon the Interim Capacity Payment Schedule found in Edison's Interim Proposal. Edison argues that ongoing negotiations moving toward a final agreement should be conducted on the basis of the Interim Capacity Payment Schedule found in the Interim Proposal.

Edison states that many of those Qualifying Facilities which executed letters of intent prior to May 12, 1982, have made financial plans and arrangements based on the payment provisions in Edison's Interim Proposal. Edison argues that to risk the breakdown of contract negotiations due to the unexpected change in financial expectations would be inconsistent with the Commission's and Edison's policy of encouraging Qualifying Facilities.

Edison's petition should be granted. The reasons it recites in support of its petition provide a compelling justification in the absence of any opposition.

Findings of Fact

1. The Commission issued Resolution E-1872 on March 4, 1980, directing Edison to file an Interim Capacity Payment Schedule and other prices for electricity purchases by Edison from cogenerators and small power producers.

2. In compliance with Resolution E-1872, Edison began quarterly publication of its Interim Proposal in August 1980.

3. On January 21, 1982, the Commission issued D.82-01-103 in Order Instituting Rulemaking 2, promulgating final rules pertaining to the calculation of both energy and capacity payments for power purchases from Qualifying Facilities.

4. Under D.82-01-103, Edison filed Application (A.) 82-03-037 and A.82-04-046 on March 8, 1982 and April 21, 1982, respectively. These applications contained Edison's standard offers for power purchases from Qualifying Facilities.

5. On April 12, 1982, the Commission issued D.82-04-071, which, among other things, ordered Edison to make certain amendments to its standard offers.

6. Subsequent to Edison's filing of its amendments to A.82-03-037 and A.82-04-046 and under D.82-04-071, the Commission ordered Edison's Standard Offers Nos. 1 and 2 to become effective on May 12, 1982.

7. The effect of this action by the Commission was to replace the Interim Capacity Payment Schedule in the Interim Proposal with the new, lower capacity payment schedule contained in Standard Offer No. 2.

8. As of May 12, 1982, Edison held signed letters of intent for 1,391.7 megawatts of qualifying cogeneration, small hydro, solar, windpark, geothermal, and solid waste facilities.

9. The letter of intent for each of these potential Qualifying Facility projects was negotiated under the assumption that the Interim Capacity Payment Schedule found in the Interim Proposal would be in effect for these projects.

10. These Qualifying Facilities based their expectations on representations made by Edison during the course of contract negotiations and in the Interim Proposal that the Interim Capacity Payment Schedule used during negotiations would not be revised until Edison received a decision in its next general rate case, scheduled to be effective January 1, 1983.

11. The decision by the Commission to make Edison's Standard Offers Nos. 1 and 2 effective May 12, 1982, changed the capacity payment schedule available to these Qualifying Facilities.

12. The effect of applying the new schedule would be to decrease the capacity payment to those Qualifying Facilities who had signed a letter of intent with Edison prior to May 12, 1982, but who had not signed a final agreement by that date.

13. The resulting change in financial expectations would jeopardize contractual negotiations.

14. This order should be effective today because of the public interest in this modification.

Conclusion of Law

Edison's petition for modification should be granted.

18a

IT IS ORDERED that:

1. Southern California Edison Company (Edison) is authorized to incorporate, until December 31, 1982, the Interim Capacity Payment Schedule found in Edison's Interim Policy, into all power purchase contracts between Edison and those Qualifying Facilities who had signed letters of intent with Edison prior to May 12, 1982, but who had not executed power purchase contracts by that date.

2. Edison is authorized to recover payments made under Ordering Paragraph 1 through its Energy Cost Adjustment Clause in the manner of purchased power costs.

This order is effective today.

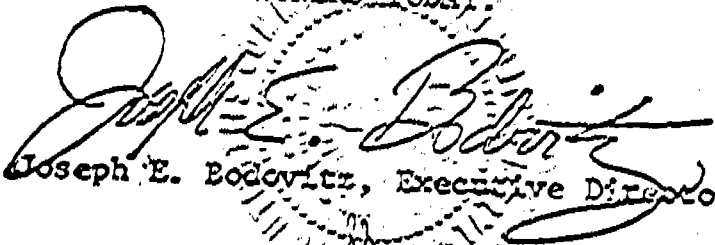
Dated SEP 8 1982, at San Francisco, California.

JOHN E. BRYSON
President
RICHARD D. GRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
Commissioners

Commissioner FRISCILLA C. CREW

Present but not participating.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director

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Edison's Interim Proposal. Edison argues that ongoing negotiations moving toward a final agreement should be conducted on the basis of the Interim Capacity Payment Schedule found in the Interim Proposal.

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This order is effective today* when the ,London ,London

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 08-01-2001 BY 60322 UCBAW

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CORRECTION

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

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6. Subsequent to Edison's filing of its amendments to A.82-03-037 and A.82-04-046 and under D.82-04-071, the Commission ordered Edison's Standard Offers Nos. 1 and 2 to become effective on May 12, 1982.

7. The effect of this action by the Commission was to replace the Interim Capacity Payment Schedule in the Interim Proposal with the new, lower capacity payment schedule contained in Standard Offer No. 2.

8. As of May 12, 1982, Edison held signed letters of intent for 1,391.7 megawatts of qualifying cogeneration, small hydro, solar, windpark, geothermal, and solid waste facilities.

9. The letter of intent for each of these potential Qualifying Facility projects was negotiated under the assumption that the Interim Capacity Payment Schedule found in the Interim Proposal would be in effect for these projects.

10. These Qualifying Facilities based their expectations on representations made by Edison during the course of contract negotiations and in the Interim Proposal that the Interim Capacity Payment Schedule used during negotiations would not be revised until Edison received a decision in its next general rate case, scheduled to be effective January 1, 1983.

11. The decision by the Commission to make Edison's Standard Offers Nos. 1 and 2 effective May 12, 1982, changed the capacity payment schedule available to these Qualifying Facilities.

12. The effect of applying the new schedule would be to decrease the capacity payment to those Qualifying Facilities who had signed a letter of intent with Edison prior to May 12, 1982, but who had not signed a final agreement by that date.

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2. Edison is authorized to recover payments made under Ordering Paragraph 1 through its Energy Cost Adjustment Clause in the manner of purchased power costs.

This order is effective today.

Dated SEP 8 1982, at San Francisco, California.

JOHN E. BRYSON

President

RICHARD D. GRAVELLE

LEONARD M. GRIMES, JR.

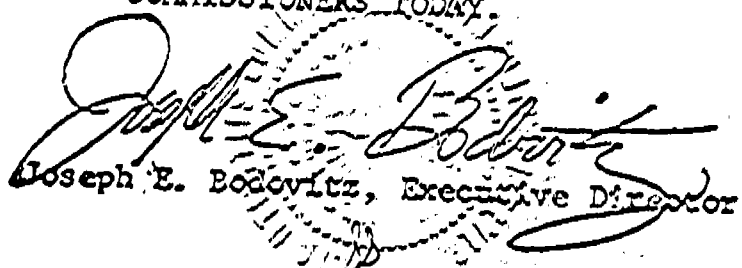
VICTOR CALVO

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Present but not participating.

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3. On January 21, 1982, the Commission issued D.82-04-103 in Order Instituting Rulemaking 2, promulgating final rules pertaining to the calculation of both energy and capacity payments for power purchases from Qualifying Facilities.

4. Under D.82-04-103, Edison filed Application (A.) 82-03-037 and A.82-04-046 on March 8, 1982 and April 21, 1982, respectively. These applications contained Edison's standard offers for power purchases from Qualifying Facilities.

5. On April 12, 1982, the Commission issued D.82-04-071, which, among other things, ordered Edison to make certain amendments to its standard offers.

Decision 82-09-019 Sept. 8, 1982

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On April 18, 1982, the Commission ordered Edison to make certain changes to its capacity payment schedule.

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